

## **GET Committee**

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**From:** Samuel Small <info@maucauses.org>  
**Sent:** Wednesday, May 01, 2019 10:44 PM  
**To:** GET Committee  
**Subject:** RE: APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF DEPARTMENTS (DIRECTOR OF PUBLIC WORKS) (GET-1(6))

### **Questions to be asked of any candidate for Director of Public Works:**

Do you agree that how Public Works administers land development on a daily basis has a cumulative long-term impact?

Do you think that the Department's long-term systemic impact can either protect or put at risk the public's tax dollars and our environment?

The Federal Coastal Zone Management Act requires the state to have a program that upholds certain standards of environmental protections on developments in Special Management Areas. Is that what SMA permits are supposed to assure?

Can you describe the intent of those protections?

And how are those protections provided for in Maui County?

Would you say, essentially, that the State farms out the management and enforcement of SMA permit oversight to the County and the authority falls to the Director of Public Works, to you?

Do the Federal Rules also promote environmental protections by requiring public input and oversight on developments in Special Management Areas, so the public can be a watchdog over impactful development in their own communities?

What's the difference between an SMA major permit and an SMA minor

permit?

So SMA major permits require a developer to perform Environment Impact Studies, go through public reviews, ensure that construction related mitigations such as retention basins are installed, and be subjected to final inspections?

Does any of that happen with an SMA Minor permit?

What kind of Departmental oversight is there on an SMA Minor permit?

Public Works does not perform any final field inspections on SMA Minor permits to determine if the work that was supposed to be performed was performed?

What happens when a citizen complains that a developer has not performed what they were supposed to do?

Isn't that what happened at Oluwalu, where it was a citizen, not the department, who called the developer out through legal action and forced them to come back and complete their obligations?

Do you think that is the right way to manage SMA permits?

How many new SMA Major permits does Public Works issue each year?  
In any given year, on average, how many SMA Major permits are active and needing some attention by the Director?

What kind of attention? How much time does that take?

Same questions for SMA Minor permits, How many new SMA Minor permits does Public Works issue each year?

In any given year, on average, how many SMA Minor permits are active and needing some attention by the Director?

What kind of attention? How much time does that take?

Is it a developer's licensed consultant, say an engineering firm or civil engineer, that's responsible for writing up the specifics of what work the developer will be required to perform in order to meet County permit conditions and environmental assessments to meet Federal Requirements?

Is an Environmental Impact study required to be a part of all SMA permit applications?

Is an Order of Magnitude Assessment a part of a developer's permit application?

What is an Order of Magnitude Assessment and why is it important?

So if the developer's upfront valuations of the work to be performed is above a certain threshold, that determines whether the developer will be issued an SMA Major permit where they have to perform Environment Impact Studies, go through public reviews, ensure that construction related mitigations such as retention basins are installed, and be subjected to final inspections.

What's the financial threshold?

And if it's below that threshold they can be issued an SMA Minor permit, where they don't have to do any of that, no EIS, no public oversight or community input, no environmental mitigations and no final inspections?

Do you think the lack of public oversight and community input that SMA Minor permits shield developers from has a cumulative negative impact on the environment?

Do you think the lack of public oversight and community input that SMA Minor permits shield developers from has a cumulative negative impact on public access to the beach, which is part of the Public Trust?

Do you think the lack of public oversight and community input that SMA Minor permits shield developers from has a cumulative negative impact on the public's unobstructed view along ocean front corridors?

What do you think the value to a developer is, the cost difference on a project between getting an SMA Minor as opposed to an SMA Major permit? What's it worth?

Any engineering firm or civil engineer can put their stamp on an order of magnitude statement and submit it to Public Works on behalf of their client?

And it's not Public Works saying what needs to be done, the developer's licensed consultant tells everyone, including Public Works, what work the developer needs to do?

Who then reviews for accuracy what's submitted in the permit application by the licensed professional?

Who reviews the order of magnitude assessment?

Who ensures that all construction related environmental mitigations such as storm water retention basins are put into the developer's civil engineering drawings.

Does it take a licensed engineer to able to review an order of magnitude assessment for accuracy?

Do you have any concerns that at times a licensed professional will intentionally undervalue an order of magnitude estimate so as to secure for their client and SMA Minor where an SMA Major would be otherwise be required?

What's to stop a licensed professional from intentionally undervaluing an

order of magnitude estimate so as to secure for their client and SMA Minor where an SMA Major would be otherwise be required?

What do you say to citizens who believe that recent developments at Makena and on the West Side clearly reveal that developers and their consultants know that upfront SMA permit valuations are not being checked, and that SMA minor permits have no inspections or followup unless a citizen complains, and with this knowledge are purposely undervaluing order of magnitude estimates to get SMA minor permits in order to avoid Federally mandated environmental assessments and community review?

Is there any other way that a developer can be issued an SMA Minor permit?

Is there any way that a developer can exempted from needing an SMA permit at all?

Is the Director ability to exempt a developer from needing an SMA permit at all in conflict with the Director's responsibility to enforce on behalf of the State the requirements set by the Federal Coastal Zone Management?

Do you see any potential conflict having both authorities vested in the same Director?

The latest NOAA report on the overall management of Hawaii's Coastal Zones lamented that enforcement of environmental protections on developers "remains a challenge".

Do you think that enhancing enforcement is important to do?

What do you see as the path to better enforcement?

Do you think that there has been historically proper coordination between Public Works and the Planning Department when it comes to ensuring that all construction related environmental mitigations such as storm water retention basins are consistently expressed in the drawings that each department reviews?

How do you see coordination and crosschecking of permit requirements and execution between Public Works and Planning can be enhanced?

Former Public Works Director David Goode stated recently that in all his years as Director he has never been asked by the Planning Director to review a developer's upfront SMA Permit valuation, the order of magnitude estimate.

Do you expect to ever have to review a developer's SMA Permit upfront valuation?

Do you have the professional qualifications and experience to review a developer's SMA Permit upfront valuation?

If a Director doesn't have the professional credentials to review a developer's SMA Permit's upfront valuation, how is it that the same Director can reasonably be empowered to issue exemptions for requiring an SMA permit in the first place?

What is your opinion of the rules changes proposed by the Planning Commission that give the Planning Director even more authority to make exemptions for developers?

You've seen the number of exemptions that Former Director David Goode has been issuing historically, do you expect that the frequency of exemptions given will continue at those historic rates?

As Director will you make any overall cumulative analysis to try to assess the long-term environmental and economic impacts of your daily

administration of land development through SMA permits?

Our community is acutely aware that the county's process historically actually puts their tax dollars and the environment at risk and they are demanding that we do the responsible thing and ensure that on all levels best practices, as defined by many other modern municipalities, are brought to bear in our own county.

You are not yourself a licensed engineer?

And your only experience in Public Works has been working for Former Director David Goode here on Maui?

As Director, do you think you have sufficient experience to manifest new ways of administering Public Works such that, at all levels, best practices are brought to bear fairly and consistently in Maui County?

What do you think a mandatory review of the upfront permit process would entail?

The council is now considering a review of permitting fees because it is finally widely understood that what developers are paying with their permit applications is less than what it costs for the Department to administer their applications. The public is not happy that they are actually underwriting developer's real estate speculation.

While we are analyzing our fee structures, do you think this would be the right time to also review the entire scope of the SMA approval process?

What cost do you think it would add to each permit submitted if we were to require a mandatory departmental review of all upfront SMA permit estimates?

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As always, its an honor to participate in the democratic process and I thank you for your time and service towards creating greater accountability and transparency to Maui County's government.

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