

COUNCIL OF THE COUNTY OF MAUI
**POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE**

October 18, 2013

**Committee
Report No.** _____

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on July 1, 2013, and September 30, 2013, makes reference to County Communication 13-126, from the Director of Public Works, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.40, MAUI COUNTY CODE, RELATING TO OTHER BOARDS, COMMISSIONS, COMMITTEES AND AGENCIES; ESTABLISHING A NEW CHAPTER 2.98, MAUI COUNTY CODE, CREATING A PUBLIC WORKS COMMISSION; REPEALING CHAPTER 2.36, MAUI COUNTY CODE, RELATING TO THE TRAFFIC SAFETY COUNCIL; REPEALING CHAPTER 2.38, MAUI COUNTY CODE, RELATING TO THE COMMISSION ON NAMING STREETS, PARKS, AND FACILITIES; REPEALING CHAPTER 18.40, MAUI COUNTY CODE, RELATING TO THE SUBDIVISION ENGINEERING STANDARDS COMMITTEE; REPEALING SECTION 20.35.110, MAUI COUNTY CODE, RELATING TO MAUI COUNTY OUTDOOR LIGHTING STANDARDS COMMITTEE; AMENDING SECTION 16.04B.040, MAUI COUNTY CODE, RELATING TO THE FIRE CODE; AND AMENDING SECTION 16.04B.040, MAUI COUNTY CODE, RELATING TO THE BOARD OF CODE APPEALS".

The purpose of the proposed bill is to consolidate the Traffic Safety Council; Commission on Naming Streets, Parks, and Facilities; Subdivision Engineering Standards Committee; and Maui County Outdoor Lighting Standards Committee ("Boards") into one board called the Public Works Commission ("PWC").

The Director of Public Works advised your Committee the Cost of Government Commission had recommended abolishing the Boards in its 2010-2011 annual report, noting such action would result in significant cost savings for the County. However, the Director stated the Boards' responsibilities are important, and the Boards' assistance is valuable to the department in carrying out its duties. Therefore, he explained, the proposed bill was drafted to consolidate the responsibilities of the Boards into one board.

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A representative from the Office of the Mayor informed your Committee that it has been difficult to recruit volunteers for the Boards and to establish quorum for meetings.

Your Committee expressed concerns about the proposed membership of the PWC, which is to include seven ex-officio members.

A Deputy Corporation Counsel confirmed there is no legal requirement for a board to have ex-officio members, but advised that ex-officio members may provide specialized knowledge or expertise to the board.

Your Committee noted the proposed bill requires three members to be registered, State of Hawaii licensed engineers. Therefore, your Committee did not see a need to have ex-officio members of the PWC. Your Committee revised the proposed bill to delete the requirement of ex-officio members.

Your Committee also revised the proposed bill to require two alternate members, one of whom shall be a registered, State of Hawaii licensed engineer. Your Committee reasoned that a requirement for two alternate members will help to avoid canceled meetings due to a lack of quorum. Also, requiring one of the alternates to be a registered, State of Hawaii licensed engineer will help to ensure that a member with the required expertise is present at every meeting of the PWC.

Your Committee expressed a desire to include representation from Lanai and Molokai on the PWC. Your Committee notes Subsection 13-2(3), Revised Charter of the County of Maui (1983), as amended, requires the Mayor to give due consideration to balanced geographic representation when making appointments to all boards and commissions. However, your Committee felt that an influential board like the PWC should be required to include members from Molokai and Lanai. Your Committee revised the proposed bill to require that one member be a resident of Molokai and one member be a resident of Lanai.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE ESTABLISHING A PUBLIC WORKS COMMISSION AND ELIMINATING THE TRAFFIC SAFETY COUNCIL; COMMISSION ON NAMING STREETS, PARKS, AND FACILITIES; SUBDIVISION ENGINEERING STANDARDS COMMITTEE;

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AND MAUI COUNTY OUTDOOR LIGHTING STANDARDS COMMITTEE". The revised proposed bill simplifies the title of the bill, clarifies the membership of the PWC, establishes guidelines for acceptance of subdivision roads and other infrastructure, and incorporates nonsubstantive revisions.

The Director of Public Works advised your Committee Subsection 12.50.060(D), Maui County Code, also needs to be revised to replace "traffic safety council" with "public works commission". Your Committee revised the proposed bill to include the revision.

Your Committee was satisfied the proposed bill, if enacted, will streamline the functions of the Boards, assist the Department of Public Works in the execution of its duties, provide for cost savings to the County, and ensure the recruitment and retention of volunteers to serve on the PWC.

Your Committee voted 8-0 to recommend passage of the revised proposed bill and filing of the communication. Committee Chair Hokama, Vice-Chair Couch, and members Baisa, Cochran, Crivello, Guzman, Victorino, and White voted "aye". Committee member Carroll was excused.

Your Committee is in receipt of a further 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 Policy and Intergovernmental Affairs Committee RECOMMENDS the following:

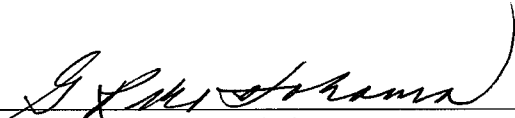
1. That Bill _____ (2013), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE ESTABLISHING A PUBLIC WORKS COMMISSION AND ELIMINATING THE TRAFFIC SAFETY COUNCIL; COMMISSION ON NAMING STREETS, PARKS, AND FACILITIES; SUBDIVISION ENGINEERING STANDARDS COMMITTEE; AND MAUI COUNTY OUTDOOR LIGHTING STANDARDS COMMITTEE", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 13-126 be FILED.

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



G. RIKI HOKAMA, Chair

pia:cr:13024aa:kmh

ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE ESTABLISHING A PUBLIC WORKS COMMISSION AND ELIMINATING THE TRAFFIC SAFETY COUNCIL; COMMISSION ON NAMING STREETS, PARKS, AND FACILITIES; SUBDIVISION ENGINEERING STANDARDS COMMITTEE; AND MAUI COUNTY OUTDOOR LIGHTING STANDARDS COMMITTEE

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

SECTION 1. Chapter 2.40, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

"2.40.220 Public works commission. There is established a public works commission as provided in chapter 2.98 of this code."

SECTION 2. Title 2, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

"Chapter 2.98

PUBLIC WORKS COMMISSION

Sections:

- | | |
|-----------------|-----------------------------------------------------------|
| 2.98.010 | Establishment. |
| 2.98.020 | Definitions. |
| 2.98.030 | Powers and duties. |
| 2.98.040 | Criteria for naming streets, parks and facilities. |

2.98.010 Establishment. A. Members. There is established a public works commission which shall consist of nine members and two alternates appointed by the mayor, with the approval of the council. The members shall consist of three registered, State of Hawaii licensed engineers, one member who is knowledgeable in the Hawaiian language, one member who is a resident of Lanai, and one member who is a resident of Molokai. One alternate shall be a registered, State of Hawaii licensed engineer.

B. Terms and operation. Section 13-2 of the revised charter of the County of Maui shall apply to the public works commission in the same manner

as said provisions apply to boards and commissions recognized by the revised charter.

C. The department of public works shall provide staffing, technical, and clerical services as may be required by the commission.

D. The commission shall, after consultation with the director of the department of public works, adopt rules of practice and procedure pursuant to chapter 91, Hawaii Revised Statutes.

E. All members shall serve without compensation, but members shall be entitled to receive actual travel and other expenses incurred in the performance of their duties.

2.98.020 Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following terms shall have the following meanings:

"Commission" means the public works commission.

"Department" means the department of public works.

"Director" means the director of the department of public works or the director's designee.

"Existing facility" means any facility accepted by dedication or whose construction by the County was completed on or prior to September 6, 1994.

"Existing park" means any park whose deed was delivered to and accepted by the County on or before September 6, 1994.

"Existing street" means any street whose deed was delivered to and accepted by the County on or prior to September 6, 1994.

"Facility" means any building or other physical structure owned and maintained by the County.

"Name" means a designated word or phrase which distinguishes one street, park, or facility from another.

"New facility" means any facility accepted by dedication or whose construction was completed after September 6, 1994.

"New park" means any park whose deed was accepted by the County after September 6, 1994.

"New street" means any street whose deed was accepted by the County after September 6, 1994.

"Organization" means any group of people who have organized themselves, formally or informally, for the purpose of providing service to the community, including but not limited to, partnerships, corporations, and associations.

"Park" means an area of land used by the public for recreational purposes, including playgrounds, athletic fields, beaches, and other areas owned and maintained by the County.

"Person" means any individual.

"Plaque" means any type of commemorative sign or fixture.

"Street" means highway, street, road, alley, lane, or any other roadway used primarily for vehicular access.

2.98.030 Powers and duties. A. Regarding traffic safety, the commission shall:

1. Serve as the traffic safety council as required by section 286-6, Hawaii Revised Statutes, as amended;
2. Upon request, advise, assist and make recommendations to the council on matters relating to traffic safety;
3. Upon request, make recommendations to the director on requests from the public for maintenance of old government roads as provided in chapter 12.50 of this code.

B. Regarding naming of streets, parks and facilities, the commission shall:

1. Recommend names to the council and/or the department in accordance with the criteria set forth in section 2.98.040. The commission may also recommend more than one name as alternate choices for each street, park, or facility it has considered; and
2. Upon request, advise and assist any subdivider who desires to name roads within a subdivision in the County.

C. Regarding subdivision engineering standards and specifications, the commission shall:

1. Review proposed modifications, deletions, or additions to existing engineering standards and specifications which are adopted and kept on file by the department, the department of water supply, and the department of environmental management, and transmit the same with recommendations thereon to the respective departments;
2. Review new engineering specifications and standards, and transmit the same with recommendations thereon to the respective departments; and
3. Upon request, review proposed ordinances relating to the standards of roads and related facilities in subdivisions; and

D. Regarding outdoor lighting, the commission, upon request, shall

1. Review and advise the department on outdoor lighting matters involving projects within the County; and
2. Review and advise the department on requests by persons to add, retrofit, or remove an outdoor lighting fixture on County property or public right-of-way.

2.98.040 Criteria for naming streets, parks and facilities. A. Naming of private streets. Owners of private streets, which include private highways, roads, alleys, lanes, and ways, shall not name such private streets with names similar to or closely resembling names of existing public streets within the County. The commission shall review and provide its recommendation on all proposed new private street names to the director. The director shall have the authority to approve or deny all proposed new private street names.

B. Standards for naming streets.

1. Names of existing streets. Existing streets shall retain the name which has been historically accepted through common usage, unless the renaming of an existing street is processed pursuant to subsection F.

2. Names of new public and private streets shall:

a. Be named in the Hawaiian language; or

b. Have an appropriate meaning, and whenever possible, relate to the area's historic significance or follow a uniform theme (i.e., flowers, fish, people, etc.).

3. The commission shall avoid, as much as practicable, using a street name more than once on any island.

C. Standards for naming parks and facilities.

1. Names of existing parks or facilities. Unless otherwise renamed in accordance with the provisions herein, existing parks or facilities shall retain the name which has been historically accepted through common usage. When renaming an existing park or facility, the council may also include the name of a person or organization, provided the person or organization meets at least one of the criteria set forth in subsection C.3.

2. New parks or facilities may be named:

a. For the neighborhood, community, district, region, or other identifying geographical location in which the park or facility is located;

b. In the Hawaiian language, in a manner which describes significant features of the area, or which describes the site or its use, function, or purpose; or

c. In exceptional cases, a new park or facility may be named for a person or organization where at least one of the criteria set forth in subsection C.3. is met.

3. A person's name or an organization's name may be used in connection with a park or facility where at least one of the following criteria is satisfied:

a. The person or organization has a significant association with the park or facility;

b. The person or organization has contributed significantly to programs in the region in which the park or facility is located; or

c. The person or organization has achieved significant recognition on the County, state, national, or international level for contributions to the region or to the park or facility itself.

4. When a person's name is proposed as the name for a new or existing park or facility, the following information shall be included in the proposal:

a. The person's full name, date of birth, and if appropriate, the date of death;

b. The address of the person's last residence;

c. The association of the person with the park or facility to be named;

d. A brief biography of the person, including all data relevant to the commemorative naming; and

e. Five letters of recommendation from various community members, at least one of which must be from the director of the County department which has the control and maintenance of the park or facility, confirming the contributions of the individual to the region in which the park or facility is located.

5. When an organization's name is proposed as the name for a new or existing park or facility, the following information shall be included in the proposal:

a. The organization's name, names of current officers and directors, date of formation, and address;

b. A brief description outlining the organization's association with the park or facility to be named; and

c. Five letters of recommendation from various community members, at least one of which must be from the director of the County department which has the control and maintenance of the park or facility, confirming the contributions of the organization to the region in which the park or facility is located.

D. Establishing commemorative plaques at parks or facilities in lieu of, or in addition to, naming or renaming parks or facilities.

1. Provided the director of the County department having control and maintenance of the park or facility has sufficient funds to establish, erect, and maintain such commemorative plaques, the commission may recommend to the council that a person's or organization's name be inscribed on such commemorative plaques in lieu of, or in addition to, the naming or renaming of such parks or facilities for the person or organization.

2. Requests for inscription on such plaques shall be processed in accordance with the provisions set forth in subsection F.

3. The commission shall consider the criteria set forth in subsection C.3., and further require the information listed in subsections C.4. or C.5., be provided.

E. Use of the Hawaiian language.

1. Hawaiian spelling and diacritical marks shall be used whenever Hawaiian names or words are used to name new streets, parks, or facilities.

2. Appropriate diacritical marks shall be included on all signs for existing streets, parks, or facilities, whenever those signs are first repaired, replaced, or repainted.

F. Procedure to adopt names for streets, parks, and facilities.

1. The mayor or the council may submit requests to the commission. Requests for renaming a street, park or facility shall be submitted to the commission and the cultural resources commission.

2. Members of the public, including other governmental entities, may submit a request to name a street, park or facility, on a form approved by the commission, which may be obtained from the department. Requests for renaming a street, park or facility shall be submitted on a form approved by the commission and the cultural resources commission, which may be obtained from the department.

3. Within sixty days after a request first appears on the commission's and/or the cultural resources commission's agenda for review, the commission and/or the cultural resources commission shall make its recommendation to the council regarding the proposal.

4. The director shall transmit the commission's and/or the cultural resources commission's recommendations to the council within thirty days after the commission and/or the cultural resources commission has made its recommendations.

5. The council may adopt, modify, or reject the commission's and/or the cultural resources commission's recommendations. Approval of a park and facility name or renaming shall be by ordinance. Approval of a street name shall be by a resolution adopting the street as County property, or by the director in the case of private streets.

6. Public safety exception. Notwithstanding the requirements of this section, existing streets may be renamed, in whole or in part, by the council upon the request of the chief of police, the fire chief, or the director, provided the renaming is necessary to improve the response of authorized emergency personnel.”

SECTION 3. Section 12.50.060, Maui County Code, is amended by amending subsection D to read as follows:

“D. Recommendation for approval of the request for surface maintenance by the County [traffic safety council;] public works commission;”

SECTION 4. Section 16.04B.040, Maui County Code, is amended to read as follows:

“**16.04B.040 Subsection 103.1.4 amended.** Section 103 of the Uniform Fire Code, as amended by the State Fire Code, is amended by amending subsection 103.1.4 to read as follows:

103.1.4. [Board of code appeals.] Board of variances and appeals. Any person desiring to utilize materials or methods of construction other than as specified by this code, may apply to the administrative authority for approval. Any denial of such request may be appealed to the [board of code appeals] board of variances and appeals as provided in chapter [16.26 of the] 16.26B, Maui County Code.”

SECTION 5. Section 16.18B.109, Maui County Code, is amended by amending subsection 109-7 to read as follows:

"109-7. [Board of code appeals.] Board of variances and appeals. Any person desiring to use materials or methods of construction other than as specified by this [Code] code, may apply to the director for approval. Denial of an application for approval of materials or methods of construction not specified by this [Code] code may be appealed to the [board of code appeals] board of variances and appeals as provided in chapter [16.26,] 16.26B, Maui County Code."

SECTION 6. Title 18, Maui County Code, is amended by amending the title of chapter 18.40 to read as follows:

"[ADMINISTRATION] GUIDELINES FOR ACCEPTANCE"

SECTION 7. Section 18.40.010, Maui County Code, is amended to read as follows:

"18.40.010 [Subdivision engineering standards committee—establishment. A. Members. There is established a subdivision engineering standards committee which shall consist of nine members, appointed by the mayor with the approval of the council, and three ex-officio members. Not less than three appointed members shall be registered professional engineers. The three nonvoting, ex-officio members shall be: the planning director, the director, and the director of water supply.

B. Terms and operation. Section 13-2 of the revised charter of the County of Maui shall apply to the subdivision engineering standards committee in the same manner as said provisions apply to boards and commissions recognized by the revised charter.] **Acceptance guidelines.** The County shall not take over, receive by dedication, do any repair or construction work upon streets or pavements, water lines, street lighting systems, sewer lines or drainage system, or in any way accept as public highways, any street, avenue, or alley, in any subdivision hereafter opened or platted in the County, or any existing street, avenue, or alley in the County, except upon full compliance with the provisions of this title or as otherwise deemed in the public interest by the council. These provisions shall not apply to the maintenance of old government roads as provided in chapter 12.50 of this code."

SECTION 8. Chapter 2.36, Maui County Code, is repealed in its entirety.

SECTION 9. Chapter 2.38, Maui County Code, is repealed in its entirety.

SECTION 10. Sections 2.40.020, 2.40.030, and 2.40.040, Maui County Code, are repealed.

["2.40.020 Subdivision engineering standards committee. There is established a subdivision engineering standards committee as provided by law.

2.40.030 Maui County outdoor lighting standards committee. There is established a Maui County outdoor lighting standards committee as provided by law.

2.40.040 Traffic safety council. There is established a traffic safety council as provided by law."]

SECTION 11. Section 2.40.140, Maui County Code, is repealed.

["2.40.140 Commission on naming streets, parks, and facilities. There is established a commission on naming streets, parks, and facilities as provided by law."]

SECTION 12. Section 2.40.190, Maui County Code, is repealed.

["2.40.190 Board of code appeals. There is established board of code appeals as provided by law."]

SECTION 13. Sections 18.40.020, 18.40.030, and 18.40.040, Maui County Code, are repealed.

["18.40.020 Standards committee–Powers and duties. The subdivision engineering standards committee shall: A. Review all engineering standards and specifications relating to subdivisions which are adopted and kept on file by the department and the reviewing agencies;

B. Review proposed modifications, deletions, or additions to such existing engineering standards and specifications and transmit the same with recommendations thereon to the respective departments;

C. Propose the adoption of specifications and standards where none heretofore existed and transmit the same with recommendations thereon to the respective departments; and

D. Have power to request its ex officio members to submit for review all engineering standards and specifications relating to subdivisions within their control.

18.40.030 Standards committee–Review procedure. No changes shall be made to any engineering standards and specifications relating to subdivisions which have been reviewed by this committee, adopted and kept on file with the respective departments, without the committee having first reviewed the proposed

changes and transmitted the same with their recommendations thereon to the respective departments.

18.40.040 Guidelines for acceptance. The County shall not take over, receive by dedication, do any repair or construction work upon streets or pavements, water lines, street lighting systems, sewer lines or drainage system, or in any way accept as public highways any street, avenue or alley, in any subdivision hereafter opened or platted in the County, or any existing street, avenue or alley in the County, except upon full compliance with the provisions of this title or as otherwise deemed in the public interest by the council. These provisions shall not apply to the maintenance of old government roads as provided in chapter 12.50 of this code."]

SECTION 14. Section 20.35.110, Maui County Code, is repealed in its entirety.

["20.35.110 Maui County outdoor lighting standards committee. A. There is established a Maui County outdoor lighting standards committee that shall consist of seven members, appointed by the mayor with the approval of the council, and two ex-officio members. Preference in selection of members may be given to one individual from each of the following professions, special interests, or disciplines: an astronomer or space surveillance specialist, a representative of the visitor industry, a wildlife biologist, a representative of the business community, and an illuminating engineer or landscape architect. The two non-voting, ex-officio members of the committee shall be one person designated by the chief of police of the County or the chief's designated representative and one person designated by the director.

B. Members of the committee shall serve staggered terms of three years beginning on April 1 and ending on March 31, three years thereafter. Of the seven members initially appointed, three shall serve for a term of three years, two shall serve for a term of two years, and two shall serve for a term of one year. Section 13-2 of the revised charter of the County of Maui (1983), as amended, shall apply to the committee in the same manner as said provisions apply to boards and commissions recognized by the revised charter.

C. The committee shall serve as advisor to the department of public works and environmental management. The committee may review and advise the department of public works and environmental management on outdoor lighting matters involving projects within the County. The committee shall review and advise the department of public works and environmental management on requests by persons to add, retrofit, or remove an outdoor lighting fixture on County property or public right-of-way.

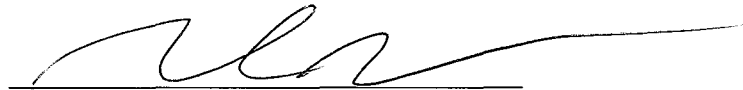
D. The committee shall, after consultation with the department of public works and environmental management, adopt rules of practice and procedure pursuant to chapter 91, Hawaii Revised Statutes.

E. The department of public works and environmental management shall provide staffing, technical, and clerical services as may be required by the committee."]

SECTION 15. 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 16. Sections 1, 2, 4, 5, and 12 of this ordinance shall take effect upon approval. Sections 3, 6, 7, 8, 9, 10, 11, 13, and 14 of this ordinance shall take effect upon the confirmation of the entire membership of the Public Works Commission by the council.

APPROVED AS TO FORM AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

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