

REQUEST FOR LEGAL

RECEIVED

By Dept of the Corporation Counsel at 11:25 am, Feb 04, 2021

Date: February 3, 2021
From: Michael J. Molina, Chair
Government Relations, Ethics, and Transparency Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Moana Lutey, Esq.

Subject: **CONSERVATION PLANNING COMMITTEE** (GREAT-7)

Background Data: Please see the attached bill.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY

OTHER:

Requestor's signature Michael J. Molina	Contact Person <u>Shelly Espeleta</u> (Telephone Extension: <u>7134</u>)
------------------------------------------------	-------------------------------------------------------------------------------------

ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): February 10, 2021
REASON: To meet posting deadline for Council meeting on February 19, 2021.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: SMC	ASSIGNMENT NO. 2021-0013	BY: jcm
------------------	--------------------------	---------

TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

With reference to the email from David Raatz dated 2/10/2021 the attached bill is signed as to form and legality as submitted.

DEPARTMENT OF THE CORPORATION COUNSEL

Date 2/12/21

By Stephanie Chen

(Rev. 7/03)

great:ltr:007acc01:ske

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE RELATING TO THE CONSERVATION
PLANNING COMMITTEE'S MEMBERSHIP

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

SECTION 1. Section 2.82.40, Maui County Code, is amended to read as follows:

“2.82.040 Conservation planning committee. A. There is established a conservation planning committee consisting of the following nine voting members and ~~[three]~~ seven ex-officio non-voting members:

1. ~~[One representative: office of the mayor.]~~ One representative from the sustainable science management program or the agriculture and natural resources program at the University of Hawaii Maui College.

2. ~~[Managing director or director's designee.]~~ One representative from `Aha Moku or `Aha Kiole.

3. Director of public works or director's designee.

4. Director of agriculture, County agricultural specialist, or director's designee.

5. ~~[Director of parks and recreation or director's designee.~~

6.] One representative[:] from a Hawaii-based conservation group or land trust.

~~[7.]~~ 6. One council member.

7. One representative who is a full-time resident of the east Maui community plan area.

8. ~~[Two representatives: general public.]~~ One representative who is a full-time resident of the island of Molokai.

9. One representative who is a full-time resident of the island of Lanai.

10. Ex-officio non-voting members: one representative each from (a.) the State department of land and natural resources, [the Sustainable Science Management program at the University of Hawaii Maui College, and] (b.) the department of management's [County] information technology

division, (c.) The Nature Conservancy, (d.) the office of the mayor, (e.) the managing director, (f.) the department of finance, and (g.) the department of parks and recreation.

B. The council member [shall] must be appointed by the council for a term concurrent with the council member's term of office. [The representative from the office of the mayor shall be appointed by the mayor without approval by the council for a term concurrent with the mayor's term in office. The general public and land trust/conservation members of the committee shall be nominated by the mayor, approved by the council, and serve staggered terms of five years.]

C. [Additional stakeholders may be involved as resource persons on an ad hoc basis, including subject matter experts, cultural practitioners, and stakeholders for specific lands, including lineal descendants, but shall not be considered members of the committee.] To be eligible for appointment as a member of the committee for a seat with a residency requirement, a person must be a resident of the residency area for at least ninety consecutive days immediately preceding the person's appointment. If the committee member moves out of the residency area, the committee member will immediately vacate the seat.

D. [The committee shall assist with and oversee the creation of the Countywide Greenprint, as well as provide advice and recommendations to the mayor, council, and departments related to the purposes of this chapter.] The following three voting committee members must be appointed by the mayor with the approval of the council by resolution and serve staggered terms of three years:

1. One representative from the sustainable science management program at the University of Hawaii Maui College.

2. One representative from `Aha Moku or `Aha Kiole.

3. One representative from a Hawaii-based conservation group or land trust.

E. The following three voting committee members must be appointed by the council by resolution and serve staggered terms of three years:

1. One representative who is a full-time resident of the island of Molokai.

2. One representative who is a full-time resident of the island of Lanai.

3. One representative who is a full-time resident of the east Maui community plan area.

F. The seven ex-officio non-voting members must be appointed by the mayor and serve for a term concurrent with the mayor's term of office.

At least two voting committee members must have demonstrated expertise in native Hawaiian traditional and customary practices as evidenced by one or more of the following credentials:

1. A college degree in a relevant field, such as Hawaiian studies, native Hawaiian law, native Hawaiian traditional and customary practices, including traditional environmental practices, or related subject area.

2. Work history that demonstrates an appropriate level of knowledge in native Hawaiian traditional and customary practices, including traditional environmental practices.

3. Substantial experience as a native Hawaiian traditional and customary practitioner.

G. The council member must be appointed by resolution for a term concurrent with the council member's term of office. The council member may be reappointed for a subsequent term after their current term ends. The voting members from County agencies must be appointed by the mayor, without approval by the council, for a term concurrent with the mayor's term of office. The mayor may reappoint voting members from County agencies for subsequent terms after their current terms end.

H. "Staggered terms" means one or more initial terms are made for less than the stated term for members grouped together in a subsection to ensure terms do not all expire at the same time. The mayor or the appointment resolution, if any, must state the duration of each initial term.

I. Additional stakeholders may be involved as resource persons for the committee on an ad hoc basis, including subject-matter experts, cultural practitioners, and stakeholder for specific lands, including lineal descendants. The additional stakeholders are not committee members.

J. The committee must assist with and oversee the creation of the countywide greenprint and provide recommendations to the mayor, council, and agencies related to this chapter's purpose.

K. Funding for the countywide greenprint may be provided by the County, subject to appropriation by the council."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Ordinance will take effect upon approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Stephanie M. Chen

Department of the Corporation Counsel
County of Maui

great:misc:007abill01:ske

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE RELATING TO THE CONSERVATION
PLANNING COMMITTEE'S MEMBERSHIP

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

SECTION 1. Section 2.82.40, Maui County Code, is amended to read as follows:

“2.82.040 Conservation planning committee. A. There is established a conservation planning committee consisting of the following nine voting members and [three] seven ex-officio non-voting members:

1. [One representative: office of the mayor.] One representative from the sustainable science management program or the agriculture and natural resources program at the University of Hawaii Maui College.

2. [Managing director or director's designee.] One representative from `Aha Moku or `Aha Kiole.

3. Director of public works or director's designee.

4. Director of agriculture, County agricultural specialist, ~~Planning director~~ or director's designee.

5. [Director of parks and recreation or director's designee.

6.] One representative[:] from a Hawaii-based conservation group or land trust.

[7.] 6. One council member.

7. One representative who is a full-time resident of the east Maui community plan area.

8. [Two representatives: general public.] One representative who is a full-time resident of the island of Molokai.

9. One representative who is a full-time resident of the island of Lanai.

10. Ex-officio non-voting members: one representative each from (a.) the State department of land and natural resources, [the Sustainable Science Management program at the University of Hawaii Maui College, and] (b.) the department of management's [County] information technology

division, (c.) The Nature Conservancy, (d.) the office of the mayor, (e.) the managing director, (f.) the department of finance; and (g.) the department of parks and recreation.

B. The council member [shall] must be appointed by the council for a term concurrent with the council member's term of office. [The representative from the office of the mayor shall be appointed by the mayor without approval by the council for a term concurrent with the mayor's term in office. The general public and land trust/conservation members of the committee shall be nominated by the mayor, approved by the council, and serve staggered terms of five years.]

~~C. To be eligible for appointment as a member of the conservation planning committee, a person must be a resident of their residency area for a period of at least ninety consecutive days immediately preceding the person's appointment. If the committee member transfers out of their residency area, the committee member will immediately vacate the seat.~~

~~[C.—[Additional stakeholders may be involved as resource persons on an ad hoc basis, including subject matter experts, cultural practitioners, and stakeholders for specific lands, including lineal descendants, but shall not be considered members of the committee.] To be eligible for appointment as a member of the committee for a seat with a residency requirement, a person must be a resident of the residency area for at least ninety consecutive days immediately preceding the person's appointment. If the committee member moves out of the residency area, the committee member will immediately vacate the seat.~~

~~D. [D.—The committee shall assist with and oversee the creation of the Countywide Greenprint, as well as provide advice and recommendations to the mayor, council, and departments related to the purposes of this chapter.] The following three voting committee members must be appointed by the mayor with the approval of the council by resolution and serve staggered terms of three years:~~

- ~~1. One representative from the sustainable science management program at the University of Hawaii Maui College.~~
- ~~2. One representative from `Aha Moku or `Aha Kiolo.~~
- ~~3. One representative from a Hawaii-based conservation group or land trust.~~

~~DE. The following three voting committee members must be appointed by the council by resolution and serve staggered terms of three years:~~

- ~~1. One representative who is a full-time resident of the island of Molokai.~~
- ~~2. One representative who is a full-time resident of the island of Lanai.~~

3. One representative who is a full-time resident of the east Maui community plan area.

F. The seven ex-officio non-voting members must be appointed by the mayor and serve for a term concurrent with the mayor's term of office.

~~[D. The committee shall assist with and oversee the creation of the Countywide Greenprint, as well as provide advice and recommendations to the mayor, council, and departments related to the purposes of this chapter.]~~ At least two voting committee members must have demonstrated expertise in native Hawaiian traditional and customary practices as evidenced by one or more of the following credentials:

1. A college degree in a relevant field, such as Hawaiian studies, native Hawaiian law, native Hawaiian traditional and customary practices, including traditional environmental practices, or related subject area.

2. Work history that demonstrates an appropriate level of knowledge in native Hawaiian traditional and customary practices, including traditional environmental practices.

3. Substantial experience as a native Hawaiian traditional and customary practitioner.

GE. The council member must be appointed by resolution for a term concurrent with the council member's term of office. The council member may be reappointed for a subsequent term after their current term ends. The voting members from County agencies must be appointed by the mayor, without approval by the council, for a term concurrent with the mayor's term of office. The mayor may reappoint voting members from County agencies for subsequent terms after their current terms end.

HF. "Staggered terms" means one or more initial terms are made for less than the stated term for members grouped together in a subsection- to ensure terms do not all expire at the same time. The mayor or the appointment resolution, if any, must state the duration of each initial term."

IG. Additional stakeholders may be involved as resource persons for the committee on an ad hoc basis, including subject-matter experts, cultural practitioners, and stakeholder for specific lands, including lineal descendants. The additional stakeholders are not committee members.

JH. The committee must assist with and oversee the creation of the countywide greenprint and provide ~~advice and~~ recommendations to the mayor, council, and agencies related to this chapter's purpose.

KI. Funding for the countywide greenprint ~~may must~~ be provided by the County, subject to appropriation by the council."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Ordinance will takes effect upon ~~its~~ approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

[great:misc:007abill01:skepaf:ske:21-029a](#)