

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

April 6, 2021

**Committee
Report No.** _____

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

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on March 16, 2021, makes reference to County Communication 19-402, from Councilmember Kelly T. King, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 2.28 AND 2.40, MAUI COUNTY CODE, RELATING TO ADVISORY COMMITTEES TO THE MAUI PLANNING COMMISSION."

The purpose of the proposed bill is to establish advisory committees to the Maui Planning Commission for the Kihei-Makena and Paia-Haiku community plan areas.

Your Committee notes that the Council's Planning and Sustainable Land Use Committee (2019-2021 Council term) met on January 8, 2020, January 22, 2020, February 5, 2020, November 19, 2020, and December 3, 2020. Ordinance 5128 (2020), effective October 12, 2020, amended Section 2.28.070, Maui County Code, relating to planning commission and advisory committee membership requirements.

By correspondence dated March 5, 2021, Committee Chair Michael J. Molina transmitted a revised proposed bill.

The purpose of the revised proposed bill is to amend Chapters 2.28 and 2.40, Maui County Code, to:

- (1) establish advisory committees to the Maui Planning Commission for the Kihei-Makena and Paia-Haiku community plan areas; and

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- (2) establish the following standards for all advisory committees, including the existing Hana Advisory Committee to the Maui Planning Commission, to:
 - (a) require an advisory committee member be a resident of the relevant community plan area for a period of at least 12 months immediately preceding the person's appointment;
 - (b) require each advisory committee to consist of seven members, of which two members are appointed by the Mayor, and five by the Council;
 - (c) establish processes for filling vacancies for advisory committee members who cease to be residents of the relevant community plan area, and require staggering of terms; and
 - (d) require each advisory committee to provide recommendations to the Maui Planning Commission, upon request, on matters within its community plan area, including holding public hearings and adopting administrative rules, with recommendations provided within 90 days for matters requested for review by the Maui Planning Commission.

Your Committee discussed the revised proposed bill transmitted by the Chair of your Committee.

Your Committee Chair said both bills would establish advisory committees modeled after the Hana Advisory Committee; however, the revised proposed bill was drafted with input from a community working group.

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He said the advisory committees could assist the Maui Planning Commission by providing recommendations to, and holding public hearings on behalf of, the Commission. Further, the functions of the advisory committees could eliminate unnecessary duplications in the permitting process.

He said the appointment of five members by the Council and two members by the Mayor would provide increased transparency, build a healthier understanding of the entitlement process, and help residents manage growth in their own neighborhoods.

The Planning Director said, while she was part of the community working group, she did not feel the creation of additional advisory committees was needed. She added that the Maui Planning Commission expressed concerns over prolonging the permitting process and incurring unnecessary costs of expanding government during a pandemic.

She said the Hana Advisory Committee did not yet have an opportunity to comment on the revised proposed bill.

The Planning Director agreed with having regional representation requirements on the Maui Planning Commission. She said a "Blue Ribbon" Committee could provide an opportunity for the Mayor and the Council to fill all board and commission seats to ensure representation and balance of its members.

The Planning Director said if the Kihei-Makena and Paia-Haiku advisory committees are established, she anticipates the need for three new Department of Planning staff positions.

After due consideration, your Committee decided establishing advisory committees for Kihei-Makena and Paia-Haiku would increase public participation in important County deliberations, producing more well-informed decisions and, ultimately, promoting efficiency in government.

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Your Committee also notes the following Countywide Policy Plan policies suggest support for the revised proposed bill:

- “. . . ensure that land use decisions are consistent with County plans and the vision local populations have for their communities.”
- “Support community-based decision making.”
- “Expand advisory functions at the community level.”

Your Committee decided to further revise the revised proposed bill to provide for the following:

- (1) an advisory committee member’s removal for failure to attend board meetings in accordance with Section 2.14.090, Maui County Code;
- (2) election of a chair and vice-chair for each advisory committee;
- (3) Council review of the operations of each new advisory committee within 36 months of its first meeting; and
- (4) changing “Kihei-Makena” to “South Maui,” consistent with the proposed South Maui Community Plan Update.

Your Committee voted 6-2 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, King, Paltin, and Sinenci voted “aye.” Committee members Lee and Sugimura voted “no.” Committee member Kama was excused.

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

Your Government Relations, Ethics, and Transparency Committee **RECOMMENDS** the following:

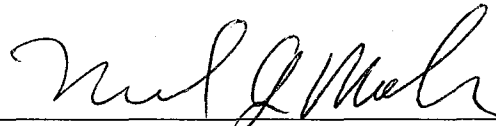
1. That Bill _____ (2021), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 2.28 AND 2.40, MAUI COUNTY CODE, RELATING TO ADVISORY COMMITTEES TO THE MAUI PLANNING COMMISSION," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-402 be FILED.

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



MICHAEL J. MOLINA, Chair

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ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 2.28 AND 2.40,
MAUI COUNTY CODE, RELATING TO ADVISORY COMMITTEES
TO THE MAUI PLANNING COMMISSION

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

SECTION 1. Chapter 2.28, Maui County Code, is amended by adding a
new section to read as follows:

**“2.28.050 Advisory committees to the Maui planning
commission.** A. The following are established:

1. The Hana advisory committee to the Maui
planning commission.

2. The South Maui advisory committee to the Maui
planning commission.

3. The Paia-Haiku advisory committee to the Maui
planning commission.

B. To be eligible for appointment as a member of an
advisory committee, a person must be a resident of the relevant
community plan area for a period of at least twelve consecutive
months immediately preceding the person's appointment.

C. The advisory committees must consist of seven
members; five members of each advisory committee will be
appointed by the council by resolution and two members appointed
by the mayor.

D. If an advisory committee member ceases to be a resident
of the relevant community plan area, the committee member
immediately forfeits the office, and the office becomes vacant.

E. Except for the Hana advisory committee, vacancies will
be filled in the same manner as the original appointment.

F. Vacancies for the Hana advisory committee will be filled
as follows:

1. Each vacancy will be filled with the council
making an appointment, until there are five members who
have been appointed by the council.

2. The next two vacancies will then be filled with
appointment by the mayor.

3. Any subsequent vacancy will be filled in the same manner as the previous appointment.

G. The process to fill a vacancy may be initiated once the mayor, the council, or advisory committee chair becomes aware of a vacancy, but the vacancy may not be filled until:

1. The member has moved out of the community plan area;

2. The member has provided the mayor, council, or advisory committee chair a resignation letter;

3. The member's term has expired;

4. The member is deceased; or

5. The member is removed for failure to attend 50 percent or more of meetings, or is absent from at least 25 percent of meetings within thirty days of the member's last excused or unexcused absence, in accordance with section 2.41.090.

H. The following subsections of section 13-2 of the revised charter of the County of Maui (1983), as amended, apply to each advisory committee: subsections 2, 4, and 6-15.

I. The terms of committee members are five years, except initial terms must be staggered, with four members receiving five-year terms and three members receiving three-year terms, as selected by lot. A member receiving an initial three-year term may seek reappointment to a five-year term.

J. Each advisory committee is authorized to:

1. Provide recommendations to the Maui planning commission on matters within its community plan area.

2. Upon request by the Maui planning commission, hold public hearings, on behalf of the commission, on matters that pertain to its community plan area.

3. Carry out such duties as provided by law or as may be delegated to it by the Maui planning commission.

4. Adopt administrative rules.

K. When requested to review a matter by the Maui planning commission, an advisory committee must provide recommendations to the planning commission within ninety days from the first meeting held to review the matter. If additional time is required because of extenuating circumstances, the advisory committee must notify the Maui planning commission. Each recommendation must be read aloud during the Maui planning commission's review of the matter.

L. Each advisory committee must meet as needed, with meetings scheduled when appropriate to maximize community participation.

M. Each advisory committee must elect a chair and a vice-chair from its members. The vice-chair will act as the presiding officer in the event of the chair's absence or disability. Until the

chair is elected, the planning director will preside at the meeting, except that the planning director will not have a vote.

N. The council must review the operations of the advisory committee within thirty-six months of its first meeting, but no sooner than twelve months after that first meeting.”

SECTION 2. Section 2.28.080, Maui County Code, is amended to read as follows:

“2.28.080 Planning commission and advisory committee training requirements. In addition to any other training offered to members, each planning commission member[,] and [Hana] advisory committee member [shall] must participate in the Native Hawaiian Law Training Course for Boards, Commissions, Councils and Lawmakers, given by the Ka Huli Ao Center for Excellence in Native Hawaiian Law, provided funding for the training is available through the Office of Hawaiian Affairs. Participation [shall] must occur within one year of the member’s term of appointment, unless the planning director approves an appointee’s request for a [six-month] twelve-month extension for extenuating circumstances. Remote participation in training, through video and audio connection, [shall] will satisfy this section’s requirements.”

SECTION 3. Chapter 2.40, Maui County Code, is amended by adding a new section to be appropriately inserted and to read as follows:

“2.40.131 South Maui advisory committee. There is established a South Maui advisory committee as provided by law.”

SECTION 4. Chapter 2.40, Maui County Code, is amended by adding a new section to be appropriately inserted and to read as follows:

“2.40.132 Paia-Haiku advisory committee. There is established a Paia-Haiku advisory committee as provided by law.”

SECTION 5. Section 2.28.060, Maui County Code, is repealed:

“[Section 2.28.060 Hana advisory committee. A. Establishment—members. There is established a Hana advisory committee to the Maui planning commission which shall consist of seven members appointed by the mayor with the approval of the council. Each member shall be a resident of the Hana district.

B. Member—residency requirement. To be eligible for appointment as a member of the Hana advisory committee, a person

shall be a resident of the Hana district for a period of at least ninety consecutive days immediately preceding the person's appointment by the mayor. For the purposes of this section, the Hana district shall be delimited by section 4-1 of the Hawaii Revised Statutes. If a committee member ceases to be a resident of the Hana district, the committee member shall immediately forfeit office and the office shall thereupon be deemed vacant.

C. Terms and operation. Section 13-2 of the revised charter of the County of Maui (1983), as amended, shall apply to the Hana advisory committee in the same manner as said provisions apply to boards and commissions recognized by the revised charter of the County of Maui (1983), as amended.

D. Powers, duties, and functions. The Hana advisory committee shall advise the Maui planning commission on matters within its jurisdiction and shall carry out such duties as may be delegated to it by the Maui planning commission.]”

SECTION 6. New material is underscored, and bracketed material is deleted. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 7. This Ordinance takes effect upon approval, except: (a.) it does not apply to applications that are complete or proposed ordinances that have been transmitted to the Maui Planning Commission prior to this Ordinance’s effective date; and (b) its provisions related to the South Maui Advisory Committee and the Paia-Haiku Advisory Committee are not effective for each body until a quorum of members has been appointed.

APPROVED AS TO FORM AND LEGALITY:

 /s/ Michael J. Hopper

Department of the Corporation Counsel
County of Maui

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