

October 13, 2020

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OFFICE OF THE  
COUNTY COUNCIL

RECEIVED

MEMO TO: PSLU - 44

F R O M: Michael J. Molina  
Councilmember



SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO  
ADVISORY COMMITTEES TO THE MAUI PLANNING  
COMMISSION** (PSLU-44)

The attached legislative proposal pertains to Item PSLU-44 on the Committee's agenda.

On June 17, 2020, I transmitted a revised version of the proposed bill relating to advisory committees.

The communities of South Maui and the North Shore have asked for further revisions.

Therefore, the updated version attached incorporates revisions from:

1. Councilmember King proposed bill dated February 2, 2020;
2. My proposed revisions;
3. Some of the recommendations from the Director of Planning transmitted to the Committee on January 31, 2020; and
4. Recommendations from South Maui and North Shore representatives.

The proposed revisions are color coded so the Committee will know who initiated the changes.

Attachment

cc:

**Community (Paia, Haiku, South Maui)**

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2020)

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. Section 2.28.060, Maui County Code, is amended to read as follows:

**“2.28.060 [Hana advisory committee.] Advisory committees.**

- A. Establishment—members.
  - 1. The following [is] are established: [a]
    - a. The 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. The **Kihei-Makena South Maui** advisory committee to the Maui planning commission.
    - c. The Paia-Haiku advisory committee to the Maui planning commission.
  - 2. Each advisory committee consists of **seven** **nine** members.
  - 3. Two members are appointed by the mayor, and **five** **seven** members are **nominated by the council’s district representative and** appointed by the council by resolution.
  - 4. Two alternate members are **nominated by the council’s district representative and** appointed by the council by resolution. The two members may be polled for availability when members are unavailable to meet quorum. The two alternate members must meet the requirements of 2.28.070.A or 2.28.060.B, **and shall attend regularly scheduled meetings.**
  - 5. A vacancy will be filled in the same manner as the original appointment. The process to fill a vacancy may be initiated once the **mayor** **or**, the council, **advisory committee chair or planning staff** is aware of the vacancy, but final action to fill the vacancy cannot be taken unless either:

a. The vacating member has provided their appointing body a formal notification that they have vacated their position;

b. The member's term has expired; or

c. The member is deceased.

B. Member—residency requirement.

1. To be eligible for appointment as a member of [the Hana] an advisory committee, a person [shall] must 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.]

2. For the purposes of this section, [the] “District” [shall be delimited by section 4-1 of the Hawaii Revised Statutes.] means the area determined by the relevant community plan adopted in accordance with chapter 2.80B.

3. If [a] an advisory committee member ceases to be a resident of their residency [Hana] district, the committee member [shall] immediately [forfeit] forfeits the office and the office [shall thereupon be deemed] becomes vacant.

**4. To promote geographic diversity [there shall be no more than three members from the same town on the committee] committee members shall consist of residents from all regions of the community plan area.**

C. Terms and operation. [Section]

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

**2. The terms of committee members shall be five years, however, initially terms shall be staggered with five members receiving five-year terms and four members receiving three-year terms.**

**3. The initial terms of the committee members shall be selected by lot to determine each member's length of term.**

**4. Members receiving an initial three-year term may seek reappointment to serve five-year terms.**

D. Powers, duties, and functions.

1. [The Hana] Each advisory committee [shall advise] advises the Maui planning commission or council on matters within [its jurisdiction] the committee's assigned area as delineated in a community plan adopted in accordance with chapter 2.80B. The advisory committees' assigned areas are as follows:

a. The Hana advisory committee's assigned area is the Hana community plan area.

b. The [Kihei-Makena] **South Maui** advisory committee's assigned area is the Kihei-Makena community plan area.

c. The Paia-Haiku advisory committee's assigned area is the Paia-Haiku community plan area, **inclusive of the Spreckelsville area from Stable Road near the airport to Baldwin Beach Park and Olopuia area, and from the coastline to and inclusive of Sunnyside Road.**

2. Each advisory committee will review and ~~shall~~ **may** provide a recommendation on the following:

a. Amendments to Title 19 of this Code, changes in zoning, community plan amendments, district boundary amendments, conditional permits, general plan amendments, County special use permits, **bed and breakfast permits, short term rental home permits**, special management area permits, and all other items within title 19 of this code over which the planning commission has authority and pertain to the advisory committee's assigned area, and

b. ~~Shall carry out~~ **[s]Such duties as may be delegated to it by the Maui planning commission.**

**c. Public hearings conducted on their community plan areas, on special use permits, state special permits, bed and breakfast permits, short-term rental homes, special management area use permit, changes in zoning, community plan amendments and state land use district bound amendments. The committee will forward their recommendations to the council.**

~~3. Recommendations for enforcement, changes in zoning, community plan amendments and/or district boundary amendments will be made directly to the Council, by passing the Planning Commission.~~

**Review special management area use permits and decennial community plan updates and forward recommendation to the appropriate planning commission.**

4. The advisory committees must return their recommendations ~~to the planning commission~~ within ~~sixty~~ **ninety** days from the first meeting held to review an application or proposed ordinance. Failure to comply will result in no recommendation. ~~to the Maui planning commission~~

5. Each advisory committee may adopt administrative rules pursuant to Hawaii Revised Statutes Chapter 91."

**6. The advisory committees shall meet as needed with meetings scheduled in the evenings or weekends within the community plan district or by means of video conferencing.**

SECTION 2. Section 2.28.070, Maui County Code, is amended to read as follows:

**“2.28.070 Planning commission and advisory committee membership requirements.**

A. At least one member of each planning commission and [Hana] advisory committee [shall] 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.

B. At least one member of each advisory committee must be a third-generation resident of that advisory committee’s assigned area. **If a third-generation resident is not identified, then a second-generation resident will be selected.**

C. In making appointments to each advisory committee, the council and the mayor should strive for diversity and balance of age, gender, background, profession, heritage, experience, [and] ideology **and geography.**

D. With respect to criteria A and B, a member may only satisfy one of those membership requirements.”

SECTION 3. 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]twelve-month** extension for extenuating circumstances. Remote participation in training, through video and audio connection, [shall] will satisfy this section’s requirements.”

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

“2.40.131 [Kihei-Makena] South Maui advisory committee. There is established a [Kihei-Makena] South Maui advisory committee as provided by law.

SECTION 5. 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 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 its approval, provided that this ordinance does not apply to applications deemed complete or proposed ordinances that have been transmitted to the Maui Planning Commission prior to the effective date of this ordinance, and provided further that the provisions related to the [Kihei-Makena] South Maui advisory committee and the Paia-Haiku advisory committee do not become effective until a quorum of the members of these advisory committees are appointed.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

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cm:mhp:paia\_haiku\_adv\_com\_bill04:grs