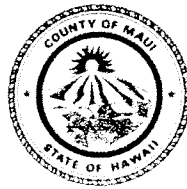


MICHAEL P. VICTORINO  
Mayor  
MICHELE CHOUTEAU MCLEAN, AICP  
Director  
JORDAN E. HART  
Deputy Director



DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
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OFFICE OF THE MAYOR

October 30, 2020

Honorable Michael P. Victorino, Mayor  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

*Michael P. Victorino* 11/2/20  
Mayor Date

For Transmittal to:

Honorable Tamara Paltin, Chair  
Planning and Sustainable Land Use Committee  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

Dear Councilmember Paltin:

**SUBJECT: ADVISORY COMMITTEES TO THE MAUI PLANNING COMMISSION (PSLU-44)**

Thank you for your email on October 22, 2020, asking for our input on the latest revised proposed bill. We appreciate the opportunity to comment, and offer the following:

1. Proposed Sec. 2.28.060.A.2 calls for each advisory committee – the existing Hana Advisory Committee (HAC) and the proposed new advisory committees for South Maui and Paia-Haiku – to be comprised of nine members. It can be difficult to regularly achieve a seven-member quorum for the HAC, which means it could be even more difficult to find nine members who are able to regularly attend HAC meetings.
2. Proposed Secs. 2.28.060.A.3 and 4 call for the Mayor to appoint two members without Council involvement, and the Council to appoint the remaining seven members and alternates without Administration involvement. This defies the long-standing practice of the Administration and Council working cooperatively on appointments to the County's dozens of boards and

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commissions. The Mayor nominates and the Council approves, which means that no member is confirmed without the involvement and support of both the Administration and the Council. I am not aware of the justification to change this process. It is worth noting that Section 13-2 of the County Charter mandates this practice for all Charter-created boards and commissions, and I would recommend that Corporation Counsel provide guidance on whether this practice can deviate from the Charter.

3. Proposed Sec. 2.28.060.A.5 allows for the advisory committee chair or Department of Planning staff to play a role in filling vacancies; this should be left to the Mayor and the Council. The proposed change attributed to the Department of Planning does not address the concern that we had previously raised. When vacancies occur at the end of a term, the Administration and Council are poised for them to be filled immediately so that there is a seamless transition and seats do not remain empty. This is not the case when vacancies occur during a term. Final action on filling a vacancy should be allowed as soon as notice of a vacancy or impending vacancy is received; the Council can approve the appointment of the new member to take effect on a date certain, when the vacancy will occur.
4. Proposed Sec. 2.28.060.B.4 calls for advisory committee members to represent “all regions of the community plan area.” Previous proposed language called for “geographic diversity.” It would be more clear to simply identify each region that the Council believes should be represented by at least one member, because it is currently not clear which “regions” the Council intends.
5. Proposed Sec. 2.28.060.C.1 states that only certain subsections of Section 13-2 of the Charter apply. As noted in comment no. 2 above, I would recommend that Corporation Counsel provide guidance on whether the bill can exempt certain Charter-mandated practices for boards and commissions.
6. Proposed Sec. 2.28.060.D.1 states that the advisory committees are also advisory to the Council. This creates a number of new questions and concerns, not about the appropriateness of the Council having advisory committees, but about how these advisory committees are administered and staffed. These questions and concerns are too numerous to put into writing in the timeframe that you requested. We note that the title of the proposed bill is “A BILL FOR AN ORDINANCE AMENDING CHAPTERS 2.28 AND 2.40, MAUI COUNTY CODE, RELATING TO ADVISORY COMMITTEES TO THE MAUI PLANNING COMMISSION” (emphasis added).

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7. Proposed Sec. 2.28.060.D.1.c expands the area under the purview of the Paia-Haiku advisory committee beyond the Paia-Haiku Community Plan area. This could create a great deal of confusion when an application requires a public hearing in the applicable community plan region. In which community plan region this area – namely Spreckelsville – should be placed has long been in discussion; perhaps the Council could instead amend the community plan areas first to address where this area should be included.
8. Proposed Sec. 2.28.060.D.2 generally misunderstands the Maui Planning Commission’s authority, the HAC’s role, the potential role for the advisory committees, and the Council’s authority. For example, subsection D.2.c calls for the advisory committees’ recommendations on a variety of permit applications to be forwarded to the Council. The Council does not have authority on most of these permits, and can only act on the others after receiving the Maui Planning Commission’s recommendation. Additionally, subsection D.3 has the advisory committees playing a role in the community plan update process. If this is desired, then Chapter 2.80B should also be amended to formalize this role. Since the Council is also exploring alternatives to expediting the community plan update process, this proposal should also be considered in that context.
9. Proposed Sec. 2.28.060.D.4 calls for “no recommendation” if an advisory cannot act within 90 days of its first meeting. There can be circumstances where more time is justified. This language should be deleted.
10. Proposed Sec. 2.28.060.D.6 calls for in-person meetings only on weekends and evenings. This would prohibit these groups from meeting on weekdays, which could be problematic and limiting. If this language stands, then additional positions and budgeted salaries will be required if these advisory committees are staffed by the Department of Planning, which would not be the case if they are advisory only to the Council.
11. Proposed Sec. 2.28.070.B calls for at least one advisory committee member to be a second or third generation resident. While the concept is easy to understand, it is not clear how this will be verified or confirmed, or what (if any) exceptions will be allowed, such as if the candidate lives on another island or the mainland for several (or many) years, or is related by marriage into a family of multi-generational residents. It might be preferable for the Council to instead consider this idea when considering a nominee, rather than it being a requirement.

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We hope to have the opportunity to discuss these issues, and others, fully with your Committee before it takes any action, and we also hope that a revised proposed bill would be referred to the Maui Planning Commission before the Council considers it for adoption.

Please feel free to contact me if you require any additional information.

Sincerely, .



MICHELE MCLEAN, AICP  
Planning Director

xc: Jordan Hart, Deputy Director  
Clayton Yoshida, Planning Program Administrator

MCM:atw

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