WATER AND INFRASTRUCTURE COMMITTEE

Council of the County of Maui

MINUTES

November 18, 2019

Council Chamber, 8th Floor

CONVENE: 1:33 p.m.

PRESENT:
Councilmember Alice L. Lee, Chair
Councilmember Tamara Paltin, Vice-Chair
Councilmember Riki Hokama
Councilmember Tasha Kama
Councilmember Keani N.W. Rawlins-Fernandez (out 2:27 p.m., in 2:36 p.m.)
Councilmember Shane M. Sinenci (out 3:28 p.m.)

NON-VOTING MEMBERS:
Councilmember Yuki Lei K. Sugimura (in 3:00 p.m.)

EXCUSED: Councilmember Michael J. Molina

STAFF:
Wesley Crile, Legislative Analyst
Rayna Yap, Committee Secretary
Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

(Seated in the gallery):
Kate Griffiths, Executive Assistant to Council Chair Kelly T. King
Jennifer Karaca, Executive Assistant to Council Vice-Chair Keani Rawlins-Fernandez
Dianne Shimizu, Executive Assistant to Councilmember Alice L. Lee
Don Atay, Executive Assistant to Councilmember Shane M. Sinenci
David Raatz, Supervising Legislative Attorney
Chester Carson, Legislative Analyst Trainee

ADMIN.:
Michele McLean, Planning Director, Department of Planning
Scott Teruya, Director, Department of Finance
Jennifer Oana, Deputy Corporation Counsel, Department of the Corporation Counsel

(Seated in the gallery):
May-Anne Alibin, Deputy Director, Department of Finance

James Buika, County Shoreline Planner, Department of Planning

OTHERS: Lucienne de Naie
Curt de Crinis, Managing Director, Columbia Capital Management, LLC
Mike Atherton, Waikapu Properties, LLC
Michael Summers, Founder and President, Planning Consultants Hawaii, LLC
Paul Mancini, Mancini, Welch & Geiger LLP

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

CHAIR LEE: . . .*(gavel)*. . . Will the Water and Infrastructure Committee meeting please come to order? Good afternoon, everyone. Usually I have a special greeting for everybody, but I'm not feeling it today. I just got back from Vegas and the only words I can think of are, no lo [*sic*] dinero. Hello, Mr. Sinenci. Thank you for joining us.

COUNCILMEMBER SINENCI: Aloha, Chair, welcome back.

CHAIR LEE: Thank you. Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha ʻauinala and welcome home, Chair.

CHAIR LEE: Thank you. Mr. Hokama.

COUNCILMEMBER HOKAMA: Chair.

CHAIR LEE: Thank you for coming. Ms. Paltin.

VICE-CHAIR PALTIN: Aloha ʻauinala, Chair.

CHAIR LEE: Thank you. And good afternoon, Tasha Kama, our Councilmember.

COUNCILMEMBER KAMA: Happy days are here again.

CHAIR LEE: Yeah, I hope so.

COUNCILMEMBER KAMA: Good afternoon, Chair.

CHAIR LEE: Okay. We have a lot of ground to cover today and so let me continue to do the opening. Today is Monday, November 18, and it is now 1:34. For those in the audience, please silence all your cell phones and other noise-making devices. And, if I may, now introduce to you our Staff. Wesley Crile, Legislative Analyst. And then with him is Chester Carson. Oh, he's back there. He's our new analyst everybody, second day on the job. Rayna Yap, our Committee Secretary, walking around handing things out. And then from the Department of the Corporation Counsel, Jennifer Oana, Deputy Corporation Counsel. Thank you for coming. And from the Department of Finance, we have May-Anne Alibin in the back. And I believe Mr. Teruya is coming, okay. Then we…also coming will be the Director of Planning, Michele McLean, who should be here soon. Other resources today is Mr. Curt de Crinis of Columbia Capital Management. Mister…could you just raise your hand? Yeah, okay, thank you. Mr. Mike Atherton of Waikapu Properties, LLC. Thanks, Mike. Mike Summers, Planning Consultants Hawaii. Thanks, Mike. Mr. Paul Mancini of Mancini, Welch, and Geiger. Right there on the right. And then if there are no objections, I would like to proceed with public testimony.

COUNCILMEMBERS: No objections.

CHAIR LEE: Mr. Crile, did you…we have one testifier? Okay.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. CRILE: Our first and only testifier is Lucienne de Naie testifying on behalf of WAI-57.

CHAIR LEE: Okay. Ms. de Naie? I'm sure I don't have to go over the guidelines with you.

MS. de NAIE: No, thank you very much. My name is Lucienne de Naie. I'm here testifying as an individual. Looking forward to the presentation. A number of years ago, some of the community organizations supported having these community facilities financing because we have areas that don't have access to the funding needed to have, you know, sufficient infrastructure and we do need solutions. I did notice that there's a section in the adopted ordinance--I hadn't noticed that before, I thought I read it pretty thoroughly--that says…refers to like that this ordinance would supersede other County ordinances and it might have just meant in terms of what infrastructure obligations or so forth would have been like if there were dedications of street to widening lots or things like that. But I just wondered if there could be clarification during the decision from the Staff, does that mean it would supersede, for instance, a zoning condition or a community plan designation? It just…it would be great to have clarity on that. I don't think it was the intention to do that, but it could be pretty confusing to communities if it did. So, if that information could be clarified during the discussion, I know folks in the community would be very appreciative. Thank you.

CHAIR LEE: Are there any questions? Yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. de Naie. Mahalo for your testimony. Are you referring to Section 3.75.030, superiority over conflicts?

MS. de NAIE: Well, there's two. There's the superiority over conflicts. There's another section, if I had my computer…I didn't bring it up with me. I think it's the section, it's either above that or below that. It's..

COUNCILMEMBER RAWLINS-FERNANDEZ: Three point seven five point eight zero eight…oh, zero eight zero, construction of the chapter?

MS. de NAIE: I'm sorry, I should have…

CHAIR LEE: That's alright, we'll find it.

MS. de NAIE: I should have brought the site number.

CHAIR LEE: We'll find it --

MS. de NAIE: Yeah.

CHAIR LEE: --and we'll answer your question.

MS. de NAIE: Thank you very much.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. de Naie. Mahalo, Chair.

CHAIR LEE: Thank you. And, Corporation Counsel, please take note of the questions and see if you can find those sections. Any other questions? If not, we'll check in with our District Offices. Mr. Crile?

MR. CRILE: They're on.

CHAIR LEE: They're on?

MR. CRILE: Yeah.

CHAIR LEE: Okay. Hello, Hana. Aloha, Mavis Oliveira-Medeiros, do you have anyone there to testify?

MS. OLIVEIRA-MEDEIROS: Aloha, Chair. This is Mavis Oliveira-Medeiros and there's nobody here waiting to testify.

CHAIR LEE: Thank you. Now, let's check in with our Lanai Office, Denise Fernandez. Anyone there, Denise?

MS. FERNANDEZ: Good afternoon, Chair, this is Denise Fernandez at the Lanai Office and there are no testifiers.

CHAIR LEE: Thank you. On Molokai, Zhantell Lindo, do you have anyone there to testify?

MS. LINDO: Aloha, Chair. This is Zhan at the Molokai Office and there are no testifiers.

CHAIR LEE: All right, thank you. Anybody else want to testify in the Chamber? If not, the Chair will, with no objections, close public testimony.

COUNCILMEMBERS: No objections.

CHAIR LEE: Okay. Thank you.

. . .END OF PUBLIC TESTIMONY. . .

ITEM WAI-57: COMMUNITY FACILITIES DISTRICTS (CC 19-376)

CHAIR LEE: So, let's get right into our presentation for today. Today's meeting is part one of two workshops to educate the Committee Members about CFDs and to consider potential projects where CFDs may be appropriate. Section 46-80.1, Hawaii Revised Statutes, authorize the counties to create community facilities districts, or CFDs, for the purpose of financing special improvements in the counties. In 2018, the Maui County Council passed enabling legislation authorizing the creation of CFDs. The other three counties have also enacted similar legislation. Now, to assist us, we will receive a presentation from Mr. Curt de Crinis of the financial investment firm of Columbia Capital Management. We also have, after that, Mr. Mike Atherton and Mr. Mike Summers who will be making a presentation on how a CFD may be used to fund a wastewater treatment plant at their Waikapu Country Town project. We will also hear later from Planning Director Michele McLean and Finance Director Scott Teruya. At our meeting on December 2nd we will begin part two of our workshop, and at this meeting, we plan to hear from community organizations and property owners, meaning the meeting on December 2nd, and may be considering CFDs as a possible funding source for their special improvements. At this time I will ask that Mr. de Crinis, Mr. Atherton, and Mr. Summers be designated as resource persons in accordance with Rule 18(A) of the Rules of the Council if there are no objections.

COUNCILMEMBERS: No objections.

CHAIR LEE: Thank you. Mr. de Crinis, would you please begin your presentation?

MR. de CRINIS *(PowerPoint Presentation)*: Thank you, Councilman…Councilperson Lee…or Chairman Lee, I'm sorry. I have a PowerPoint presentation to go through. But before I get started, one of the things I handed out today was an article out of *The Honolulu Advertiser* from 2007, and it's called, another way to pay for Hawaii infrastructure. And it's interesting because it is a discussion about CFDs from 2007, and I think it's fairly comprehensive and I think at your leisure you might find it interesting to read because it's some of the same issues that were discussed in 2007 that we'll be discussing today. So, I just wanted to offer that to you. So, to start with, the first slide is, What is a Community Facilities District? Well, a Community Facilities District, or CFD, is a special taxing district formed to fund public improvements and is often as a result of new development; that's the primary origination of it. And the focus of it is to help fund new development, that's new public infrastructure, that's kind of where it was originally was created and legislatively in other states where it came from and its basic purpose. Properties that get included in the CFD are those that benefit from the new public improvements. So, special taxes are levied and collected annually on the general property tax roll to pay for the cost of the improvements. Special taxes are generally levied on a per benefit unit basis, like on a per connection or sometimes, you know, the number of homes or the units or sometimes on a square-footage basis or acreage basis. And some states, and I think Hawaii is one of them, it can also be based on value. So, that's generally how the tax works. The CFD has similarities to special improvement districts or BIDs, and benefit assessment districts. CFD taxes are more flexible than benefit assessment districts, and you can finance things with the CFD that are more difficult with a benefit assessment. Examples would be parks, beach restoration, highways, drainage, things that don't have a direct benefit to the assessment. The benefit assessment districts have typically been used for a sewer line or a road or something where there's a very, very clear benefit to what is being assessed, you know, what the, you know, what the improvement is and what the benefit is. CFD special taxes can be bonded and they provide lower cost taxes and financing for public projects. They can be bought on a long-term fixed rate basis and they're not recourse taxes, which means they're not a personal obligation of the property owner or homeowner, they're just a general property tax. The next slide is the History of CFDs. Chairperson Lee had alluded to this. The State legislation allows a creation of CFDs in Hawaii and each county has adopted an ordinance, an enabling ordinance, to be able to form CFDs. The City and County of Honolulu, County of Hawaii, County of Kauai, and the County of Maui being the most recent, which was approved in December 2018. The only CFD formed to date in Hawaii is for the Kukui Ula project on Kauai. The CFD was formed in 2008 and 11.875 million in bonds were sold in 2012 and there is another issue pending and is, in fact, it is going to be sold this Wednesday. So, it's another about $20 million bond sale that is being sold for that project. Special Improvement Districts or SIDs, such as the one in Kailua-Kona and Waikiki, those are basically business improvement districts and I think Paia had one that was being looked at some time back. Those fund improvements in business areas but they're not bondable. Benefit Assessment Districts which have been formed in the past, are bondable but not very many have been formed in Hawaii. Since 1990, only five Assessment Districts have been formed and 44.8 million in bonds have been issued. So, I think it's pretty clear that this type of financing has really not been used in Hawaii very much. So how are CFDs used in other states? Well, 20 states including Hawaii have a form of Special Taxing District to fund public infrastructure. California, Texas, and Florida are the leading states in this area and billions of dollars of bonds have been issued. You know, for example, just this year alone, California has issued 93, in 2019 it had 93 CFDs issued so far this year, Texas had 22, and Florida has over 100. So, that's, it's pretty active in other states. And the name of these taxing districts varies from state to state. In California it's the same as Hawaii, Community Facilities District. In other states it may be called Municipal Utility District or Public Improvement District or Community Development Districts, so you have different names depending on the state legislation. They are used in these other states similarly as is being discussed here, to fund development related public infrastructure, water, wastewater, drainage, roads, primarily in large residential and commercial planned unit development projects, bonds are issued and developer/landowners who are initially responsible for the tax and as the property is sold off to property owners, they end up becoming responsible for, to pay off the bonds or pay off the tax lien, you know, until the bonds are paid off. And there are provisions that can be in these bonds that allow the special taxes to be prepaid if the property owner wanted to buy a home and didn't want to be burdened with the special tax, they could pay that off as part of their home purchase. CFDs are also used as I mentioned in the beginning, to fund public safety facilities or open space park improvements and other, you know, not more general types of public infrastructure. And in Hawaii, they can also be used to replace existing improvements, which is different in California, for example, you can only use this for new improvements. Hawaii allows you to do it for replacing existing improvements. So, why use CFD financing on Maui? Well, CFDs can significantly lower the upfront public infrastructure needed to support new development. Lower upfront public infrastructure costs may allow for the development of low-cost homes and/or additional community amenities. So, I mean, one way to look at it as possibly a form of public-private partnership if the County wanted to embrace the CFD to assist with the new development that would allow the developer another form of financing to finance a lot of public infrastructure. In most big projects, as Mr. Atherton will probably get into, you know, you have to do a lot of public infrastructure up front before they can sell a lot, and that can be very expensive because it either has to be financed with equity, or a bank loan, or different, in different ways that add to the cost of doing the project, and increases the internal rate of return requirements for the developer. A CFD, and this is why it's used by developers in other parts of the country, it lowers…if that can be financed and secured by the property itself and not their finances, and it can be done in a tax-exempt long-term basis, that lowers their cost quite a bit and then also it allows them to possibly sell homes at lower cost because the…for two reasons. One is that their cost of capital is lower to start with, and the other reason is that a good, you know, percentage of the home purchase price is already financed on the…by the property. And in exchange for a county agreeing to do that, you know, what is the county getting in return? You know, maybe there's the additional public improvements are more extensive than they might otherwise be, and the project might not be able to afford extensive public improvements without some additional financing like this. So, that'd be the reason to consider it. CFDs also allow certain public improvements to be financed earlier in the development process than they might otherwise be, because collecting impact fees for certain types of improvements could delay those improvements from being built for quite a while. CFDs are also secured by property so the tax, it's not a general fund obligation of the County. CFD financing is non-recourse financing to the developer and eventual homeowner. So, bondholders that buy these bonds, they know they're looking only to the property itself to be repaid. CFD financing may allow the County to prioritize spending. If less money is spent on public infrastructure and is paid for, and alternatively, maybe that allows for money to be spent elsewhere. Maui's CFD ordinance, I have five bullet points here just to summarize, the ordinance was effective December 24, 2018, it allows the County to establish a CFD to finance the acquisition, planning, design, construction, so forth of public improvements as long as their useful life is five years or more. The improvements can be located inside or outside the district. They can…bonds don't necessarily have to be issued, they can also be pay-as-you-go projects. Authorized improvements in the Maui ordinance includes streets, roads, highways, bikeways…yeah, that list there, parking, police and fire facilities, solid waste, drainage, transit, just a very wide range of public projects. As long as they're public, they cannot be private. You cannot finance private improvements with this. And what would add, if the County is to form a CFD, it has…there's a whole other set of ordinances that would have to be passed that are specific to each CFD. This is just the enabling, broad enabling ordinance. So, how do CFDs work? This is a little bit getting more into the weeds, the nuts and bolts of it. So, I've kind of broken it up into formation steps, the tax levy, and funding options. So, the formation steps identify the public projects that have regional localized benefit. Something that's island-wide would not be something you'd consider for this. Then you identify the benefiting properties and property owners, then you create a map of the district. Again, it doesn't have to be contiguous. You would meet and discuss with developers or property owners or property owner groups to assess, you know, if there's support for a special district. CFDs can be initiated by property owner petition with a 25 percent petition of property owners, and a petition like this has to be drafted by a bond lawyer, just walking in with a petition on a piece of paper isn't going to do it, or by Council action. The County would have to have a CFD team which would be the County's lawyer, special task consultant, municipal advisor, possibly underwriter, to take a look at if there was a proposed CFD, and a special tax has to be generated that would work for the development, and that would be after you worked out with the property owners and the Council would also have to approve how a special tax would work, and whether it's levied on a…how much is being levied on a single-family home, verse [*sic*] a commercial, verse [*sic*] an apartment, or, you know, whatever properties are included in the CFD. But assuming they got that far the Council would vote on a resolution of intention to form the district and set a public hearing. So, that's beginning the formation process. A public hearing would be held just to approve the special tax. If 55 percent of the property owners by number or by dollar amount protest the hearing, the process stops, that's it. You have to abandon it. If it is approved by the Council, then the taxes could be levied on the regular property tax rolls, is collected along with general property taxes. The taxes levied for bond debt service if bonds are issued or if it's pay-as-you-go funding, it'd be just levied every year. Annual administrative costs to the County are included in that levy. If bonds are approved by the County Council and sold by the County to investors, that would be ultimately how the improvements would be financed. Bonds, and again, I mentioned bonds are secured only by the CFD special taxes, bond interest rates are lower than conventional financing and may be tax exempt. So, they're better financing than you can get from a bank and, of course, they're long-term fixed rates, so they're certainly better in that respect. And as we already mentioned, it's non-recourse to the property owner. Now, one thing you cannot do with the CFD is you cannot collect maintenance. The Hawaii ordinance does not allow…Hawaii law and Maui's ordinance does not allow ongoing maintenance. So, it can only be for capital improvements. That's not true in other states, you can also levy it for public safety and other types of services. If bonds are issued, usually if it's a developer-initiated project, the developer will pay for all the public infrastructure and then bonds will be sold and the developer will be reimbursed for the public infrastructure before it's dedicated to the County, and the County would actually have the Public Works Department go out and inspect the improvements and verify that in fact they were built to County standards and that the County's paying a fair price for the improvements. If it's not a developer-initiated district, then the bonds could be sold, because presumably it's already a developed area, and the money could be used to pay for the improvements that way. So, I have two case studies here. One is the Kukui Ula project, which is the only one that's…oh, what happened to the formatting here? But this is the only one that's been formed in Hawaii. It was formed in 2008 and it is a, you know, high-end project in…out by Poipu in Kauai. It's originally planned for 1,500 homes and there's a special tax on single-family lots and homes in addition to undeveloped acreage. The average tax is under $5 per 1,000 of assessed valuation. The developer is basically a joint-venture of A&B Properties and another entity. The original bond authorization was for $120 million. The first bond issue was sold in 2012 for 11.8 million and it was used to reimburse the developer for bypass road, reservoirs, community entry points, a roundabout, and some shoreline improvements. There's another issue selling this Wednesday for about $20 million. And I did talk to the underwriter today about that and that interest rate just, if you're curious, probably be about somewhere in between 3½ and 4 percent over long-term fixed-rate basis. In addition to reimbursing the developer, these improvements in this project, the developer also agreed to set aside money for other infrastructure providing regional benefits. So, 15 percent of the bond proceeds are set aside for other public projects and there's a restoration of the site in Poipu, there's some parking improvements at Poipu Beach, and there's a…and then there's some street work in the Poipu area. They're also being financed this way. The second case study is the one I've been working on recently is for a project in Santa Clarita, California. It was formed in 2016. In this case the CFD was formed to finance two public parking garages, one with about 600 spaces, and one with 1,100 spaces. Fifteen percent of the bond proceeds have to be contributed to a Metrolink station, it's going to be on the site, which is the Metrolink being the bus transfer station for people that live in this area. Their special taxes are levied on apartments and office buildings in this case. The bond authorization is 45 million. First bond issuance will be next month at 20 million, and then the CFD bonds will be used to reimburse the developer and the first parking garage is already completed so they'll be reimbursed next month for that. And that's just an example of, you know, how this is used in California. So, challenges and costs, which are not insignificant. You know, the County staff would have added administrative burden to do this, which includes overseeing the CFD formation, issuing bonds, levying special taxes, providing ongoing bond disclosure like they do on the GO bonds, and making bond payments. So, it's not an insignificant amount of work for County staff to do this. Also, it's not general fund debt, but there would be additional bond debt, and CFDs are often not rated, certainly for development projects if it's in a developed area, they could be rated at an A-rating or higher, so that depends on the particulars of the CFD. But I think the County would have to be cautious and conservative in their issuance to minimize any risk of bond default. So, it's certainly something you'd have to take a good look at and be comfortable doing. Forming CFDs might be controversial other than developers, which would be, you know, promoters of something like this because it benefits their project. Individual property owners if you're forming a CFD involving individual property owners, they're likely in most cases are protests because not everybody agrees and wants to be in a CFD and depending on how it's done, you know, I have been involved in cases where there has been litigation on assessments and CFDs, so not everybody…sometimes people hire a lawyer. Usually it works out, but things can get delayed for any number of things. Could be…I worked years ago on a project like this in Los Angeles where they did form a special tax district for open space acquisitions in the Hollywood Hills and it was a big district, it had 40,000 people in it and, you know, people sued, it got delayed, it eventually got done. But, you know, these things are not, you know, can be a little controversial depending. And I think it also would be a departure from current financing practices because this is something new that the County has not done before and you just need to be aware of that. And the last slide I have I just identify what I think are the basic County policy questions, and, I mean, the first one is, you know, should the County assist developers with financing public infrastructure costs? So, this is a, you know, very big question. CFD, we mentioned earlier, CFD might allow the County to trade CFD financing benefits for more extensive public infrastructure or support for lower home prices. So, maybe there's specific reasons why this makes some sense, you know, is the County willing to accept the risk and the added responsibility of issuing and administering these type of bonds. So, you have to, you know, ask yourself that question. The second question is should the County provide existing communities on Maui with the ability to fund new public infrastructure through a CFD or a Benefit Assessment District? You know, are there public projects on Maui, I think beach restorations sort of jumps out, that just can't get funded privately? You know, does a CFD favor one group of homeowners over another in terms of who gets the public infrastructure even though they may be paying for it, or does it free up money that could be used elsewhere in the County? So, that's, you know, that's I guess in the eye of the beholder and I guess everybody has to, and the Council I would think would have to think about that. Again, if you're doing it for existing communities, you'd still have to accept the responsibility of issuing bonds or administering CFDs. And then the last issue identified here is should the County differentiate between special benefit, which is taxing properties who benefit directly from an improvement, and general benefit, you know, that all property owners share the same in all the costs? So, there's some philosophical issues here that probably, you know, feed into your tax and budgetary policy or are there exceptions to that? So, those are the two basic County policy issues that I've identified. And that's the end of my presentation, thank you.

CHAIR LEE: Thank you. Before we move on to the second presentation, do you have any short questions? Yes, Ms. Kama?

COUNCILMEMBER KAMA: I wanted to ask on his…I think it's Page 5 of your presentation.

CHAIR LEE: Okay, which item?

COUNCILMEMBER KAMA: The third bullet, it says CFD financing is non-recourse financing to the developer and eventual homeowner. What does that mean, non-recourse?

MR. de CRINIS: Yes, Councilperson Kama, what that means is that it's…non-recourse is that if there's a failure to pay, then the only recourse is the property. So, there's no personal guarantee provided by the developer or ultimately a homeowner to pay the tax.

COUNCILMEMBER KAMA: Can you say that one more time and use different words?

MR. de CRINIS: Okay. The…when the…it's same as your property tax. The property, in other words, you as an individual homeowner are not responsible for paying the…you're responsible for paying the taxes levied against your property but if you did not pay it, you know, they could foreclose on your property but they can't sue you or come after you like a mortgage. When you sign a mortgage, you know, you're also signing a note and putting your credit at risk when you borrow money. So, a CFD is special tax like this or a benefit assessment does not…is not like that. It's only secured by the taxes against the property, it's not a personal obligation, wouldn't go on your financial statement or anything like that.

COUNCILMEMBER KAMA: Okay, I got it. Thank you.

CHAIR LEE: Are there any other questions? Yes, Ms. Paltin?

VICE-CHAIR PALTIN: Thank you, Chair Lee. My question was, I guess, on Page 2, is…would it be possible like you said a Benefit Improvement District or Benefit Assessment District could be for existing infrastructure upgrade like a sewer line, is that true?

MR. de CRINIS: Are you asking whether you could use that for that?

VICE-CHAIR PALTIN: Well, so, like for example, if say you have a development that hasn't occurred yet, that would be like the Special Improvement District that wants to build a wastewater treatment plant. But then say there's another community on existing injection wells and they wanted to tie into the to-be-built wastewater facility, could the community that hasn't been built yet use the Special Improvement District and the other community that's existing that wants to tie into the to-be-built wastewater treatment plant use the Benefit Assessment District? Can you combine the two or is it one or the other?

MR. de CRINIS: I mean you have to look at each fact situation to know exactly but I think you could combine if they…if you formed a CFD in one area and then later there was another community that wanted to tie into that wastewater plant, is that what you're thinking?

VICE-CHAIR PALTIN: Yeah, I heard some folks at Maalaea might want to tie into the Waikapu Country Town.

MR. de CRINIS: Yeah, they could, I mean, they could either be part of the original CFD if there was one, or they could also form a Benefit Assessment District and pay their --

VICE-CHAIR PALTIN: Their share…

MR. de CRINIS: --you know, their share of the cost to tie in because they'll have to run lines from their streets to the wastewater plant, and there'll probably be a impact fee of some sort that they would have to finance to --

VICE-CHAIR PALTIN: It would be a lift station --

MR. de CRINIS: --tie in.

VICE-CHAIR PALTIN: --or something.

MR. de CRINIS: Yeah.

VICE-CHAIR PALTIN: But then would it make more sense, like say Waikapu Country Town, there's one owner of all those lots right now. And say Maalaea there's existing plenty owners, so if they do it separately then the existing plenty owners, if they have that 55 percent situation it could hold up the Waikapu side because there's only one owner. So, would it make more sense in that case to do Benefit and a Special Improvement District?

MR. de CRINIS: Well, it might or two CFDs. I don't know, that's an interesting question, we'd have to sit down and look through all that and figure out what's the best way to do it, but I see your point because you wouldn't want to have the larger project be held hostage to another project if the majority of people didn't want to participate.

VICE-CHAIR PALTIN: Okay, thank you.

CHAIR LEE: Oh, one second, Mr. Sinenci. Just a follow-up question. Wasn't it pointed out earlier that the infrastructure improvement or CIP needs to be public so not a private wastewater system?

MR. de CRINIS: Yeah, it has to be public. You cannot use this type of financing for a private improvement.

CHAIR LEE: Okay, thank you. Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Thank you for your presentation. I just had a question on Slide 7 on the bonding --

MR. de CRINIS: Yeah.

COUNCILMEMBER SINENCI: --under funding options at the bottom. So, how does the bonding works, I guess, if approved by the County Council, they would be sold by the County to investors; bonds secured only by the CFD special taxes. Can you expound on the bonding process?

MR. de CRINIS: Sure. Assuming you got to the point where the project, the district is formed and you're at a point where you want to sell the bonds to pay for the new improvements or reimburse the developer for doing the improvements, the County would just like it is with the GO bonds, they'd prepare a bond offering statement, a bond official statement which goes to investors that discloses all the risks and all the terms of the bonds, and the County would also hire a bond underwriter, this would be a negotiated bond sale, not a competitive bond sale. You would go out to RFP, select an underwriter, and the underwriter would present an offer to buy those bonds from the County, and then the County would...assuming that it was a reasonable presentation and then the County would sell the bonds to the bond underwriter who would provide the money to the County to be used to fund the improvement.

COUNCILMEMBER SINENCI: And we would be using the County's bond rating --

MR. de CRINIS: No.

COUNCILMEMBER SINENCI: --for the...we wouldn't?

MR. de CRINIS: No, the County's credit is not obligated here, and you would not use the County's credit. The only source of repayment for a bond like this is the property that's being taxed. So, the County's credit would not be a factor in the bond issue, it would just be the property that's subject to the tax. From an investor's standpoint, the investor would look at the value of all the property and there'd be an appraisal in most cases unless it was already developed property or maybe you could use assessed valuation, but generally on these bonds the value of the property needs to be four or five times the value of the bonds being issued for there to be investor interest.

COUNCILMEMBER SINENCI: So, one more, Chair. So, if beside the people in the district that's going to be taxed on this public project, outside investors outside of the district can also invest in the project?

MR. de CRINIS: You mean from a bondholder standpoint? An investors' standpoint? They can be...you don't have to be in the district to buy the bond. The bonds will be sold to anybody, it could be anyone in Hawaii, anyone in the country basically could buy the bonds.

COUNCILMEMBER SINENCI: Okay, thank you. Thank you, Chair.

CHAIR LEE: Any other questions? Yes, Ms. Kama?

COUNCILMEMBER KAMA: On Page 7, where it says tax levy, it says public hearing is held to approve the special tax, and you mentioned something about either number or dollar amount. What did you mean by that?

MR. de CRINIS: What I meant by that is...are you talking about the property owner protest --

COUNCILMEMBER KAMA: Yes.

MR. de CRINIS: --question? Yeah, so, when…before the public hearing, all the property owners that are in the district will get a notice from the County showing them what their tax, proposed tax would be. And if at the public hearing, they either mail it in or they come personally, if 55 percent of those property owners --

COUNCILMEMBER KAMA: Yeah.

MR. de CRINIS: --by number of property owners or 55 percent by dollar amount of special tax protest, then the procedure stops. And I would add, just because you don't have a majority protest, and I've been involved in deals like this, the Council may still not go forward. You may say, why don't we…we didn't get a majority protest but we're still not doing it because maybe 30 percent protest is too high for the way you might feel about the problem, I mean about the tax, so.

COUNCILMEMBER KAMA: Okay, I got that. Thank you.

CHAIR LEE: So, following up on that question, if the project went forward and there were 30 percent of the residents affected would be…did protest. So, 10 percent decide not to pay anything, what happens in that case?

MR. de CRINIS: Well, the special tax formula, because it's a levy against each person's property, they would…it would be the same as not paying their general property taxes because you're obligated to…you can't not…you can't pay part of your tax. So…and then there would be a provision in the bonds that also…excuse me. That would also require the County to send letters and take an action within six months of someone still not paying to initiate foreclosure to cause that person to pay their taxes. And, again, I would point out that it's only for that year's delinquent taxes, it doesn't accelerate, it's not the whole amount of their share of the bonds, it's just that one year's taxes if it's delinquent.

CHAIR LEE: So, an extreme example would be if people do not pay after a number of warnings, the County could take their property?

MR. de CRINIS: Well, the County itself wouldn't take their property, the County would cause the property to be put up at a property tax sale. So, yes.

CHAIR LEE: Okay, so is there a number that we need to be cautious of or concerned about? Let's say even though, you know, we could go up to 50 percent, let's say, of objections, what number would be a safe number? Like 30 percent, 25 percent of protests?

MR. de CRINIS: Well, I mean it's, I guess from an investors' standpoint, I think if there were 50 percent protests, I think people would be very concerned about buying the bonds because they don't want to…no one wants the headache of knowing that a lot of people are going to be…may resist and may not want to pay their taxes. And I think you'd probably want as few protests as possible for you to feel comfortable going forward with a district like this. I would say, you know, I mean, there's always going to be some percentage of people that are going to be upset about something. You just…you're not going to get…the chance of getting a zero protests I'd say it'd be very, very low because generally people don't…a lot of people just don't want to pay anything, pay period, regardless of what they're getting. But I think if you have 10 or 20 percent protests, much more than that then maybe there's some reason not to go forward with it. It'd be depending on what it is. If it's something you have to do, for example, if you had a mandated sewer program because there were too many septic tanks in an area or cesspools and there was a public health issue, then maybe you'd accept a higher level of protests. If it was for a park or something where it really wasn't…you could do without it, then maybe you would say, well, if there's more than 5 or 10 percent protests, we're not doing it.

CHAIR LEE: Thank you, thank you. Mr. Hokama?

COUNCILMEMBER HOKAMA: Let me just be upfront. I have great skepticism about this method. So, hearing what you just said, though, about the projects, yeah, and you used the sewer as an example, septic tanks and whatnot, why wouldn't the County then use our general bond? We are way below our debt limit, we get better interest rates currently, why wouldn't we fund it the smart way and adjust the sewer fees that Federal law requires?

MR. de CRINIS: Yeah. I think you could definitely do that. There's no reason that you couldn't do that. The County could issue…use its sewer and water fees and rate charges to finance public improvements and that's certainly a very legitimate way to do it and a lot of places do do that.

COUNCILMEMBER HOKAMA: And I understand Ms. Kama's question, so just the property holds the, secures the bond?

MR. de CRINIS: Yes.

COUNCILMEMBER HOKAMA: Within the approved district?

MR. de CRINIS: Right.

COUNCILMEMBER HOKAMA: They default on anything else, what does the County go to recapture its money?

MR. de CRINIS: I'm sorry, Councilmember Hokama, what was the question?

COUNCILMEMBER HOKAMA: What if there's another lien on the property?

MR. de CRINIS: The tax lien is a priority lien to all private liens, so it comes first.

COUNCILMEMBER HOKAMA: So, would it be…so this tax thing would be considered part of their regular general property tax --

MR. de CRINIS: Yes.

COUNCILMEMBER HOKAMA: --payment to the County?

MR. de CRINIS: Yes.

COUNCILMEMBER HOKAMA: And then they don't pay what the developers got approval for, then the County is on the hook to pay the bill?

MR. de CRINIS: No, the County is not on the hook to pay the bonds.

COUNCILMEMBER HOKAMA: We got to do all the work.

MR. de CRINIS: Yeah, you have to...

COUNCILMEMBER HOKAMA: We have to send the bill, we got to go make sure the guys pay the bills --

MR. de CRINIS: Yeah.

COUNCILMEMBER HOKAMA: --make the developer do that responsibility.

MR. de CRINIS: Well, that's --

COUNCILMEMBER HOKAMA: Why is it the County?

MR. de CRINIS: --traditionally how it has been done. I mean, the developer pays for all the public improvements and then recovers the cost when they sell the home as part of the home price. That's, I mean, that is the traditional way that that is done or has been done, and is still done, you know. I guess the question for you is there are, you know, there's a limit to what kind of public improvements a developer can build for its project and there may be some other public objectives in terms of what you want the homes to sell for and whether you want to be a partner with the developer in doing something like this. If you don't then, you know, you're absolutely right.

COUNCILMEMBER HOKAMA: When do you plan to bring the Department, Chair?

CHAIR LEE: The Department --

COUNCILMEMBER HOKAMA: That's on the 2nd?

CHAIR LEE: --is at another meeting. They're supposed to join us at three o'clock.

COUNCILMEMBER HOKAMA: Oh, okay, I was just wondering if that was for your December 2nd.

CHAIR LEE: No, they had another commitment with the Mayor's Office.

COUNCILMEMBER HOKAMA: Okay. Well, thank you, Chair.

CHAIR LEE: Okay, are there any…yes, Ms. Paltin?

VICE-CHAIR PALTIN: I just had a question because you seem to be familiar with working with this across states, is there like pushback on the taxes, property taxes based on like, you know, how many districts are paying additional taxes for their CFD? Do you notice that the counties or the municipalities have to then take that into account when they're setting taxes that a number of areas within their boundaries have this CFD?

MR. de CRINIS: Well, in California because of Prop 13, it's capped, the property tax rate. But even there when we're working on a project for Tejon Ranch which is a big project in Southern California. And there, you know, they haven't…and Irvine Company too has used this mechanism, and they have limitations and a lot of public policies in California have limitations on how much the total tax can be. So, for example, most cities, you know, will not approve a CFD if the total tax rate is much above 1¾ percent of assessed valuation, so that'd be sort of the maximum. So, there's a limit to your question, you have to…you do have to take that into consideration and when you approve the special tax, you know, if you were to do it, you'd want to make sure that you made sure that was affordable for homeowners.

VICE-CHAIR PALTIN: So, we don't have anything like that, like how California has what the total amount could be. Would you recommend before we moving forward with making use of the CFD to put something like that on?

MR. de CRINIS: Well, I think you'd want to look at that. I mean, for example in the project in Kauai, you know, they have, you know, they've identified that the special tax rate on a home will be under, you know, $5 per 1,000. So, they know they're below that. So, I think they're probably…they're…in Kauai, they're probably taking that into account when they…and again, I don't know how much it bleeds into the overall County policy because, again, this is, you know, maybe a couple hundred homes or 1,000 homes, I mean compared to the huge scope of the number of properties you tax. But still, it's important to take a look at that and know what the impact is on property owners before you approve something like this.

VICE-CHAIR PALTIN: So, it could be individual, like, per CFD, make sure it's not more than 5 per 1,000 and --

MR. de CRINIS: Yeah.

VICE-CHAIR PALTIN: --that would suffice it?

MR. de CRINIS: I mean --

VICE-CHAIR PALTIN: Could.

MR. de CRINIS: --possibly, that is a policy issue, but that's what they're doing. I mean, again, someone buying a home that's subject to this tax, you know, you got to remember they're not, when they buy the home they're not paying for the public infrastructure part of their purchase price, so they're getting, presumably, they're getting a little lower price for their home when they buy it. In exchange for that they're subject to a tax because those public improvements are financed a different way than being financed by their mortgage.

VICE-CHAIR PALTIN: Thank you, Chair.

CHAIR LEE: Are there any other questions? If not, thank you, Mr. de Crinis.

COUNCILMEMBER KAMA: Chair?

CHAIR LEE: Could you still stay here for future…oh, we have another question, Ms. Kama?

COUNCILMEMBER KAMA: One last one, I promise. You know the case study of Kukuiʻula, the 1,500 homes? How many of those homes that were built were master planned or are affordable?

MR. de CRINIS: That I don't know. I would guess not very many because it's a very high-end residential project.

COUNCILMEMBER KAMA: Oh, let's not do that now, people. Thank you.

CHAIR LEE: Okay, thank you, Mr. de Crinis, if you could stay while we have our next presenter, Mr. Atherton, or Mike Summers?

UNIDENTIFIED SPEAKER: I just have a question for Wes.

CHAIR LEE: Oh, okay. Wes, do we need a short recess?

MR. CRILE: Yes.

CHAIR LEE: Recess? Okay. How about a five minute recess please. Thank you. *. . .(gavel). . .*

RECESS: 2:27 p.m.

RECONVENE: 2:32 p.m.

CHAIR LEE: *. . .(gavel). . .* Okay, back on track and the next testifier will be Mr. Mike Atherton and Mr. Mike Summers. Gentlemen, ready?

MR. ATHERTON *(PowerPoint Presentation)*: Is it on?

CHAIR LEE: Yeah, it's on.

MR. ATHERTON: Thank you, Chair and Committee Members. I want to thank the Committee and the Chair for allowing us to say a few words today about what CFD can do for Waikapu Country Town. This is a Country Town master plan. This is a view of the plantation. See the tram there? Over 5 million people have ridden on that tram. Okay, this is the Maui Island Plan directed growth map. You can see where this is the area in blue, yellow, and black is the area that will be future growth areas that are in Central Maui in our Maui Island Plan. This is a plot map of the project itself in its entirety here. You can see down in the bottom of the corner, the dark green is the County Regional Park, the light green to the left is the agricultural open space area, and to the mauka is also open space area. Where the purple and yellow and the orange are residential units, with the town center being where the red is around the Tropical Plantation and the red down below on the Waiale Bypass Road. This is a rendering of what the town will look like at build-out, approximately 15 year build-out on this project. This is the different types of housing that we will build. We have about 1,000 single-family residential units and 500 multiple-family units and my plan is to put about 250 in rental and put 250 condos for sale. This is also other types of housing we have where walkable communities. Large wide open spaces with multiple units. This is also a copy of the plot map that shows the location of the wastewater plant, which is the light green in about dead center of this map, and then the effluent from the plant will be distributed out over the area that's shown there in the green on both sides of Honoapiilani Highway. Up in the top right-hand corner you'll see the solar panels and...okay, CFD financing. This is how the CFD can benefit the Waikapu Country Town. It removes high upfront regional infrastructure costs. Now, I have four different improvements that are County, well, hope to be County facilities that we would be able to possibly benefit with the CFD and that would reduce the upfront infrastructure cost by almost $50 million. Okay, it reduces the purchase price of the homes. Now, if we can save a lot of money upfront on the infrastructure cost, then that would greatly reduce the purchase price of the homes because it's a _____ of cost and then breaking them up over and someone ______ trying to recoup their cost. So, if we could do a CFD benefit on the upfront infrastructure cost, then it would be a great reduction in the purchase price of the homes. Okay, it also lowers borrowing costs because the bond financing is a better financing than I can get from an institutional lender, and the facility infrastructure it puts...it covers the infrastructure in upfront so we don't piecemeal it, we put it all in at the same time. Okay, this is how the CFD would work on the Waikapu Country Town. The areas in blue would be the areas that would be public facilities and they would be bond financed if possible. On top would be the water system. We're currently working with the Department of Water Supply on a joint venture in doing the water and we would have under the star there is where the wells are and we have a main line that would come all the way down to Waiale Road bypass, over down Waiko Road, and connect into the Kihei main line. Then we have the wastewater facility which is the blue down in the left-hand corner, which would be all of the treated wastewater from this project and the wastewater facility's designed to be expanded if necessary. Then we have the Waiale Bypass, which is the blue line that runs underneath the project, and from the Honoapiilani Highway all the way back across Waikapu Stream, it connects to the current Waiale Bypass. And then we would have the park. The park is a 25-acre park in the center of Waikapu, and I would propose to put up the…to put the park in upfront so when the people buy the first home, they're not paying bond indebtedness and not have a park. So, we would have the . . . the park would be completed 100 percent. At the same time, we would do the Waiale Road, the wastewater facility, and the water system. So, now we have water, sewer, we have traffic, and we can start building homes at greatly reduced costs. Thank you.

CHAIR LEE: Thank you, Mr. Atherton. Mr. Summers, do you have anything to add before we ask for questions?

MR. SUMMERS: Sure, I'll just make a few quick comments. We also have an elementary school in this project, it's to be a State facility and so there certainly would be a possibility to maybe work with the State and do a CFD for that. It's a little bit different because the State has an impact fee program. We gave them, you know, the acreage for the school, and we're giving them about $2.5 million for the construction financing, but it would be in our interest to see that school built sooner rather than later so that we don't have, you know, a large 12-acre undeveloped site and a project without a school. It just makes it a little bit harder to sell. The other thing just going back to, you know, the CFD in the context of it being a financing tool. You know, Maui's changed somewhat in the context of a lot of the regional infrastructure that development projects have relied upon in the past, they're at capacity. So, for example our Central Maui Treatment Plant, which actually has capacity at the facility, but there's a lot of constraints with the transmission system, so getting the wastewater to the facility. In addition, there are concerns about the injection wells and tsunami concerns and things like that, so…and then with our water system, you know, we don't really have a lot of potable water available. So, you know, the County's basic role in the context of long-range planning for Maui County is to identify these growth boundaries and Mike showed in his presentation that, you know, this is a planned growth area and so, you know, essentially the County's looking at these planned growth areas and they have an ability to be proactive about looking at infrastructure improvements to try to support the growth in those areas. And if, you know, you look at the implementation chapter of the Maui Island Plan and the public facilities chapter, it makes it very clear that the County identifies the growth areas and it also talks about financing for regional improvements and different options that might be available, for example, CFDs or impact fees, et cetera. And, you know, Waikapu Country Town will be very similar to many other planned growth areas in that this is probably one of the first major developments in Central Maui where we're having to build an independent wastewater treatment plant, we're developing, you know, water, the source of the water for the facility, and there are a number of other large regional kind of upfront capital investments that this project is subject to that other projects historically weren't necessarily subject to. So, it could be a very good tool for Maui to potentially consider as they move forward with planning for growth and development.

CHAIR LEE: Questions?

MR. ATHERTON: I'd just like to add that I've been party to about 25 different CFDs in my career on the West Coast. We mitigate schools there with CFDs, landscape, lighting, and maintenance districts, we do a lot of major roadways, so we're very familiar with it. And when I had this opportunity to come and talk to you about it, I got very excited that this could be a great way to really kick off this project and put in some major infrastructure upfront. And now that Mike mentioned the schools, we just added the school to the CFD, so that's another public facility that it would be nice to have the school and the park in right away, and thank you.

CHAIR LEE: Ms. Paltin?

VICE-CHAIR PALTIN: Thank you, Chair Lee. My question was, were you going to do one CFD for each of the projects, the wastewater, the bypass, the park, maybe the intersection, the water, and the school? Or was it going to be a CFD for the wastewater, a CFD for the bypass?

MR. ATHERTON: Well, we haven't got that far yet. We'd have to kind of first of all get a pretty good feeling of whether or not we could possibly do this, then we would be a lot more detailed about…there might be several CFDs here instead of just one, it could be two or three.

VICE-CHAIR PALTIN: And if there were more than one, would they be concurrently done or would they be consecutive?

MR. ATHERTON: Oh, I don't know.

CHAIR LEE: Which one has to go first, the water?

MR. SUMMERS: Well, yeah, I mean we wouldn't be able to build any homes in this project unless we had wastewater and water. So, the timing for those two kind of…well actually, and the intersection as well. So, there are three components to the regional infrastructure that need to be in place before we can move forward, and that would be the intersection, the wastewater treatment, and the water system. The bypass roadway, you know, there's some time there where that wouldn't necessarily have to be in place. And then of course, you know, the park. It would be nice to have that in place as an attraction to folks that are going to be living there. But as far as right now infrastructure would have to be that intersection, the wastewater treatment plant, and the water system.

VICE-CHAIR PALTIN: So, maybe you could bundle those three as one?

MR. de CRINIS: If you want, I could address that. Typically there'd only be one CFD and all these public improvements would be part of it. So, you wouldn't have one layered on top of another, layered on top of another. You'd just have one and the authorized improvements would be wastewater, the parks, the roads, and the special tax formula would take all of that into consideration. So, you…it'd be very unusual to have separate CFDs for each type of public improvement.

VICE-CHAIR PALTIN: Thank you. And then I guess my last question for this round would be how is the wastewater treatment facility for this project classified as a public benefit?

MR. ATHERTON: No, I…in our environmental documentation, our final EIS, we've allowed ourselves the flexibility to go either a private system or a County system, whatever works best for the project.

VICE-CHAIR PALTIN: So, that's how it's a --

MR. ATHERTON: So…

VICE-CHAIR PALTIN: --it could be a public benefit --

MR. ATHERTON: Yes.

VICE-CHAIR PALTIN: --because you can take in water from other…wastewater from other areas? Is that…

MR. ATHERTON: No, you would be able to do that. You could take the wastewater from Maalaea.

VICE-CHAIR PALTIN: And that makes it be a public benefit?

MR. ATHERTON: Yeah, it would be a public facility.

VICE-CHAIR PALTIN: Okay.

MR. ATHERTON: My first choice is to attempt to try to do a CFD, that means that the facilities would be public facilities.

MR. SUMMERS: It would be, I mean, if you look at other development that occurs, at least historically on Maui, they don't have to worry about building a treatment plant. You know, they plug into the Central Maui plant and they pay their fees and it goes into a public facility. And that's generally kind of how infrastructure has been done historically. So, developing these private systems is somewhat unusual. So, if you think of it in the context of this is a planned growth area designed to accommodate Central Maui's population growth over a period of years, this kind of off-site infrastructure, even if it was just targeted for only this project, could certainly be argued that it would be a public facility and a public benefit. It wouldn't be unusual. But as Mike Atherton had mentioned, you know, the facility could certainly…

VICE-CHAIR PALTIN: Become County?

MR. SUMMERS: Well, it could become County and it could become larger than just sized for this facility. So, for example, if the County had an interest in supplying wastewater from its adjacent baseyard, or from its parklands that it has next to this facility, or if Maalaea had an interest in transmitting its wastewater, I mean, the location is sufficient to accommodate regional wastewater if necessary or if it was in the community interest.

VICE-CHAIR PALTIN: But it if were a smaller project and the wastewater plan was septic, that wouldn't be a public benefit. Mainly because it's a treatment facility that can accommodate more than the planned development is what makes it be the public benefit?

MR. SUMMERS: It really is just, I mean, in my mind it would be, you know, if you have a facility there and if it's privately owned and operated, well then it's a private facility. The County's not involved in any way. But that's not necessarily…I mean, that's not something that has to be, it could very easily be a public facility like other regional infrastructure is. It's a public facility. So, you know, I'm not sure that it really matters, you know, in the context of public, it's just whether or not the County would be willing or interested in having operational control over the facility and ownership of the facility.

VICE-CHAIR PALTIN: Oh, the reason I was asking was for the CFD it has to be a public…

MR. SUMMERS: That's correct, it would have to be a public facility, so that would have to be a decision made upfront, yeah.

CHAIR LEE: And I think Mr. de Crinis has something to add.

MR. de CRINIS: Yeah, I could add to that. If you use a CFD it has to be public, so once it's dedicated to the public, it becomes County of Maui property.

UNIDENTIFIED SPEAKER: Yeah.

MR. de CRINIS: So, the wastewater plant would be, become…had it go into your wastewater or sewer system, right? So, just like the main County plant, it would be a new plant, it would belong to the County of Maui, the maintenance, everything to do with it would belong to the County of Maui. If you wanted to size it to be…and I don't know what the sizing of the wastewater plant is and how many connections it's going to support, but presumably it's more than just the number of connections you're planning. I don't know but maybe that's something that you could work out and build it into a regional plan if you need another plant and they pay for…CFD pays for most of it and then other people that hook up to the plant down the road could pay a hook-up fee. But it all becomes County of Maui, becomes County of Maui Wastewater Plant.

CHAIR LEE: Ms. Paltin?

VICE-CHAIR PALTIN: Well, with that information then I have kind of big questions about the water. Like so if we CFD with the water, they still have the control of the usage and amount, it's not that the County owns the pipes or the wells and they can say, oh, well you have to give us 2 million gallons a day because now we did this CFD and we own those wells, or is that how it would be?

CHAIR LEE: Well, that would be a separate matter because the wastewater is, you know, a plant that the County could decide to accept for public purposes. But the water, they would definitely have to partner with Mike Atherton's project in order to be…to have access to the water. We would want to partner with him, I would think, in order so that…in order for us to be able to get water for other projects.

VICE-CHAIR PALTIN: Wouldn't the CFD be the partnership?

CHAIR LEE: Well, that could be. But again, you know, everything's up for discussion whether we're going to, like you said, use the word bundle water, wastewater, and bypass for example.

VICE-CHAIR PALTIN: And park and intersection.

CHAIR LEE: Yeah. But to me, if we had to bundle right now without a whole lot of discussion, it would probably be water and wastewater because --

VICE-CHAIR PALTIN: And the intersection.

CHAIR LEE: --the road could wait a little bit because there's no houses there, you know what I'm saying? Okay.

MR. SUMMERS: Yeah, and just a few comments on that. You know, the water system, we may use about 30 percent of the water right now. I mean, there's more water in the wells than what we're going to use for this project in the potable system. As far as the Waiale Bypass, I mean, we're only going to be probably using about 35 percent of the capacity of that bypass road. So, I mean, some of these, you know, pieces of infrastructure will be available to others beyond this project.

COUNCILMEMBER KAMA: Right.

MR. SUMMERS: The treatment plant is programmed for only our project, but it could easily be expanded and phased. It's going to be located right next to the County's baseyard facility so it can expand over time.

CHAIR LEE: I think Mr. Hokama had a question.

COUNCILMEMBER HOKAMA: Well, for me, do you have a sense of what kind of numbers you talking about, Mr. Summers? You guys want to do water, you want to do sewer, you want to do this, you want to do that. So, what kind of number are you looking at, $200 million?

MR. ATHERTON: The total infrastructure cost is $191 million for the whole entire project, but that's over 15-20 year build out. Now, if we can do a water project with the County, the County can start using the water now, it's going to take me quite a while to get the units built to come online. Then again, we have 3 million gallons and we're only going to use less than 1. If I do a dual water system, which I want to do, I could even use less than that, so.

COUNCILMEMBER HOKAMA: So, how much can you do for $40 million?

MR. ATHERTON: Well, I, you know, estimate…

COUNCILMEMBER HOKAMA: Because 1/5, that's 20 percent of 200 --

MR. ATHERTON: Well, we're talking about --

COUNCILMEMBER HOKAMA: --that's all you can get.

MR. ATHERTON: --now…okay, the $40 million would be our share of Waiale Road, which is the fair share on the road and the two intersections, and then it would be the wastewater plant, and the water facility, and those are based on engineers estimates. I'm doing the plans now, the final work drawings that I will bid out and get much better numbers than just estimates. But that's just an estimate for now. If we can some traction on…

COUNCILMEMBER HOKAMA: Oh, yeah, we're not approving this project today, okay? Let's get it clear, we're not talking about this project for approval.

MR. ATHERTON: No, that's onsite and offsite, Riki, that's everything.

COUNCILMEMBER HOKAMA: Okay.

MR. ATHERTON: Curb, gutter, sidewalk, the whole ball of wax.

COUNCILMEMBER HOKAMA: Because I think you folks have done us a…made us cognizant enough that most of our money got to go now to supporting regional infrastructure to help support this project too, okay?

COUNCILMEMBER KAMA: Correct.

COUNCILMEMBER HOKAMA: That's where our money's going to go, not just for this project. We got to take care the region now.

COUNCILMEMBER KAMA: Yeah.

COUNCILMEMBER HOKAMA: We gotta make decision whether Kamehameha Avenue's going to be a four-lane and the major connector from Kahului through Wailuku. And how much is it going to cost to build that extension and improvement of Kamehameha because right now the way things are, we have opportunities and I'm not going to fight the sand, okay? We have issues, let's go around it. Well, we don't need to go through it. So, we have the opportunity, that's where I would like to put our money in for make the regional requirements work because of the size of your project. And that's where I think we got to spend our money to make your project work, not to give our money to help your project work, but how to make the region work for your project. Because this is a sizable project, you're right, mister…the last time was Dream City basically for this area, okay? So, I understand what you're trying to say, but my point on this one is how much of that value is actually doable? And let's be honest yeah, in the past the County was hesitant to do water. What was the main reason? Private could do it faster, and less hoops to jump through than the County, so we always encourage private to do it for that simple reason, time and money. Now, you telling us to come and help you do certain things and certain infrastructure, so now you have no advantage of time because the County's now involved. So, now you got to do the regular government processing, right?

MR. SUMMERS: I'm not sure, I mean, I guess we'd have to look at that and see how that process would work. But I would expect that if the money's available, then it would be a matter of pursuing the project just like you would a privately financed project. When Mike Atherton mentioned the project cost, he had mentioned a pretty high number. I think he said something like 180 million or something, but…

MR. ATHERTON: One hundred and ninety-one million.

MR. SUMMERS: Okay, 191 million, but he was speaking to, just for clarification, all of the onsite improvements as well as the offsite improvements and you folks wouldn't be interested in the onsite improvements, you're only interested in these regional facilities that we were speaking to.

COUNCILMEMBER HOKAMA: I am…if it's part of the calculation of the formula of how much becomes the final amount of taxation. Yes, I would be curious of the internal, onsite. Because I'm, okay, I'm always concerned about the screw-up and then the County's holding the bag, okay? We got to go because we going to administer, we going to enforce, we going to do this for this project, okay? I don't think the County should do that. I can see supporting infrastructure, but at the end of the day it's not my project. I wish we would work on my project on Lanai. So…

CHAIR LEE: Mr. Hokama, where did you get the 40 million from? I'm curious.

COUNCILMEMBER HOKAMA: It's about one-fifth of the $200 million. Because I think Mr. de Crinis says for it to be bonded and attractive to bond buyers, the return or the percent of value remaining needs to be one-fourth or one-fifth of the total amount, Mr. de Crinis, if I heard you earlier correctly?

MR. de CRINIS: Yeah, what I said earlier was that if you're going to sell bonds, the value of the property, the appraised value of the property needs at least to be four times the value of the bond. So, I don't know if there's $40 million worth of improvements that were funded, then you'd have to have an appraisal of the property that indicated the property's worth four times that, four or five times that; so, 160 million. So, you'd have to, there'd have to be a lot of development in place, there'd have to be a fairly…an appraiser would have to verify that the value of the property is four times the amount of the bonds. So, if it's 200 million, you'd need a $800 million, a $1 billion valuation to support 200 million in bonds, and I don't know what the build out is of, or value of all this but it's a lot of homes too. I don't know, what is the build-out valuation of this?

MR. SUMMERS: Do you know what the build-out valuation is?

MR. ATHERTON: No.

MR. SUMMERS: Yeah, I don't think we have that number here, yeah.

COUNCILMEMBER HOKAMA: No, but we're just trying to work with what we were shared information so my understanding is that you'll need one-fourth, one-fifth of your borrowing amount is to cover the potential sale of how you want to sell your bonds if we go the bond route. Is there another route, Mr. de Crinis, to finance besides bonds?

MR. de CRINIS: Well, the obvious one is private financing by the developer because that's the typical way to do it. Or, as you pointed out, you know, the County could sell GO bonds and finance the wastewater plant and all this public infrastructure, but I don't know that you would want to do that.

COUNCILMEMBER HOKAMA: Well, that's the question, yeah, that's before us. We just looking at choices and potential options if I understood the Chair correctly.

CHAIR LEE: Uh-huh.

COUNCILMEMBER HOKAMA: Yeah --

CHAIR LEE: Yes.

COUNCILMEMBER HOKAMA: --opportunities and options of how to do things. So, I'm with the Chair on that. Chair, thank you, I'd be curious what Finance Department has to say. Thank you so much.

CHAIR LEE: Okay, and it just so happens we have the Director of Finance here, Mr. Teruya. And we also have the Director of Planning here, Michele McLean, and Planner Jim Buika. So, could we start with Mr. Teruya, if you have any comments to make about what you've heard so far? Maybe you have another idea for financing?

MR. TERUYA: Thank you, Chair, and good afternoon, Members. Scott Teruya, Director of Finance. As far as what I followed so far, I guess the general fundamental question really to the Council is…

CHAIR LEE: Could you lift your mic closer up? Yeah, okay.

MR. TERUYA: So, I guess my comment to the Members is whether or not you guys are entertaining the CFD route or would you guys just prefer to go out and bond this item? That's really the biggest question for the Council is whether or not we entertain CFDs or not. I mean, that's a fundamental question for you guys first of all. With the CFD also comes a lot more work for the Department as well. We have to collect the money, if there's delinquencies, there's delinquency foreclosure proceedings that you must do, there's ongoing cost for maintenance that's not in the bond. So, the question is, who adds on these additional fees for the County to maintain? Those are all questions that I would have that the Council would have to know about. The municipal advisor, Mr. de Crinis can also add to those comments as far as the additional liabilities and requirements that the Council and this County got to entertain. So, those are the things that we would rely on the advisor to let us know and be aware of. Thank you, Chair.

CHAIR LEE: Mr. Hokama?

COUNCILMEMBER HOKAMA: We appreciate you joining us, Director. So, one of the things that always jams up my calculation is the time factor. So, for your Department, is the timing of when the improvements come, whether it's the waterline, sewer line, the well, the road, and the timing of potential financing; how critical is the time element for your needs?

MR. TERUYA: Chair? Thank you for the question. I think I would probably like to defer to the municipal advisor to let us know. But we also got to know that there's repayment on the bonds and there needs to be, you know, 18 months for the completion and all these things are all timing issues. So, I'm not sure if Mr. de Crinis would like to add to that so that we know as far as the repayment and when we get reimbursed all those technical details that maybe might be better of Mr. de Crinis to add on that. Thank you, Chair.

COUNCILMEMBER HOKAMA: Thank you for bringing up the Federal requirements on bond repayment --

MR. TERUYA: Correct.

COUNCILMEMBER HOKAMA: --and the issue of arbitrage, potential arbitrage.

MR. de CRINIS: Thank you, Scott. In terms of the bond itself for a project like this one, in my experience the County would not entertain issuing bonds until the public improvements were pretty much close to complete, so they would have to have, you know, and ready for dedication. So, the wastewater plant and the parks and all these things would have to be built and ready to become County property, and at that time, you entertain the sale of bonds to repay and it's basically acquire the public improvements from the developer. So, timing wise you wouldn't be putting anything on the…the first amount of tax that would go on a tax roll would come after that once you knew what the principal and interest was going to be on the bonds, and then that's what would go on the tax roll. And then once it became public property and become property of the County, of course, because it's a County facility and it would be the same maintenance cost and every other cost as if…as you do on your other public facilities that you own. So, it would be…just because it was built and paid for this way doesn't change its color, it's still a public facility like any public facility.

COUNCILMEMBER HOKAMA: Follow up please, Chair?

CHAIR LEE: Yes.

COUNCILMEMBER HOKAMA: Thank you, thank you. One of the things that we see in the proposed legislation is one of the minimum requirements or standards is five years of useful life. How did that come about? Because, you know, it's going to take…our bonds is usually 20, 25 years. So, how do we look at the useful life for five years and even think about borrowing what is going to take us five times the amount?

MR. de CRINIS: Well, I think the intention of the five year useful life is to make sure that if you're going to use this mechanism, you're funding long-term public facilities, you're not buying equipment, things that only have a useful life of a couple years.

COUNCILMEMBER HOKAMA: Right.

COUNCILMEMBER KAMA: Right.

MR. de CRINIS: So, the idea here is that you're going to finance long-lived public improvements. That's why the five year is in there as a caution not to use this for something that's going to be obsolete in a couple years.

COUNCILMEMBER HOKAMA: And that's standard minimum time, Mr. de Crinis, five years? Wouldn't it be like…

MR. de CRINIS: Well, I think, I mean, I think it's somewhat arbitrary to pick a time, but in this ordinance it was five years. I think these types of…this type of financing is generally only done for long-lived facilities because if you look at the list of everything that's authorized, there's nothing on the list that would have a useful life of less than five years.

COUNCILMEMBER KAMA: Yeah.

COUNCILMEMBER HOKAMA: Right, right, right. I get it. Thank you, Chair, I appreciate you bringing Mr. Teruya down.

CHAIR LEE: And at this time I want to recognize Member Yuki Lei Sugimura, who is not really a Member of this Committee but who is a guest, and it looks like you have a few questions.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR LEE: But before I call on you, I also, for the record want to say that Mr. Molina, Mr. Mike Molina is excused from this meeting. Okay, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, thank you. I am curious then, based upon what, you know, in order to move this forward for the Waikapu property project, so in order to use the CFD then, the developer would have to pay upfront for all of the improvements and then the County bond would kick in?

MR. de CRINIS: That's generally how this would be structured, yes. Because I don't think that the County wants to build the improvements, you would want the developer to build the improvements, and so you wouldn't want to sell the bonds until you knew the improvements were well underway. And also, I don't think you'd have a, you want to make sure you have a conservative sellable bond and a lot of development has to be underway before you'd probably feel comfortable even selling any bonds, because you wouldn't want to sell bonds on a bunch of raw land without anything, you know, when they're just at a very, very beginning of the development process. It would have to be, you know, once the development is underway, the public improvements are done, maybe they're building homes, you know, that's the environment if you were going to do this and sell bonds, that's when you would do it.

COUNCILMEMBER SUGIMURA: Wow, so when the project is pretty much on its way, then the CFD would kick in, and for this particular project, if I could, what portion of it is Mr. Atherton looking at possibly using the CFD concept?

MR. de CRINIS: I believe he has it on the map. He was identifying a park, a wastewater treatment plant, and some of the roads as what he wanted to finance through the CFD.

COUNCILMEMBER SUGIMURA: Okay, sorry I didn't see that. And the water with the star means what?

MR. de CRINIS: I guess that…I don't think, I don't know if he's…I'm sorry, go ahead.

COUNCILMEMBER KAMA: Fifty. . . . *(inaudible)* . . .

MR. SUMMERS: Right, so in blue you have the water system, you have the major intersection along the highway, the park, the Waiale Bypass, and the wastewater reclamation facility. It might be possible to also, as I'd mentioned earlier, work with the State and see if we could expedite the development of the school as well. So, the CFD might be helpful for that.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR LEE: Just as clarification, Ms. Sugimura, you mentioned after the improvement is done the CFD would kick in --

COUNCILMEMBER SUGIMURA: Yeah, is that what…

CHAIR LEE: --but actually the CFD would be established before the CIP begins. In other words, you have to establish the district, it has to be approved by the Council. All of the steps have to be met and what will kick in later is the funding.

COUNCILMEMBER SUGIMURA: Oh, the actual --

CHAIR LEE: Yeah.

COUNCILMEMBER SUGIMURA: --RPT portion?

CHAIR LEE: Right.

COUNCILMEMBER SUGIMURA: Okay, thanks for that clarification because I would imagine it would be a large sum for any developer to kick in or any community to kick in and utilizing the CFD concept, so…interesting.

CHAIR LEE: Let me call on Mr. Sinenci, did you have a few questions?

COUNCILMEMBER SINENCI: I just had one question, Chair. So, if we did go the CFD route, the taxes levied would be from the residents from the Waikapu Country Town, is that correct?

MR. de CRINIS: From the Waikapu Country Club --

COUNCILMEMBER SINENCI: Town.

MR. de CRINIS: --if you formed a CFD --

COUNCILMEMBER SINENCI: Yeah.

MR. de CRINIS: --on this project it would be levied on whatever the boundaries of the CFD would be, and I presume it would be the boundaries as are presented here.

CHAIR LEE: Excuse me, Mike. It would also, not only the residents but the business people as well, right?

MR. SUMMERS: Yeah, that's correct. There will be over 200,000 square feet of commercial space so it's conceivable that they could be levied as well. It's also possible, as we discussed earlier for example, if the County were to say, you know, we would like to direct some of our facilities to this treatment plant, so let's think about allocating a certain percentage of the plant for our uses. That could come into play as well.

COUNCILMEMBER SINENCI: And potential Maalaea residents as well if they're hooked up to the wastewater treatment?

MR. de CRINIS: Yeah, you know, it wouldn't be unusual to size a sewer treatment plant beyond what your immediate needs are because you want to use it and you want to have access to it in the future.

COUNCILMEMBER SINENCI: Okay, thank you. Thank you, Chair.

CHAIR LEE: Are there any…Ms. Paltin, I bet you have a question.

VICE-CHAIR PALTIN: Thank you, I just was wondering for the water part, like when you were saying 3 million gallons a day, if you were taking into account the 500,000 gallons a day that the Spencer's had been allocated from Mr. Atherton, because we're hearing their issue on November 26th and they already have their wells and they're planning on using close to 500,000 for their project. So then, in theory would your project then have 2.5 million gallons a day because it's under the same aquifer?

CHAIR LEE: Mr. Summers?

MR. SUMMERS: The aquifer that we're drawing from has a sustainable yield of 3 million gallons per day. So, you know, you wouldn't want to obviously exceed that sustainable yield. I think we're using, for this project, under 1 million gallons per day. So, whatever the balance would be with that project would be available for potentially future other uses.

VICE-CHAIR PALTIN: Are you guys in the process of coordinating so that it doesn't exceed the sustainable yield?

MR. SUMMERS: Well, we're required to do that with our project. It's a condition of the development to coordinate with CWRM on that, yeah.

CHAIR LEE: Are there any more questions? No? Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I would, you know, the previous…the only testifier mentioned about the 3.75.030 superiority over conflicting provision of other ordinance. I thought it…was this a good time just to get input from Corporation Counsel, Chair?

CHAIR LEE: Okay, Corporation Counsel?

COUNCILMEMBER SINENCI: Thank you.

MS. OANA: Thank you. So, the testifier was concerned that this code would override other County ordinances such as the community plans, Maui Island Plan, County Budget, or that was the written testimony from another testifier. First, if you read the provision above that 3.75.030, you can learn that this chapter in the Code was established pursuant to a Hawaii Revised Statute 46-80.1. And so, when you're reading that one above that 3.75.020, it does say the Council may use the provision of this chapter in addition to, in combination with, or instead of any other law for or related to the creation of improvement districts, the levying, assessment, and collection of special assessments, et cetera. When you look to the HRS, that specific section, it also has language, and I'll read it for you. It says, this section is a special improvements statute which implements Section 12 of Article 7 of the State Constitution and provides a complete additional and alternative method of doing things authorized herein. And it continues, and the creation of districts, levying, assessment, and collection of special taxes, issuance of bonds and other matters covered by this section, or by the procedural or bond ordinances authorized by this section need not comply with any other law applicable to these matters. So, I don't think that this chapter in the Maui County Code would conflict with the other County ordinances, because when you read the section above in the Maui County Code and the Hawaii Revised Statutes, they do specifically refer to the creation of the district and assessments. So, to the extent that this code, and it's a current code, not like the testifier said that it's an amendment that's already adopted, so the extent that this code does conflict with any other County ordinances, I don't know. But I want to point out that these sections refer specially to the creation of the districts. But I also want to point out that the Council can kind of rest assured, at least a little bit, that to establish a district and these assessments, the Code requires adoption by resolution and ordinance by the Council. So, it's the Council that can remedy. If there is a conflict, you guys can just say no. If you turn to 3.75.190, it kind of confirms that in the very bottom, and this is actually talking about the public hearing. So, to establish a district, the Council needs to adopt by resolution and ordinance to establish a district. So, it also requires public hearing, and the public hearing requires a notice in the paper twice. But this specific section at the bottom, it says after the hearing the Council may abandon the proposed establishment of the district or after considering all protests and such other relevant factors (such as the General Plan or development plan) as it deems appropriate, may proceed with establishing the district. So, you guys are the ones that adopted those prior County ordinances, you guys are also the ones that are going to be approving this special district. So, it does kind of confirm that you can look to other things, not only the protests, to decide whether you want to go forward with this or abandon the special district.

CHAIR LEE: Any further --

MS. OANA: So, you have the last say.

CHAIR LEE: --questions on this matter?

COUNCILMEMBER KAMA: So, I just want to clarify what was said. So, basically if this body is the creator of the rules, this body can also be the eliminator of rules, correct?

MS. OANA: You could amend this 3.75, but the HRS did establish…it did authorize the counties to establish this code, so we have to kind of...if you do want to amend the Code, do it in a way that abides by the HRS.

COUNCILMEMBER KAMA: Okay, good, thank you.

CHAIR LEE: Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: I thought Ms. Kama's question was can we delete it from the Code?

MS. OANA: Delete the specific provision?

COUNCILMEMBER HOKAMA: We can delete enabling legislation?

MS. OANA: You can. But with regard to 46-80.1 HRS Section E, it does have that language...

COUNCILMEMBER HOKAMA: That says the County has the choice, okay? It doesn't say the County shall establish a CFD.

MS. OANA: It does say may.

COUNCILMEMBER HOKAMA: Yeah.

MS. OANA: May enact the ordinance.

COUNCILMEMBER HOKAMA: Yeah.

MS. OANA: Yeah.

COUNCILMEMBER HOKAMA: Yeah.

MS. OANA: But we did, and so...

COUNCILMEMBER HOKAMA: No, I think the point is we did, but then we can also --

COUNCILMEMBER KAMA: Undo.

MS. OANA: Undo.

COUNCILMEMBER HOKAMA: --delete it.

MS. OANA: But if you want to undo that specific provision that everybody's, you know, complaining about right now, we have to do it in a way that is within the boundaries of the HRS. So, it does say it's a complete additional and alternative method of doing things, but it does say specifically with regard to the creation of districts and assessments. So, we could add that into the Maui County Code concerning provision just to make it more clear.

COUNCILMEMBER HOKAMA: Okay. So, one follow up for the Department. So, Mr. Teruya, you're going to need to do a special assessment by your appraisers for the district is what I'm hearing from the language that the counselor was sharing with us. Is this what it's going to entail?

MR. TERUYA: Chair?

CHAIR LEE: Go ahead.

MR. TERUYA: That is not my understanding. I don't think it's the appraisers who determine what is the cost per unit or…I believe it's the Committee that comes up with the allotment of what is allocated cost to each parcel under this --

COUNCILMEMBER HOKAMA: The proposal.

MR. TERUYA: --region. Yeah. Mr. de Crinis can --

MR. de CRINIS: Yeah.

MR. TERUYA: --chime in on this.

MR. de CRINIS: Thank you, Scott. Actually, there's a consultant called a special tax consultant who's retained. And a special tax consultant, one of their jobs in working with the finance team which would include Scott, the bond attorney, municipal advisor, and probably some of the property owners, the developer, would look at what all the different ways that the tax could be spread, you know, as in how much is going to go against residential, how much is going to go against commercial, what the percentage is. And on the residential, you know, more might be taxed against a larger home than a smaller home and so forth. And then the level of taxation turns into a little bit of a policy issue because as was mentioned earlier, you know, the County may want, and developer too, they don't want to have the tax be at such a level that it discourages people from buying homes or it doesn't seem reasonable from the County's standpoint. And so, you know, but the special tax consultant will put all that into a report called a special tax report. That report will then be submitted at the time of the resolution of intention to the entire County Council to review, approve, or change.

CHAIR LEE: Any further questions?

COUNCILMEMBER HOKAMA: Thank you, Chair.

MR. TERUYA: And just to add to that, and those are including other costs that the Department's going to bear for administration of this project as well?

MR. de CRINIS: Yeah, there's usually an issuance fee that's included for staff time as part of the special tax. And every year the tax is levied, there's also the ability to include administrative fees for the County's time in levying the tax every year.

COUNCILMEMBER HOKAMA: All right, thank you.

CHAIR LEE: And then we have, as I mentioned earlier, the Director of Planning here. Michele, would you like to add any comments or do you have questions?

MS. MCLEAN: Thank you, Chair. The Planning Department's involvement with this is mostly limited to the Kahana Bay region where there are nine shoreline properties that are experiencing severe coastal erosion and are looking, most likely, to a CFD, to fund a beach nourishment project that would also include the construction most likely of T-head groins along the entire stretch of Kahana Bay. The properties collectively have a valuation of about $500 million. They've gotten together to put together about 800,000 to fund the EIS process. Looking to issue the draft EIS potentially next month. We'll find out over the next few days if that timeline is still in place and then hoping that once the environmental review process is complete and a project is chosen, that the CFD mechanism could be used to fund those improvements that are estimated right now, I believe Jim told me between 19 and $30 million. So, for that group of property owners to put together 800,000 for the draft EIS was one thing, but to put together the 19 to $30 million is a much bigger undertaking. As you've heard, those improvements would have to be County owned, so that's a big discussion. I think Chair said you were going to discuss…you were going to schedule Kahana Bay specifically for your next meeting, so we don't need to get into too much detail now if we're going to be talking about that at a future meeting. But that's really been the extent of the Department's discussion or involvement with CFDs. Thank you, Chair.

CHAIR LEE: Thank you. Well, you know, we are going to be talking about specific projects at our next meeting but we do appreciate when people come in with numbers, you know, because otherwise everything's academic and so I'm glad that they've reached a point where they have estimates. And would you know if these are contiguous properties and they all are in favor of the CFD?

MS. MCLEAN: Yes.

CHAIR LEE: Oh.

MS. MCLEAN: Yes and yes.

CHAIR LEE: Okay. Any other…Ms. Paltin, you don't have any questions about Kahana?

VICE-CHAIR PALTIN: Well, since you asked. I was just wondering, you know, like so there's those nine properties but each property has so much off-island owners and you think that all of the owners are…it's not like a 55 percent protest or anything, they're all onboard with getting taxed higher than what they are?

MS. MCLEAN: I can't speak for every single owner, but the…a group called the Kahana Bay Steering Committee has gotten together with representatives from their apartment association, the owners association. I would imagine there are some that wouldn't agree. But the ones who have had the most involvement in this all along have been supportive.

VICE-CHAIR PALTIN: Just cause what I hear from folks that went to the meetings is it's so difficult to get in touch with all the owners because most, a majority of them don't live here and, you know, it's difficult to get responses from them. So, if it's hard to get like a response, I would imagine getting additional money might be more hard. But I don't know, you know, I guess we would know if…is it then in the case where you're talking about a 55 percent protest would not, for Mr. de Crinis, would it not responding to the call for a CFD not be considered a protest if they just don't respond?

MR. de CRINIS: The only thing that's counted is the vote, people that vote. So, it's not 55 percent of all properties, it's 55 percent of who responds. And I would add that before you even got to that point in Kahana's case, what has been discussed with the property owners and the HOAs is that they submit a petition requesting formation. And so they're going to…in order even to start the process, they would need to do that, and I'm sure they would be in contact with all their property owners because they need at minimum a 25 percent petition and they can, you know, the County could say we want a 50 percent petition. You can say whatever you want, 25 percent is what's in the statute or in the ordinance. So, you would presumably you would find out, you know, what the level of support is at that stage, which would be long before there would be an actual protest proceeding.

VICE-CHAIR PALTIN: So, in theory it could be 55 percent of the 25 percent and then it wouldn't pass?

MR. de CRINIS: That's right.

VICE-CHAIR PALTIN: Or…

MR. de CRINIS: That's right, so let's say, you know, 500 people vote…or 100 people vote, if 55 say no, that's it, it's no.

VICE-CHAIR PALTIN: And if say the majority of folks just don't participate at all? By law they're still on the hook to pay the higher property taxes --

MR. de CRINIS: Yes.

VICE-CHAIR PALTIN: --or the County would foreclose on their condo?

MR. de CRINIS: That's right, they are obligated under the special tax. And presumably in these types of districts, when there's organized opposition or people are upset about it, they're the ones that vote. They're the ones that make their voice known. It's usually the people that are indifferent or are for it a lot of times just go whatever, you know. They're not necessarily having to say about it. But it's the noes who you're going to hear from.

VICE-CHAIR PALTIN: Thank you.

CHAIR LEE: Ms. Kama and then Ms. Rawlins-Fernandez.

COUNCILMEMBER KAMA: So, does…so, regarding these nine properties. So, if three of the property owners say, hey, we really want to do this, and six of them said no response, it's a go, right? Because three people said yes and six guys said nothing?

MR. de CRINIS: That's right.

COUNCILMEMBER KAMA: Oh, okay. There you go.

CHAIR LEE: Well, these are nine properties --

COUNCILMEMBER KAMA: Yes.

CHAIR LEE: --but how many units?

MR. de CRINIS: However many units per…

CHAIR LEE: How many units, Michele?

COUNCILMEMBER KAMA: Oh, units per property.

MR. de CRINIS: Yeah.

MS. MCLEAN: In the range of 1,000 units all together.

CHAIR LEE: A thousand units.

MR. de CRINIS: Yeah.

COUNCILMEMBER KAMA: So, now the number's 1,000, not 9.

MR. de CRINIS: Right.

COUNCILMEMBER KAMA: Right?

MS. MCLEAN: It's nine properties --

COUNCILMEMBER KAMA: Nine properties --

MS. MCLEAN: --but they're --

COUNCILMEMBER KAMA: --1,000 people.

MS. MCLEAN: --multi-tenant or multi-unit properties.

COUNCILMEMBER KAMA: Okay. Just trying to get all the numbers so I can do the math. If I don't have the numbers I don't know how to do the math.

CHAIR LEE: Right.

COUNCILMEMBER KAMA: Thank you.

CHAIR LEE: Yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, if anyone wants to ask more questions about the Kahana properties, because I'm going to switch.

CHAIR LEE: Any more questions on Kahana? Go right ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, I wanted to find out more information since we're all learning about CFDs, because we discussed this when we had the Upcountry meeting about how this would look for the Upcountry water meter listees. I don't know who would answer that. So, would it like be a street of people or all people or…how would they be able to take advantage of a CFD?

MR. de CRINIS: Well, I mean, it's…if in terms of building public waterlines to serve them, extending the existing waterlines, is that what you're thinking? Well, if the County General Fund didn't want to spend the money and you wanted to have only the people up there be responsible for the cost of extending waterlines, then you would…either the County itself could form…propose a CFD and would draw the boundaries itself and propose a CFD, or I guess you could leave it to petition for those property owners that do want it and they could, if they have enough, they could create a boundary and petition the County to form it. Either one way or the other. But, yeah, I guess you could identify a benefiting area from those waterline improvements and it'd be to go through the same process. If, you know, if that was agreeable and there was support for a petition to form or the County wanted to form it, do the work and…or form it, and you had again a group of…put a special tax formula together you determine what everyone would pay you and you went through the same procedure as we've been talking about and they would have a, there was a protest and more than half said no, then it would be over with. But you could do that, I mean, legally you could do it. I don't know policy wise whether you'd want to do it, but legally you can do it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Yeah, well, I guess we would need more information on how the list would work and when the person's name was called and all that additional information, yeah? And so, I was trying to find it in the ordinance, is there a minimum number of people or properties that would have to participate to create a CFD?

MR. de CRINIS: No, you could have one property create a CFD, which is the case for the developer for example, there's only one. Then presumably they'll be selling that property off and there'll be more property owners in the future.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, that's all I have. Mahalo, Chair.

CHAIR LEE: And that's why, actually, the Atherton property is a good prospect for this tool because there's only one owner and we don't have to worry about percentages at this point, yeah? Any other questions for now? Any other comments from our resource folks? No? Okay, well thank you very much everybody for coming. Appreciate the information. We will continue this, I believe on December 2nd. And meanwhile, Members, if you have more questions, be sure to jot it down and bring them along to the December 2nd meeting. Okay, so, for now, if there are no objections, we will defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: MM, SS)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR LEE: So ordered. Meeting adjourned. . . .*(gavel)*. . .

ADJOURN: 3:33 p.m.

APPROVED:

ALICE L. LEE, Chair
Water and Infrastructure Committee

wai:min:191118:cs

Transcribed by: Crystal Sakai

CERTIFICATE

I, Crystal Sakai, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 9th day of December, 2019, in Kahului, Hawaii

Crystal Sakai