

PLANNING COMMITTEE

Council of the County of Maui

MINUTES

Council Chamber

July 3, 2014

CONVENE: 9:03 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Donald G. Couch, Jr., Chair

Councilmember Michael P. Victorino, Vice-Chair (excused from 9:40 a.m. to 9:45 a.m.)

Councilmember Gladys C. Baisa

Councilmember Elle Cochran (excused from 10:45 a.m. to 10:50 a.m.)

Councilmember Stacy Crivello

Councilmember Don S. Guzman (arrived at 9:24 a.m.)

EXCUSED: Councilmember Mike White

STAFF: Chancy Hopper, Legislative Attorney
Pauline Martins, Committee Secretary

Tina Thompson, Executive Assistant to Councilmember Crivello, assisting at Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
William Spence, Director, Department of Planning
David S. Taylor, Director, Department of Water Supply

OTHERS: Lisa Paulson
Dick Mayer
Plus (3) other people

PRESS: *Akaku Maui Community Television, Inc.*

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

PC-52 AMENDING THE MAUI ISLAND PLAN IMPLEMENTATION PROGRAM

(C.C. 14-138, 14-139, 14-140 and 14-141)

CHAIR COUCH: . . . (*gavel*) . . . Good morning, will the Planning Committee meeting of July 3, 2014 please come to order. It is now 9:04. My name is Don Couch and I'm the Chairperson of this Committee. Before we get started can everybody in the Chambers please turn off their cell phones or to put them into silent mode or any other noise making device? All right, let's first introduce all the Members that are here with us today. First is the Vice-Chair of the Committee, Councilmember Victorino.

VICE-CHAIR VICTORINO: Aloha and good morning, Chair.

CHAIR COUCH: Good morning. Then we have Council Chair Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR COUCH: Good morning. Then we have Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha, Chair Couch.

CHAIR COUCH: Aloha. And Councilmember Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good morning.

CHAIR COUCH: Good morning. And excused for now is Councilmember Guzman and excused for the day is Councilmember Mike White. Okay, we have no non-voting members today. We hopefully will have Mr. Will Spence here from the Department of Planning. He's running a little late it looks like, and we have Michael Hopper from...Deputy Corporation Counsel, good morning.

MR. HOPPER: Good morning, Chair.

CHAIR COUCH: And then Committee Staff we have Legislative Analyst, Chancy Hopper, good morning, and Committee Secretary, Pauline Martins. Good morning, Pauline. And on today's agenda we have one item, it's PC-52, Amending the Maui Island Plan Implementation Program. And Members, if we're ready we're gonna start public testimony. And the first thing I wanna say is--and we have some over here--if you wanna sign up for public testimony please sign up at the desk in the back or at the District Offices. You'll have four minutes to speak, three minutes the light will stay green for three minutes, then go to yellow for a minute, and then when it turns red please end your speaking and wrap up. Please testify...state your name and if you're testifying on somebody's behalf please let us know that as well. And I think that's it. Come on up and speak loudly into the microphone. All right, Members, without objection, we'll start public testimony.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

COUNCIL MEMBERS: No objections.

CHAIR COUCH: All right, the first to come up and testify is Lisa Paulson followed by Dick Mayer?

... BEGIN PUBLIC TESTIMONY ...

MS. PAULSON: Good morning, Chair Couch and members of the Committee. My name is Lisa Paulson, Executive Director of the Maui Hotel and Lodging Association. We are the legislative arm of the visitor industry. Our membership includes over a 150 property and allied business members in Maui County all of whom have an interest in the visitor industry. Collectively MHLA's membership employs over 20,000 local residents and represents over 19,500 rooms. On behalf of the Maui Hotel and Lodging Association, I'm here to ask that you carefully consider the proposed amendments to the Maui Island Plan Implementation Program. The Maui Island Plan at its core is intended to facilitate a directed growth strategy for our community over the next couple of decades. By adding additional restrictions to the environmental review process and imposing time limits on the life of both technical studies and entitlements such as rezoning actions, this will unfortunately move us away from a directed growth strategy toward instead implementing a no growth strategy which will likely have significant impacts on economic development across all sectors of Maui's community including the hotel and lodging industry. Thank you for the opportunity to testify.

CHAIR COUCH: Thank you, Ms. Paulson. Members, any questions to the testifier? Seeing none thank you, Ms. Paulson.

MS. PAULSON: Thank you. Have a wonderful 4th of July, everybody.

CHAIR COUCH: You, too. Next up is Dick Mayer and he's the last person to sign up in the Chambers. We'll then go to the District Offices.

MR. MAYER: Good morning, Chair Couch and Members. I handed out a item. Several weeks ago you held a public hearing here and many, many members of the community came out, associations, individual members came out and asked you to please leave into the Maui Island Plan several items that were left out when the Planning Director transmitted them, the recommendations to you. I'm hoping that you will now go ahead and implement these things. I think you could have done it that day all by waiving your rule and allowing the things to happen but it didn't happen that way, but thank you for now considering it and thank you, Chair, for taking these up so quickly. There are five items there and what I've...and I talked with Mr. Couch yesterday and asked him what will happen today, he said, well we're looking for wording, proper wording. And so what I've done is for each of these five things I've put in quotes there what you can see the recommendations that I would be making that the GPAC and in most cases the Planning Commission also made. The first one deals with permanent Community Plan District Planning Advisory Committees and it reads, the Council shall establish advisory committees, their roles...their rules, roles, and responsibilities and the mechanism to select the members. So this

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

not actually setting up exactly how it would be done. This is only giving the Council the sort of the charge to set up these advisory committees. This is something that we heard over and over again in GPAC that people would like to have some ability at the district level to begin deciding what projects is better, which one needs to be amended, which one need conditions, et cetera. The second item deals with revenues needed to satisfy the infrastructure requirements of the Maui Island Plan. And I'm asking that you go back and include the original Tables 9-1 and 9-2 in the Implementation Program that were modified by the Planning Director's recommendations, and I think this would give the future Councils some tools that they could use to implement the plan and get directed growth properly done on Maui. The third item on the second page there regards County communication...excuse me, regards all future community plan and zoning entitlements shall have a fixed time limit to be established by the approving authority. That would be the Council or the Planning Commission or any other body that may be doing it. And you did this yesterday with regard to the A&B project where you put a 10-year limit on it. This thing is not saying what the limit should be. Obviously a very large project, let's say the size of a Wailea or a Waiale or R&T Park would have more years, a smaller project a little bit shorter time frame, but something reasonable that the community will get back. Because so often we hear testimony saying this project is absolutely necessary to get workers working, and if we have to wait 20, 30 years, in the case of Makena we waited 40 years to go beyond the hotel. And so we need to have some pressure put on the developer to do it and it shouldn't be just that they start the project, there should be in most cases I think some intermediate stages. No. 4, the need for neutral environmental reviews. This is not changing the process that we need the EAs rather who selects the person and the company that's actually doing it and there are a number of companies here in Hawaii that can do this, but I don't think it should be selected by the developer and paid for by the developer solely but rather picked by the County and paid for by the developer. This will assure a more neutral EA or EIS process. And lastly, the relevance of old documents. All studies and documents completed more than five years and you could change five to seven or down to three, but some reasonable amount of time prior to an application shall be considered out of date unless the decision-making body affirms by a positive vote that the document is still timely and relevant. And basically here what we're saying is that if the Planning Commission or cultural review committee or some committee that says, you know we're being given studies that are old, we would like to have it updated. It doesn't say what, what, what the time should be, but rather it specifically asks that if the study is still relevant like for example, burial sites may be still relevant whereas a traffic study may not, the body should be able to say that to the applicant to go back and do it. This doesn't stop development, it just makes it appropriate.

CHAIR COUCH: Okay.

MR. MAYER: And thank you.

CHAIR COUCH: Thank you, Mr. Mayer. Members, any questions of the testifier? Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. Thank you for being here, Mr. Mayer. I just am looking for some clarification as far as the permanent Community District Planning Advisory

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

Committee on your first suggestion. If I recall, I can speak for Molokai when we never had our own Planning Commission and we had our advisory board, why the island really took a strong stand to have its own Planning Commission is because we can't always fly over to Maui and have Maui make our decisions for us. And it was sort of like a self-governance process where we're right there on the island, our commissioners are from the island and that's where the decisions are. So how does your request to have permanent five Maui island district compared to the outer districts in having their own? 'Cause if I look at this they can all come and participate through the Maui Planning Commission all of these districts.

MR. MAYER: Thank you very much and thank you for the question. It's a very important question. Molokai, Lanai, and Hana...

CHAIR COUCH: Please talk, please talk into the microphone.

MR. MAYER: I'm sorry. Molokai, Lanai, and Hana all have the ability to influence the decision making process. Those are the three areas that are probably having the least changes taking place. Central Maui, South Maui, West Maui, Upcountry have far more, and yet those, those districts have no ability other than perhaps a single member on a Planning Commission and in some cases even no member on a Planning Commission from that district. There's a distinction here, Molokai has a Planning Commission that can meet on a regular basis and make recommendations. If something happens here in Central Maui, Wailuku, Kahului for example or in West Maui where so much change is being proposed, it would be useful after the community plan is adopted and as we know now, these community plans are in effect for 20 years in many cases, they won't be changed for a very long period of time. It would be helpful to have a group in that community when items come up, be able to look at it, know the local streets, know the traffic, know the drainage issues, et cetera to be able to make a recommendation. It would not be unlike the Molokai Planning Commission which can actually make full-on decisions, these advisory bodies would be only advisory to the Council or to the Planning Commission with a recommendation that says, please look at this item or please recognize that this impacts other projects in our area. So it gives those areas a chance to do this, and I would imagine a group like this would meet let's say three times a year or four times a year with items that are coming up in that district and be able to give to the Planning Commission some advice for that area. 'Cause I've sat in Planning Commission meetings, I was a Planning Commissioner myself at one time, but we didn't have a, didn't even have a member from that area and this at least allows that area to get some input into it. I don't know if that answers...

COUNCILMEMBER CRIVELLO: Yeah well, because you did a comparison --

MR. MAYER: Yeah.

COUNCILMEMBER CRIVELLO: --because Molokai has their own Planning Commission, is that something maybe what you've just said is district representation on the Planning Commission instead of all separate advisory board, would that work or is that something that's in place?

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

MR. MAYER: I mean it would be a step up, but because...that would change the Charter to put, to get a member on there on the Planning Commission from where they come from. But this would make it a little bit more comprehensive, one person again from that district may or may not understand the whole. This would give a group of people, let's say, and you would design, this isn't saying how it's going to be designed, but let's say nine people Upcountry or nine people from Central Maui, some Wailuku, Kahului people. They would have a chance to make a recommendation to the Planning Commission that the Planning Commission could look at. I don't think it needs huge amounts of staff work. I don't think minutes have to be taken at a meeting like that. I would not recommend, but rather, the decisions and recommendations would be included in the advice that committee would give.

COUNCILMEMBER CRIVELLO: Chair, I have another question if I may?

CHAIR COUCH: Proceed.

COUNCILMEMBER CRIVELLO: Need for neutral environmental reviews, when it comes to the EA or the EIS in your opinion who has the final oversight of those documents?

MR. MAYER: There usually is an entity set up who will have that final review. It might be the County Council, it might be a Planning Commission, it could be somebody out there who was going to have the final review. Unfortunately, those bodies, your body here as well as the Planning Commission, don't you always have the technical expertise to go through 'cause as you know many of these are four, five hundred pages or even longer with all kinds of technical things. This would allow hopefully a more neutral party to look and weigh all the evidence on both sides and be able to give a recommendation. I've read...I, for 25 years reviewed EAs and EISs for Maui County on behalf of the University. They have an Environmental Center and they asked me to review these. And never once did I ever see an EA or EIS that were in any ways was critical of the project. I mean, it was so self-serving in most cases, in almost every case, that I'm concerned that you folks don't get neutral information. So even if you look at it, you're not getting that neutral. This would at least I think help ensure that at least the material, the pluses and minuses or what needs to be done to mitigate or if there is a problem that somebody would clearly say this problem can't be mitigated.

COUNCILMEMBER CRIVELLO: Right. Mr. Chair, I have a --

CHAIR COUCH: Okay.

COUNCILMEMBER CRIVELLO: --and I'm just trying to understand how this differs to what's going on, and we also, you know, in our community involvement we try to put together EAs, especially if it's minor by ourselves. But you know like you said it involves a lot of technical expertise so are we saying then that we need to pump in...expand a budget for Planning so that you can have all of these? But in my understanding when the EA or the EIS is, you know, processed, there's a comment, there's a period for comment, and isn't that the time where we can get the necessary feedback on the critical...or critiquing the EA on what kind of an impact it would have overall?

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

MR. MAYER: Ideally it would work that way, unfortunately and I've written on many, many occasions for projects Upcountry, items are...Kula Community Association has written a letter saying please look at this or add this. And then what happens is about three days before the Final EIS comes out, the company that did the study and again, working under the direction really I think of the developer in that particular case, writes a letter sort of negating all of the things you've said in your letter, showing all the reasons why what you said is not true and I could give you really good examples of that. And then the Council gets this and says, oh these are not real concerns by the citizens or by the community or whatever. Hopefully that kind of a response to the letters from the public would be changed. That you would get then the party that's reviewing it that isn't beholden to the developer but beholden essentially to the, to the County and the general public, would be able to say, you know, you've raised some good issues, we'll have to look further into this or this is a way we'll have to mitigate that. This will give you folks the information you really need rather than sorta whitewash which has all too often happened in the past.

COUNCILMEMBER CRIVELLO: Thank you. Thank you very much.

MR. MAYER: Thank you, and thank you for asking really good questions.

CHAIR COUCH: Thank you. Members, any further questions of the testifier? Seeing none, thank you, Mr. Mayer.

MR. MAYER: I just wanted, wanna add the...you will probably have a question as you know what process to use after this. One suggestion I might have is that you do a resolution extending the time for the Maui Island Plan to be reviewed and you can still do it even though you've passed most of the portions of it and do this; otherwise, it will go through a very lengthy process before this would ever come back to you. If you extend it and say, you know, we'll give ourselves till September 1st to do this or some date, you could probably handle this without having to go through all kinds of commissions and bodies and whatever.

CHAIR COUCH: Okay, thank you. All right, any further people in the gallery wanna testify? All right, let's go to the Molokai Office, Tina?

MS. THOMPSON: Good morning, Chair. This is Tina Thompson at the Molokai Office and there is no one waiting to testify.

CHAIR COUCH: Thank you. Lanai Office, Denise?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

CHAIR COUCH: And Hana, Dawn?

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

MS. LONO: Good morning, Chair. This is Dawn Lono in Hana and there is no one waiting to testify.

... END OF PUBLIC TESTIMONY ...

CHAIR COUCH: Thank you, ladies. Members, seeing no one in the gallery wishing, rushing down to testify and no one in the District Offices, without objection we'll close public testimony

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: Okay, public testimony is closed. Okay, Members, we are handing out...oops, let me...we are handing out the Implementation Program Ordinance right now I believe or we already handed it out? Okay, good. This Committee is in receipt of multiple County Communications related to amending the Maui Island Plan Implementation Program. The communications include: County Communication 14-138, from Councilmember Guzman, on the matter of amending the Maui Island Plan Implementation Program relating to the establishment of permanent community plan area advisory committees. Also, County Communication 14-139, from Councilmember Guzman, on the matter of amending the Maui Island Plan Implementation Program relating to the County's establishment of an infrastructure funding strategy. And County Communication 14-140, from Council Chair Baisa, on the matter of amending the Maui Island Plan Implementation Program relating to time limits on future community plan and zoning entitlements. And County Communication from me, on the matter of amending the Maui Island Implementation Program relating to the following: one, including information on additional potential funding sources for infrastructure improvements in the "Capital Improvement" Program "Requirements and Financing" section; allowing the Planning Director stronger oversight of the preparation of Environmental Impact Statement and Environmental Assessment documents, in the "Other Implementation Mechanisms" section; and stating the County's discretion to require updating and resubmission of outdated documentation in land use applications, in the "Other Implementation Mechanism" section. The Implementation Program was approved through Ordinance 4126 effective May 29, 2014. And that's what we just handed out. The Maui Island Plan is one of the major components of the County's General Plan 2030 project which commenced more than a decade ago and follows the adoption of the Countywide Policy Plan four years ago. The Implementation Program is the final element of the Maui Island Plan. It will be used for County strategic planning and sets goals for delivering services and projects. Earlier elements of the Maui Island Plan were adopted by Ordinance 4004 in 2012. The Maui Island Plan should evolve and it continues to be a work-in-process. These County Communications related to amendments to the Maui Island Plan Implementation Program were referred to us on the June 6th Council meeting. I first would like to get some comments from the Planning Department and Corporation Counsel before we start in on this, so Mr. Spence?

MR. SPENCE: Good morning, Mr. Chairman, Members. I'll have specific comments on each one of the proposals. I assume we're gonna go through them one by one?

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

CHAIR COUCH: Yes.

MR. SPENCE: On the surface, all of these just...they sound good, well let's just do this or let's just do that. But when you get down to administering these things, there's a whole other picture. And what I would like to be able to do today as we go through these is provide you with a different picture on the consequences, how things would have to be administered, it's a whole other ball game. I know that it would, a lot of these would involve hiring additional personnel, adding to workloads, et cetera, and would include the delay of processing applications. So with that, Mr. Chairman, I'll, you know, that's just sort of a summary of what I will be saying for most of these.

CHAIR COUCH: Okay, thank you. And before we go any further, I want to recognize the presence of Councilmember Guzman, good morning.

COUNCILMEMBER GUZMAN: Good morning, Chair. Thank you.

CHAIR COUCH: And we have Members, we have Dave Taylor in the back if we have any questions on actually how to do EAs and whatnot, so we have that resource if necessary. All right, Mr. Hopper do you have any initial comments, and you are dressed very dapper, very nice to have you dressed up like that.

MR. HOPPER: Thank you, Mr. Chair. I just had a few initial comments. First procedurally, there's no ordinances or bills for ordinances along with the items so that would be the first step in amending the General Plan. It's also my understanding that the Maui Island Plan has been adopted as well as the Implementation Program by ordinance already on second reading. So in order to amend that ordinance there's actually a process in 2.80B. It's 2.80B.060 entitled, Nondecennial Amendments to the General Plan, and it says they may be proposed by the Planning Director or the Council by resolution, and then proposed amendments shall be referred to the appropriate Planning Commission for findings and recommendations. And then proposals shall be made pursuant to the subsection...have to be processed in accordance with Section 8-8.4 and 8-8.6 of the Charter, that's Planning Commission review. It should also be noted perhaps a issue with 2.80B that there doesn't appear to be a separate amendment to Maui Island Plan, nondecennial amendments to the Island Plan section that I can find anyway. So, and it also says that, prior to approving any amendment to the General Plan pursuant to this section, the Council shall hold public hearings on Lanai, Maui and Molokai on the bill incorporating the amendment. For the Maui Island Plan that may, may be a proper amendment to require that the public hearing be held on Maui, because since the Island Plan only affects Maui island there may be a place in the Code to add that additionally. And then finally, with the proposals themselves, again we would need to draft ordinances to specifically say how the language is going to be revised. And I would also note that these are not ordinances themselves that are zoning ordinances or that actually amend the Code, these are statements in the Maui Island Plan and would typically have to be followed up with actual ordinances to change the Code to implement these, such as to create the advisory committees if that would happen or to do certain other things, that may need to be the next step. So they wouldn't necessarily complete the whole process. And also just a

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

final word, in general for the EA and EIS process, that is a process that's already governed by State Law and State Administrative Rules that are very detailed. So the Council has a broad amount of authority with respect to things like Change in Zoning applications and the application process or community plan amendments and that process. But the specific EA and EIS documents and under HRS 343 and the Administrative Rules they're under are generally governed by the State and the State Environmental Council, Office of Environmental Quality Control, and the Legislature. So the County may have limited authority with respect to EA and EIS documents. This...those documents designate who's going to be an accepting authority for those documents, how they are prepared, et cetera. And so we may have certain issues with or at least my office may have certain issues with amendments to...attempts to amend that process, but does believe that the Council does have a substantial amount of authority to review and require documents with respect to applications that the Council has to review and approve such as Change in Zoning applications or community plan amendments and can amend those Code sections to require additional documents, just generally not specific to HRS 343. There would be some other review process. So I can assist the Council in looking at, at those issues but wanted to have those as threshold issues as we continue the discussion. Thank you.

CHAIR COUCH: Okay. And Members, Mr. Hopper brought up a very interesting comment about 2.80B.060. It's...I think this is something that if the Committee is okay with it I wanna bring up as another item to the...forward it to the Council and then have it assigned to the appropriate Committee. The section where it says prior to approving any amendment to the General Plan pursuant to this section the Council shall hold public hearings on Lanai, Maui, and Molokai on the bill incorporating the amendment. My concern is if there's a plan to the Molokai Island Plan, do we wanna have a hearing on Lanai and Maui for it? If there's a change to the Maui Island Plan, you know, I think we want to at least discuss something about changing the language in there. So without objection, I'd like to request from the Staff to have that as an item to be forwarded to the Council.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: Okay, thank you. You got that? Okay, thanks we'll get that one fixed anyway. So Members, I think we'll just go through, in your binders we have each communication, we can discuss the subject with the Department, and have you guys tell us what your thoughts are and we can see where we go from there. This is going to be a fairly informal discussion as far as we don't have anything to act on today pretty much. So just let's see where we wanna go with this Committee. So the first item up is County Communication 14-139, from Councilmember Guzman, about the establishment of an infrastructure funding strategy. Do we place, you know, basically a Infrastructure Funding Strategy? So Mr. Guzman, any comments before we go to the Department?

COUNCILMEMBER GUZMAN: Chair, are we going in order for...I believe it's County Communication 14-138.

VICE-CHAIR VICTORINO: ...(inaudible)...

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

COUNCILMEMBER GUZMAN: Yes, thank you Mr. Victorino...establishment of the permanent community plan area advisory committee?

CHAIR COUCH: Oh, I'm sorry. I had the wrong page. Thanks, 138.

COUNCILMEMBER GUZMAN: Yes.

CHAIR COUCH: So this one is yeah, establishment of the permanent community plan area advisory committees.

COUNCILMEMBER GUZMAN: Yes, and I also would like to thank the Chair for this opportunity to, you know, hold this item in your agenda for discussion. Before I begin I just, I just wanted to get this basically off my chest and state that in listening to the Corporation Counsel on the recitation of having to go through an amendment process, how we have to go do a resolution, then it goes to the Planning Commission, and then go out to public hearing, and then back to the Council, it just seems as though that we should have had this type of discussion prior to passing the Implementation Plan in itself. And so, now I feel like we have to go back to square one, ground zero and go through this entire process to try to discuss or at least get to the discussion of these, these items that have been presented to this Committee. So in saying that, I feel a little bit disappointed but I also am very glad that you have put this on your agenda. In regards to my County Communication 14-138 regarding the establishment of the advisory committee, I would like to ask the Department what are the consequences of having this established? To me, Chair this is reminds me a lot of a neighborhood board. When I was an aide in Honolulu for the State Leg many, many years ago, I was working with Representative Tom Okamura and I would have to be...he would send me to these neighborhood boards, and a lot of the discussions that were produced in those board meetings lead to eventual legislation so it's grassroots. And for me even starting the ag working group was grassroots and getting in touch with the community has to say and the issues and vetting it through that process first before going to the hands of legislators. But I would like to know what exactly how this will function and what are the unintended consequences? I do realize that this is an extra layer that would be included into the whole process, and so I would recommend that at least starting off, that we put a time frame...if this, if this is going to be established, a time frame for this advisory committee to review such as, you know, they have 10 days or 20 days to review and then submit their recommendation, thereafter the time limit, it's a default. If they don't get to the review process it moves forward to the Planning Commission. So that way it doesn't...that extra layer doesn't cause any delays. Other than financial that's another I guess con, that would be something that we would have to investigate how much more monies does the County have to appropriate to establish these type of committees. I would like to get some type of parameters and in terms of their roles, you know, is it a recommendation, is it a review process, I guess that discussion needs to be held as well and that's why we're here today. And so I would like to hear from the Planning Department and their opinion and some of the points that I've touched on right now. Thank you. Thank you, Chair.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

CHAIR COUCH: Thank you. And before Mr. Spence responds, I'd like to take a second to respond. This was done intentionally because we want this to go back to the Planning Commission. This is substantial enough changes that the Chair felt that it needed to go back to the Planning Commission and be fully vetted as opposed to rushed in at the last minute and just thrown into the plan so that was, that was intentional.

COUNCILMEMBER GUZMAN: Very good. Thank you, Chair. I think the general public needs to know that, because at the last full Council it wasn't expressed fully and clarified. Thank you, Chair, for that.

CHAIR COUCH: And the other comment I'd like to make too on this, the whole thing, you know, we heard a lot of testimony from a lot of people saying this is what the public wants and you know the General Plan Advisory Committee recommended this and whatnot. And I wanna set the record straight, these items were mentioned from a investigative resource committee which had no public input and had eight members and no consensus on any of these items. So this is...that is some background that we must talk about. Yes, it may have been talked about in general in the testimony at the General Plan Advisory Committees, but these items have not been formally introduced and we heard about that, we saw the minutes of the meetings. So just to lay that foundation as well. Okay, Mr. Spence?

MR. SPENCE: Okay, thank you, Mr. Chairman. Good morning, Members. And just a little bit of comment as well. My thought during the Implementation plan process, you know for the Maui Island Plan was that these are really substantive matters, and just to put a one-liner in a plan that...these are so big they should be talked about in this kind of setting where we can vet out all the different, the topics and the consequences. I agree with Mr. Guzman's thought that these sound, these permanent committees sound a lot like neighborhood boards and that would be very grassroots, et cetera. I would like to comment though that Oahu is over 800,000 people and we're about 150. So there's a big difference in that. And the concept that these permanent committees be set up is to give the different community plan areas a voice. Every two weeks I sit in Planning Commission meetings, the Maui Planning Commission and whether it's a bed and breakfast on the west side or one in Haiku or a Change in Zoning or an SMA Permit, we have lots of people coming out to discuss those items in front of the Planning Commission, and those people I've personally I've never seen a Planning Commission deny so many applications based primarily on what those people come out and say. We have certain notification requirements, 500 feet, et cetera, neighbors come out. Those people from, that are most affected from that immediate area always come out and if there's a problem they let us know about it or if it's a good thing they also let us know about it. So that's one. We already get that input from the people most affected by a project. The second thing, if there's an SMA Permit say in front of the Planning Commission we expect a developer to go to whatever community association. We expect them to do public outreach already. If you were to look at any of the minutes of the Planning Commission meetings, one of the first things they ask is...I mean, they don't ask it so much anymore because it's just expected, they asked well, did you go talk to the community? Did you go talk to the community association? Did you go talk to the neighbors? I mean, that's one of the primary things that's anticipated. So just on that to say that the communities have no

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

voice, there's no ability for input, those kinds of things, that's just not the case. I sit in those meetings every two weeks. I watch it happen. I watch the letters, the comment letters come in, if the people don't appear to testify directly they're, you know, they send letters in. As particular to what this would mean to administer, I recall when this Administration was brought into office in that particular election, the number one thing on all the candidates' mind was let's streamline the process. Let's streamline the process and everybody made that promise. So what does it mean to set up permanent advisory boards and have all applications probably that require a public hearing, maybe more go to these advisory committees? The Hana Advisory Committee adds nine months onto an application, that's from the time it takes for the Maui Planning Commission who is the authority, who is the deciding body to get it on the agenda, to delegate that authority to the Hana Advisory Committee to hold the public hearing, for the Hana Advisory Committee to hold the hearing, if we can get quorum, and then send their recommendations back to the Planning Department and have the minutes trans...you know, typed out, and then have that scheduled for the Planning Commission meeting. Nine months. We have eight boards and commissions already within the Planning Department which is more than any other county. We have four support clerks whose sole duty within that Department is to set agendas and to transcribe minutes, that's what they do, and they do just an awesome job. Adding five more boards and commissions would be, require at least two, if not three additional support clerks, because that would take that amount of time and that amount of work for all these applications to go out. I can't say how many other planners it would need, but it would, it would certainly add to the workload of all those that are already there. I would quote...let me...if I could just, two other things on this, actually three other things, sometimes when as this Council knows when certain people are appointed to the Commissions you have people come up and testify and say, you know, well this person, you know he just represents the unions or they represent development interests or whatever, the appointees to these commissions or to these permanent committees would be political appointments. So I'm not, you know, for better or for worse, it's still would be a political process. The...I did look at the Planning Commission minutes when this idea went from in the review of the Maui Island Plan, one of the Commissioners who is very well known for his environmental viewpoints commented that I think probably the system is better the way it is now because if you set up these committees, they're subject to Sunshine Law, they're subject to staffing by Planning Department staff, in other words, they would be giving up a whole lot of freedom in order to develop their own opinions. So rather than the way it is now say the Kihei Community Associate may expect a developer with a SMA Permit to go to them and they get a comment letter back. They're not subject to Sunshine Law. They're free to write their own opinions however they would like. They don't have to follow protocols, there's no problems with ex parte communications, all that stuff. All of a sudden if we have a permanent committee, you know, you're subject to all these other laws, and the thought was from at least that one member of the Commission was that it would actually hinder that part of the process. The last thing I'll touch on with this if you...and going back to streamlining and the length of time for processing permits, in 2005, the County Council ordered an audit of the Planning Department because permits were taking so long to get through. There was inefficiencies, et cetera, et cetera, and so the Council took it upon themselves to order this audit and everybody knows it as the Zucker Audit. That audit came out a year later in 2006, and a part of their executive summary they say, timelines for most application processing in Maui are some of the

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

slowest we have experienced. In our extensive mail survey to customers, 84 percent said the timelines were unacceptable and 63 percent said they were longer than other counties where they have applied for permits. And I know that the substantial backlog of applications and as a part of this same paragraph they said, deciding on reasonable timelines in the final analysis is a County policy decision. So if we, if we were to add these committees, we are most definitely talking about adding to the permit processing timelines which I also, I still think are pretty long though it is getting better, but it will also add to cost. I know that in the last budget session we asked for one clerical position and you know, the Council decided against adding that position. You know, adding...we would be requesting at least two, probably three more support clerks which are at a higher pay scale than a clerical, and then as I said, I don't know what we would need as far as planners. But there would certainly be consequences to adding additional workload to the Planning Department.

CHAIR COUCH: Okay, thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you. Thank you, Mr. Spence, for that explanation, and as we continue our dialogue, you mentioned about the Planning Commission as being able to I guess vet through a lot of the community issues and there is somewhat of representation on the Planning Commissions. Are they required...I know that that's one of the issues that we're dealing with right now in terms of district representation on our boards and commissions. And so if we're talking about representation of each of our districts, you know, Central Maui, Molokai, Lanai, so on and so forth, is there a requirement within the Planning Commission that there is a makeup of equal members or commissioners that are from the separate and distinct districts?

MR. SPENCE: I am not familiar with any requirement that they be from a particular, you know, that each district is represented. I know that's been the practice since I was a wee staff planner in the early '90s. I remember the internal discussions of we have to get somebody from Hana whether it was Hana Advisory, we have to get somebody from South Maui, I mean, and you know, with the different representations throughout the community. So there was, you know, there was an assurance there would be environmentalists, there would be the trades, there would be all different aspects of our community represented, but no, I'm not familiar that there's any particular district representation required.

CHAIR COUCH: And Mr. Guzman, before you go on, having looked at Page 26 of the Charter, Section 8-8.4, it doesn't appear that there's a requirement there.

COUNCILMEMBER GUZMAN: Right, right, and so getting back to that, I mean it, and I understand the concept of the neighborhood boards, because they're people from that neighborhood, they know the issues, they are concerned, they have a vested interest. And so if...when I read this language here in creating this permanent advisory committee in the various districts, I think that's what they're asking for. They're asking for representation for those people who have a vested interest in their district to have a voice in there. And so if there's a way to maybe not throw a monkey wrench in the whole system but to allow or even maybe this body needs to pass

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

out requirements that equal representation on the Planning Commission. That would, that would probably be helpful in addressing some of this concerns here that I'm reading on its face.. The other one would be if we, if we were to implement this type of advisory committee and could we not place time limits on the review process? And that might be a Corporation Counsel question. Could we not place like they have 10 days or 20 days to review? If they do not produce or a...produce or disclose a recommendation within that time period then by default it moves to the Planning Commission? Is that a viable, legitimate process?

MR. HOPPER: Thank you, Mr. Chair. Doing that would be something that would have to be generally done in the ordinance, and the Council would generally of course, would have authority over applications, County applications like for example, Change in Zoning applications and other things under Title 19 of the Maui County Code. The boards may not necessarily...the Council may not be able to for example, for things like State Special Use Permits where the State Law designates the Planning Commission of the County as the authority over it, may not be able to have those new boards be required to review anything. There's a lot of broad questions to ask to begin with which I guess to back up, the starting point would be what applications would they actually be reviewing --

COUNCILMEMBER GUZMAN: Right.

MR. HOPPER: --or required to review? I think that's the first step. And then as far as timelines to the extent that it's an application under, you know, Title 19 of the Maui County Code, the Council can look to deal with those timelines in which boards and commissions that it has to go to in any manner they see fit. There are requirements in the Charter dealing with Planning Commission review of zoning ordinances and things like that, so that's an existing timeline that wouldn't be able to be changed without the Charter changing. And I would note that these...if these boards are considered to be community boards or neighborhood boards there's a definition for that in the Sunshine Law and a requirement that the County establish a neighborhood board commission to oversee those boards and it doesn't appear to exempt them from the Sunshine Law. They have broader powers to have meetings without quorum, to take testimony, but I don't see any requirement or any ability for them to waive taking minutes and things like that. So I think it's going to be in a lot of ways similar to the other boards and commissions that the County oversees. But as far as setting time limits, generally yes, the Council would be able to do that along with saying which applications these boards would be required to be reviewed provided it's an application that the County Council has authority over, dictating how it's, how it's dealt with anyway, like, you know anything under Title 19, Conditional Permits, County Special Use Permits, Changes in Zoning, Community Plan Amendments generally the County land use entitlements. Things like State Special Use permits, District Boundary Amendments where the State Land Use Commission is the authority, those are the types of applications that by ordinance generally the County wouldn't be able to require these boards to have to review, because they have their own independent review process that State Law may deal with. But in general, that's something once the Council establishes which permits have to go to new boards for review, the Council could set those time limits keeping in mind that there may also be time limits for

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

Planning Commission review of those same entitlements such as Community Plan Amendments or Changes in Zoning.

COUNCILMEMBER GUZMAN: Okay, thank you. Thank you, Mr. Hopper. So you know what Mr. Spence, Director Spence was saying, the two issues that were compelling to me were the Sunshine Law and the audit in terms of the Planning Department being more efficient in the permitting process. I'm trying to find a compromise here to see what in fact this language would help or distract or be more disadvantage to the County. I see the advantages of the community involvement, but if the Commission, the Planning Commission itself can be more district represented then I would feel that would alleviate or comply with some of this language. And then the roles what exactly would they be reviewing if this separate advisory committee were established? Could we almost create a TIG within the Planning Commission to review implementation of plans or things that are more focused to I guess community plans such as that? Is that a possibility where you can create a subcommittee within the Planning Commission?

CHAIR COUCH: Mr. Hopper?

MR. HOPPER: Thank you, Mr. Chair. The Planning Commission itself would have to vote under the Sunshine Law to do something like that.

COUNCILMEMBER GUZMAN: Right.

MR. HOPPER: They would have to. I mean, the Council could send a communication saying something like we recommend that you look into doing this, but generally the setting of the TIG as you said as we saw in the Sunshine Law presentation from OIP earlier is something that the members of that board have to vote to, to do, to establish and they could do that to investigate really any item that's a matter for the board. They've got rules they have to follow, but they could do that. The Council itself couldn't set up one for the Planning Commission. The Council could set up a Council-based group like that I believe or send something to the Planning Commission advising that they do so. But generally that vote has to come from the members of whichever board is going to form that investigative group.

COUNCILMEMBER GUZMAN: It's almost like...I would compare it to, I know that the Planning Department was trying to or was creating an Implementation Division within their Planning Department, a specialized division that would oversee implementation issues within the Planning...the Maui Plans and the community plans. It's almost like that where the Planning Commissions would have a special, a subcommittee that would work in conjunction with the Planning Department, and if the requirement of equal representation was enforced or in play then that would absorb or at least qualify or appease the voice of representation. I'm just trying to find solutions. I don't know what...if Mr. Spence has any ideas on that?

CHAIR COUCH: Before Mr. Spence comments, along those lines that Mr. Guzman was talking about representation. I know Mr. Hopper you mentioned something about potentially a Charter

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

amendment. Can't we via ordinance make that a rule even though it just sets up the broad base for the Planning Commission and then via ordinance we can, we can tack on some requirements?

MR. HOPPER: You're talking about the Planning Commission's membership?

CHAIR COUCH: Yeah.

MR. HOPPER: Well, we'd have to look into that. The Charter has a very limited requirement which basically says as you I think pointed out, the members of each Planning Commission shall be residents of the island of the Planning Commission on which the member serves. So that's pretty broad for Maui island obviously. We've done or the Council has done that by ordinance for things like the Public Works Commission I believe and others. And I believe there's in the Policy and Intergovernmental Affairs Committee consideration of something like that for all County boards and commissions. The Planning Commission is a board created by the Charter so there may be a bit more limitation versus a board that's created by ordinance to deal with the membership without changing the Charter, but I don't think it's, that would necessarily be contrary to the language of the Charter because the Charter has, 'cause the Charter has language basically that would be broader than what's required than the...basically anybody obviously who is on the island would be consistent with the Charter. So if we wanted to be more limited to the actual areas where those members are from I don't think that's necessarily something that conflicts with the Charter. So we'd have to look at that and Director Spence is pointing out there's an ordinance that deals with Planning Commissions and that would obviously be the area to target. We would just want to make sure that it's still consistent with the Charter. I mean, you couldn't require obviously members from other islands to be on the Maui Planning Commission or someone who lives on Maui to serve on the Molokai Planning Commission, that appears to be the Charter limitation there. I think that's something that could be considered though. You would want to review the ordinance that deals with the Planning Commissions as well. But I know for the Public Works Commission which is the one I'm most recently familiar with, there's a lot of requirements to serve on that Commission. So I think the Council could look at something like that.

COUNCILMEMBER GUZMAN: Could be an option, Chair.

CHAIR COUCH: Yep, okay. Mr. Spence had a comment on Mr. Guzman's. Mr. Victorino, is it --

VICE-CHAIR VICTORINO: I'll wait for comment, then I'll...

CHAIR COUCH: Okay, thank you.

VICE-CHAIR VICTORINO: Since Mr. Guzman's been the only one that likes the...

CHAIR COUCH: Well, it's his, it's his communication.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

VICE-CHAIR VICTORINO: I know, but you know, some of us we like to chime in just a little, just a little.

CHAIR COUCH: Go ahead, Mr. Spence, and then Mr. Victorino.

MR. SPENCE: Just a comment that when I sit through the Planning Commission meetings, I do listen to the different members from, from the different districts, and I do notice that the other members like, you know, we have one commissioner from the west side, members tend to listen to her about west side matters. Other commissioners would be similar so, I mean, I personally with you know the caveat that Mr. Hopper would...all the things he's noting, a residency requirement for at least making sure that each...there was a least one commissioner from each district, I wouldn't see a problem with that.

CHAIR COUCH: Okay, Mr. Victorino?

COUNCILMEMBER GUZMAN: I'll yield.

VICE-CHAIR VICTORINO: Well, thank you, and again that was gonna be my basic line of questioning as far as the districts are concerned having that representation. Now, the question I have is let's start with Hana. They have their own advisory board, right? And so now, do we also give them a commission member when they already have an advisory board?

MR. SPENCE: No.

VICE-CHAIR VICTORINO: Yeah, so no, these are the kinda questions I would be asking, because in all fairness we've allowed them just like Molokai and Lanai and you know, they have their own Planning Commissions and I understand why that was done and I concur wholeheartedly, you know. So if something like district representation was to be put on would that satisfy Mr. Mayer and those who are so concerned about this district advisory commissions or boards or whatever they might have been called, right, review boards and all that? So would that, would that help? You know, I think that's my next question, would that satisfy their requests in that regard? And then Mr. Hopper, your basic answer to us is this Commission is by Charter and that we could make changes to this without going back if we're making changes like district representation, or would this have to appear on the Charter for a vote by the public at large? 'Cause to me this is substantial change, this is not just tweaking it.

MR. HOPPER: Thank you, Mr. Chair, and I think that's something that I did note. Again, the Charter requirement is that the members of each Planning Commission shall be residents of the island of the Planning Commission on which the member serves. That's the only residency issue dealt with in the Charter. There is also a County Code section, Chapter 2.28 under Planning Commissions and that does not discuss residency requirements of the Planning Commission although it does establish and discuss the Hana Advisory Committee membership requirements and even goes into their residency requirement. It says they have to be a resident of the Hana District for a period of at least 90 consecutive days. So we would need to look at that but

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

because there is an ordinance dealing with the Planning Commissions, I think you can still have members, as long as the members are still residents of the island of the Planning Commission on which the member serves, we may not need a Charter amendment in order to have that requirement if it's put into the County Code here, because the Charter still says, it says they have to be...and so you'd be consistent with the Charter if you did that as long as all of the members are still residents on the island in which the member serves. But again, we would, we would still wanna look at that, because we do have the Charter requirement and in the Planning Commission Ordinance itself there's no requirement. But amending that ordinance I think would be the way to go with that. All the ordinance says right now is that the Maui Planning Commission is established pursuant to Section 8-8.4 of the revised Charter. It may be best practice to amend the Charter but will it be impossible to do without that? I think we've gotta to look at, to review this but I think based on the fact there is an ordinance under this it's certainly worth looking into to try to make that change.

VICE-CHAIR VICTORINO: Okay so it's...what your opinion is at this point, you say we probably could, but maybe you know, it still have to be done by a Charter amendment depending on how this is set up and your further review?

MR. HOPPER: Yes, if this were a board that was established by the Code, I have no problem like the Public Works Commission --

VICE-CHAIR VICTORINO: Right.

MR. HOPPER: --that would need to be as far as residency requirements, that's fine. Because this is established by the Charter, I would, I would...we would need to take a closer look at that before doing it and of course, this would just put it in the Island Plan as something to be looked at, and so whether it needs a Charter amendment or a Code amendment in the future, putting it in the Island Plan could be a first step to implementing that other stuff, but it would be a clear policy statement saying that that's what the Council and the community is in favor of doing eventually through whatever legal changes are required.

VICE-CHAIR VICTORINO: Okay, okay. I like that clarification. Now I'm a lot more clearer understanding how the Hana Advisory Commission works and the 90-day requirement, you know. I mean, I would wanna see some of that stuff, if we're gonna do it, doing it right. But okay, I'm fine with it now, and thank you, Mr. Hopper, for clarification.

CHAIR COUCH: Mr. Spence has a comment and then Chair Baisa.

MR. SPENCE: Thank you, Mr. Chairman. I wanna remember that the Hana Advisory Committee was formed because of the hardship of driving that distance to public hearings before the Planning Commission. So I mean, there was a different reason for...I mean, when the Hana Advisory Committee was being formed, I mean, certainly there was a representation issue but there was...it's because that area is so remote, you know, so people could not drive in all the way from Hana to Planning Commission meetings. The, you know, the other comment I would just like to

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

leave it with, my opening comments about how people do come to meetings and you know, the County Council experiences that all the time. People come from all over the island to testify on items that are before its various committees. I don't, I personally don't see a problem that needs to be solved, and I would, I would make that very clear I'm not sure there's a representation issue that where people are not being represented, because we like I said, I see the, I see full Planning Commission meeting rooms when certain items come up, whether it be neighbors, whether it be community activists, whether it be community associations, I see them there. They are involved. This is not a lack of community involvement. There's not a lack of community awareness of what's going on in their communities. So I'm not sure what is, what problem there actually is in order to be solved.

CHAIR COUCH: Okay. Chair Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. And thank you for bringing this up so promptly. I really appreciate it and I know the public does too. This is a tough, tough situation we have before us and I understand both sides of it. I hear what Director Spence is saying and I hear what the folks who would like to see this happen are saying. And looking at the Planning Commission and the makeup of it I think is you know a very interesting and intriguing idea. However, you know, I'm not sure and I think it would be important that we discuss it with the folks who have put this proposal before us over and over to see what their thoughts are about it, and do they think that district representation, more detailed district representation on the Planning Commission would make a difference. 'Cause you know there's five suggested areas of Maui and would we then say, okay, we'll have one from Upcountry, one from Lahaina, one from wherever and I'd be interested in knowing what the reaction to that suggestion is before we go further down that road. The other thing that I just wanted to comment on was, you know, we've had discussion here today about the community associations and how they play into the Planning Commission and how they are active and they're involved. You know, I have been very, very involved with the community organizations that are in my district and helped this year to get a Pukalani Community Association going because I felt it was very bad that, you know, a large area of population Upcountry didn't have its own organization although I have worked very, very closely with the Kula Community Association as their representative and I really value the work that they do. And they work very, very hard at trying to stay abreast of issues in the Kula area and always try to seriously look at, you know, what's going on and both sides of it, and often will write testimony that is not really for or against but to raise issues and suggestions and I find that extremely helpful. However, I will say also that as a representative and I'm sure my colleagues as well as yourself, Chair, get this same situation where we go places and people say they don't know anything, they have no idea about what we're talking about, they've never heard of it, and they're shocked when they see in *The Maui News* that a law is passed because they didn't have a clue about how it was happening. So we have an information issue. And this Council has tried very, very hard to combat that and we have used everything that we have available that we can possibly do and we need to continue to work on it. I'm sure there's much more we can do in trying to get issues and ideas and you know proposals out to the public. You know, we put them on our website, we do a news article, we do blogs, we do e-mails, we do all kinds of things trying to get people to be aware of what is going on, and I am...I know

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

personally that there are still many people who have no clue what's going on, and so that's my fascination with this idea of another body even though I would never want to add to the time issue that we have. We have an issue with processing permits. And like it was said, we all came here and said, we need to streamline this process and if we're gonna bog it down some more then I am really worried about that because I don't want to. People need to get answers. They need to know, may I do this or may I not? Because they're huge, huge, huge investments of capital, time, energy, expectations that go into putting a project up for a discussion. And so my concern is that we really have to, if we're gonna do anything, it has to be timely and we really need to work on somehow getting more information out to the public and that's my concerns about all of this. The other thing is I'm worried when I hear Mr. Spence talk about needing a whole bunch of new staff in order to implement this. You know we're constantly told that we need to cut back on the money that we spend, we need to reduce government, we can't raise taxes, and so if we decide we wanna do something that's gonna cost a whole lot of money is that acceptable to the public?

CHAIR COUCH: Not to mention Corp. Counsel.

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: For the each...

COUNCILMEMBER BAISA: Yeah. And that's where I'm at. You know, this is not a simple answer even though I definitely understand the suggestion and why it's been made. Thank you.

CHAIR COUCH: Okay, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And yeah, I definitely feel for Chair Baisa in regards to her comments just now. And so trying to see it from all angles obviously and as the district that's I guess the farthest to get to this where we are here in these Chambers, outside of course our outlying islands and Hana, you know, it's I don't have... West Maui doesn't even a collective or a set community association such as Kihei, such as Kula area, and we have many, you know, West Maui Taxpayers, Lahaina Restoration Foundation, Lahaina Town Action, and so from end to end in West Maui we have our different core groups and they all sorta, you know, address certain issues for their particular causes and areas. You know the NIMBY syndrome does occur quite often and until it actually affects your own backyard then you stand up and you wanna have a voice and say in all these things, and so it is hard to reach out to every person and we do our best I understand that. And you know in Mr. Mayer's number one paragraph here in regards to no ability at all to give advice to decision makers, you know, there is a way and we do as in testimonies here, as in testimonies at the Planning Commission and so forth, but again, it's that...the opportunities are there but then a lot of times it's after-the-fact, like Ms. Baisa mentioned the hardship and us getting that information out in a timely manner to others and having them receive it and then be able to share their comments. This is a tough call, but I see where Planning Department is coming as in the added costs, I see where we all wanna have the most perspectives and input that we can from this community, that's who we're here to represent

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

and we need to hear it. I think we do the best job that we can with what we got and again, I think the opportunity is there via e-mail, call-in testimony, show up, you know, written so you know I understand, but I also feel that I see the more...the importance for Lanai, Molokai, and Hana to have those separate advisories because of the extra hardship in trying to get here. So I mean, those are my basic comments I guess to this, and I think to have it vet out I think you wanna send it to Maui Planning Commission to have further discussion perhaps?

CHAIR COUCH: Well, if we come up to, if we come up with any ordinance or change then it has to go to the Planning Commission.

COUNCILMEMBER COCHRAN: Okay. So again, you know, as Ms. Baisa stated to hear more from the people who are actually sending this forward to us to even discuss it and just hear more so from each community and the districts on Maui in particular because the other districts already have theirs. So I'm just trying to gather my thoughts in regards to West Maui and how it would help benefit the voice there. But again, I think we have our respective groups that do chime in when needed and they have every opportunity and I understand that process. So thank you, Chair for my comments.

CHAIR COUCH: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: For Director Spence, does the Planning Commission go out to the different communities when there is a direct possible impact or...

MR. SPENCE: The...it does happen on occasion where, Councilwoman Crivello, where the Planning Commission will say we really need to hold the public hearing in, you know, Lahaina or in South Maui or something like that. So they do take that additional step and we will notice it as such in the agenda and we let all the appropriate folks know. So yes, that does happen.

COUNCILMEMBER CRIVELLO: Thank you. Chair, I have another question I guess for clarification with the General Plan process that my colleagues went through. So there were Citizen Advisory Committees that was part of this General Plan process? Well, I guess that's my question. Yeah, that's a question. So were there Citizen Advisory?

MR. SPENCE: Yes.

COUNCILMEMBER CRIVELLO: Okay, so on that basis and what I'm hearing is to consider adding the advisory boards on behalf of the Maui Implementation Plan. Would...is that to...and I appreciate what Chair Baisa is saying, let's bring them back, have the conversation with the proponents who wants to have this implemented is. So do you have another Citizen Advisory to dissect or what have you on what your existing or what the Citizen Advisory Committee contributed during the General Plan and yeah, do we want that? Because in my opinion that's what they probably will be doing again as far as dealing with the General Plan or do we make changes as we go along?

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

CHAIR COUCH: Mr. Hopper?

MR. HOPPER: Mr. Chair, I just wanted to note regarding Citizen Advisory Committees, in the Charter there's some guidance on what is required for a review of the community plan in the Citizen Advisory Committees. This is in Page 27 of the Charter, Section 8-8.5(4), it says that, there shall be a Citizen Advisory Committee for each community plan area. Each Citizen Advisory Committee shall consist of 13 members with 9 appointed by the Council and 4 appointed by the Mayor. Each Citizen Advisory Committee is charged with reviewing and recommending revisions to the community plan for its community plan area. Each Citizen Advisory Committee shall remain in existence until its revisions are adopted, modified or rejected by the Council and until such action is approved, modified or rejected by the Mayor. So they're intended to be for the community plan review process. And once the Mayor completes that process by adopting the revisions then the Committee's no longer in existence until the next update happens.

MR. SPENCE: Right.

COUNCILMEMBER CRIVELLO: I understand that, but the reason we want and or what I, I shouldn't say assuming, what I'm understanding for the request for us to create all these advisory boards is to have a say in what this Citizen Advisory Committee contributed, right, in your General Plan process?

MR. SPENCE: Thank you, Mr. Chairman. That's not my understanding that --

COUNCILMEMBER CRIVELLO: Okay.

MR. SPENCE: --these are just to...the proposal and I should clarify where that proposal comes from, but the proposal is to set up like the Hana Advisory Committee in each one of the districts. So not...the way the Hana Advisory Committee functions is right now if there's a...if there's a public hearing item like a Special Use Permit or an SMA Permit that is taking place out in Hana, they hold the public hearing in Hana.

COUNCILMEMBER CRIVELLO: Okay.

MR. SPENCE: This proposal does not come from the Advisory Committee for the General Plan. This proposal came from...they were running out of time so they split up into these investigative review committees, those investigative review committees, at this particular one was made up of eight people, eight out of the 25 total committee. They met, they did not take public testimony, they did not take public input, they met and they decided on certain things to go back to the General Plan Advisory Committee. So these proposals were at least a majority of that eight, you know, so there was at least five people, but those...the GPAC itself ran out of time. They did not review this, these proposals at all.

COUNCILMEMBER CRIVELLO: Okay.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

MR. SPENCE: So it's not representative of the GPAC as a whole. One more comment, Mr. Chair?

CHAIR COUCH: Sure.

MR. SPENCE: I need to correct myself. The...I believe Councilmember Victorino asked is there a member from Hana on the Planning Commission? Not at this time, but recently within the last two years there was and of course, I just, I think as vacancies come up, we look, but if there's no names, there's nothing to present to the Policy Committee. We also know that Councilmember Carroll was the Planning Commission Chair at one time. So yes we do get representation from Hana directly on the Maui Planning Commission.

VICE-CHAIR VICTORINO: Thank you for that correction. Appreciate that.

CHAIR COUCH: Okay, any further comments?

COUNCILMEMBER COCHRAN: Chair?

CHAIR COUCH: Yes?

COUNCILMEMBER COCHRAN: So these committees would have to have a meeting...only have meetings when that particular item is related to their specific district? I mean, how would that work?

MR. SPENCE: The way the Hana Advisory Committee operates is on an as-needed basis. If there's a public hearing item, we go to the Maui Planning Commission and they okay or not, I've never seen them not designate them to hold a public hearing. But they designate the Hana Advisory Committee to hold the public hearing. And then they make a recommendation back to the Planning Commission, and sometimes the Planning Commission follows it, sometimes they don't. So, but overall if, if these other committees were...if we had committees they would function on also on an as-needed basis which for some districts would be every two weeks.

COUNCILMEMBER COCHRAN: Right, that's...so Chair, follow-up? That's what I was thinking I mean something in Central would be weekly occurrence or however, so...but the Planning...the Maui Planning Commission would determine whether a certain item would be sent to these respective advisory committees not that committee themselves? Like Central wouldn't go hey, we wanna have this hearing and suggest it to the Planning Commission? Is it...how does that work?

MR. SPENCE: Well, the Planning Commission is the decision making body for so many permits.

COUNCILMEMBER COCHRAN: Right.

MR. SPENCE: They would...they have the ability to designate say the Hana Advisory Committee to hold the public hearings. So that step has to be taken. It wouldn't be say Central or South Maui

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

deciding to hold a public hearing on something. It would be the Planning Commission would designate the whatever body to hold the hearing.

COUNCILMEMBER COCHRAN: Right, but I mean the advisory would have that opportunity though to say, hey we see this coming up on agenda or would it just...you know what I mean? Would they have a say I guess to bring something up if, if the Maui Planning Commission determined it's just, you know, some minor thing and doesn't need to be vetted. I don't know. And then the advisory, the respective district says no, no, no, we feel it should be, can we hold this hearing? So I'm just trying to figure out priority wise and maybe importance wise there could be a difference in opinion.

MR. SPENCE: Yeah, all I can say is the way that it currently operates if there's a public hearing item it's the Planning Commission who makes the decision to hold the public hearing through the Hana Advisory Committee.

COUNCILMEMBER COCHRAN: Ok, all right. Oh...Mr. Hopper.

CHAIR COUCH: Yeah, real quick, Mr. Hopper then we're gonna take a break.

MR. HOPPER: Okay again, that's just all gonna depend on how this is set up. I mean, I think Director Spence is talking about Hana Advisory Committee that says, Hana Advisory Committee shall advise the Maui Planning Commission on matters within its jurisdiction and shall carry out such duties as may be delegated to it by the Maui Planning Commission. So it's all gonna depend on what you're looking at setting up here and how they would be set up, so it's kind of at the, kind of just going to depend on the ordinance that creates these boards if they are going to be created.

COUNCILMEMBER COCHRAN: Okay, thank you.

CHAIR COUCH: Okay. Thank you. All right, Members, we're gonna take a ten-minute break and then we'll be back to finish this item up. We are in recess until 10:40.

RECESS: 10:29 a.m.

RECONVENE: 10:45 a.m.

CHAIR COUCH: ... *(gavel)* ... Will the Planning Committee meeting of July 3, 2014, please come back to order. All right, Members, we left off with a very good discussion on Mr. Guzman's concern about permanent Community Plan Area Advisory Committees. From what I've heard from the discussion and from what I think the direction might...what my recommendation for a direction would be would be to send an item to the Policy Committee to say, let's look...let's establish residency requirements or district requirement...residency requirements for the Planning Commission as in part...as a change in the ordinance. Is that basically what I'm hearing you all say? Okay, without objections then we'll do that.

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: And the question then I'm guessing is that that pretty much handles this communication, is that right, Mr. Guzman?

COUNCILMEMBER GUZMAN: Yes Chair in terms of referring it to the PIA Committee where, wherein we can have further discussion. Thank you.

CHAIR COUCH: Right. So as far as this communication is concerned then we can file this communication and the communication that comes out of this Committee goes to the PIA?

COUNCILMEMBER GUZMAN: PIA. Yes, correct. Thank you.

CHAIR COUCH: Okay. All right, so Members, I'll entertain a motion to file County Communication 14-138?

VICE-CHAIR VICTORINO: So move, Mr. Chair.

COUNCILMEMBER BAISA: Second.

CHAIR COUCH: Okay, it's been moved by Mr. Victorino, and seconded by Chair Baisa to file County Communication 14-138. Any comments? All those in favor, please say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR COUCH: Opposed? The motion carries 5-0 with Member White and Member Cochran excused.

VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers Baisa, Crivello and Guzman.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Cochran and White.

MOTION CARRIED.

ACTION: FILE COUNTY COMMUNICATION 14-138.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

MS. HOPPER: Mr. Chair?

CHAIR COUCH: Yes.

MS. HOPPER: Are we referring this, or are we going to write a letter?

CHAIR COUCH: We're going to write a letter to . . . yeah . . . yeah, write a letter to —

CHAIR BAISA: To me.

CHAIR COUCH: --to the Chair.

MS. HOPPER: Okay, thank you.

CHAIR COUCH: Okay. All right, that's one down. Thank you for the healthy discussion. The next item is Communication 14-139 and that's talking about establishment of an infrastructure funding strategy. So Mr. Guzman, can you let us know what you're talking about there?

COUNCILMEMBER GUZMAN: Yes, thank you Chair. This was another proposed amendment that was discussed in the full Council. And to place it on the record, I will read it. It's on Page 10-4 as stated, to ensure that no ambiguities exist regarding infrastructure funding responsibilities, the County may -- and then the amendment is to, delete "may" and replace it with "shall" -- establish an infrastructure funding strategy to ensure that infrastructure improvements are implemented prior to or concurrent with the development by the responsible party depending on the nature of the infrastructure project. And I am requiring or requesting this Committee to vet out and discuss the terms of using "may" versus "shall" and in this amendment, "shall". What I see here is by including the word "shall" would require that an infrastructure funding strategy be established. May be none at all, at least you know if so happen the Council or the body that's authorized to I guess create the infrastructure funding strategy decides not to fund it that could be a strategy in itself. Like the strategy is not to fund this project this year. That's a strategy. So by placing the word, "shall" it makes...not makes, but it mandates the body or even this Council to look at the project. It doesn't just sit on a shelf. It requires some type of action so it won't be forgotten. So that's why I believe "shall" is important so that it doesn't get lost or get placed on the shelf. It's something that we must do. We must review and establish a funding strategy and again, like I said, that funding strategy could possibly be, we're not funding it this year, you know, but at least we had an opportunity to review it again, you know, and as part of a statement or a funding strategy not to fund it, we would also place in there wording or language that says we will review this...we won't fund it this year, but we will consider funding it next year and then that would require us bringing that project back to review.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: So that's all. And "may" if we, if we keep the word, "may" in there we may not even look at it. It could get lost. You know, there's no requirement for us to even

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

review the project or consider a funding strategy. So that's my two cents. I don't know if Mr. Spence has any input on it?

CHAIR COUCH: That's the next person I was going to go to except for I'm just gonna try and recall from when we had this discussion before, I believe we changed it from "shall" to "may" in this Committee but I'm not sure. So Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. That's my recollection as well is what the Council adopted on second reading was "may". So in order to change anything you would have to change the Maui Island Plan. I guess I'm a little unclear as the proposal because we have funding strategies in place for infrastructure and I think that's probably the reason why Mr. Taylor is sitting in the back. I know that, I mean if we're talking about public infrastructure that the County does like waterlines, sewer systems, roadway improvements, you know we have the CIP project process that I know the line agencies are projecting out 6, you know, 10, 20 years and they have you know all of their...they have their strategies in place and what they need to come to the Council with, and then the...on a yearly basis, and then the Council decides okay, we're gonna fund this one. We're not gonna fund that one, et cetera. The, you know, if there's bonds that need to be floated you know that's the decision of the Council. On the private side, when there's infrastructure required say to do, I'm just thinking about projects I've worked on as a consultant, a say, a 50-lot or 65-lot subdivision, that developer before he receives final subdivision approval, he either has to install the infrastructure, you know he has to put in all the waterlines, electrical, cable, roadways, et cetera or all those improvements have to be bonded. I mean that bonding I would certainly say is a strategy. I mean, they're...they're one way or another those improvements are gonna be put in. So I'm not sure why we need...I'm not sure the problem that we're trying to solve here. There is a strategy already in place. There's checks and balances within it both on the private side and on the public side, you know, through the CIP process with the Council.

COUNCILMEMBER GUZMAN: Okay, so Chair, if...I guess it's my understanding does the Department it does not object to changing it from "may" to "shall". I mean by changing it from "may" to "shall" will that detrimentally cause any kind of problems within your Department or do you foresee this being an issue if we change it from "may" to "shall" by requiring it?

MR. SPENCE: I don't think it will change my Department because we don't do Capital Improvement, but Public Works, Water Department, Waste Management or Environmental Management they do, they do those big projects so I can't say how it would affect them.

COUNCILMEMBER GUZMAN: Chair?

CHAIR COUCH: Go ahead.

COUNCILMEMBER GUZMAN: May we call on the Water Department?

CHAIR COUCH: Certainly.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

COUNCILMEMBER GUZMAN: Thank you.

CHAIR COUCH: Mr. Taylor, identify yourself and fire away.

MR. TAYLOR: Dave Taylor, Director of Department of Water Supply.

CHAIR COUCH: Okay, Mr. Guzman?

COUNCILMEMBER GUZMAN: Yes, Mr. Taylor were you present to listen to my line of questioning or discussion?

MR. TAYLOR: Yes, I was present.

COUNCILMEMBER GUZMAN: I'm gonna refer the same type of question. How would the change of "may", the wording "may" to "shall" by requiring infrastructure funding strategies affect your Department?

MR. TAYLOR: I think the question is tied to what the Planning Director asked a couple of minutes ago is what is the intention of the Council of what you want? As an example, every year we submit a budget for the next year, the Council approves or it doesn't approve or changes. In addition with the budget we submit a six-year Capital Improvement Plan which doesn't have funding associated with it. But that isn't really accepted or rejected by the Council, it's just FYI. In Water Resources Committee which all of you are on or have been on in the past you've seen for example, our 20-year plans with funding, with rates and fees. That doesn't get voted on. It doesn't get rejected, it doesn't get changed. So what we do is every year we ask for the next year's piece. I think the departments would rather have you take our 20-year plans which have rate and fee adjustments and vote on them. I mean, that, that's what "shall" would mean is we would submit that and I think you would have vote on that and say, you know we accept this plan and it would give some clarity. But the Charter just says the Council approves a budget one year at a time. So since we have these three things, right, we got the one year at a time CIP budget and funding, we've got a six-year CIP plan without funding that you get but you don't really vote on, and then we've got things like these 20-year funding-based infrastructure plans which are just discussed. I think the question is back to the Council is there something different than those things you wanna vote on? Do you wanna vote on one of those things? I think we have three examples that we can talk about even a little more solidly about what is, what is your intention of what, what this would look like? Is it one of those three things?

COUNCILMEMBER GUZMAN: Right. Yeah, Chair and I think that would, that question would be posed to I guess the group that is...several testifiers have listed this as part of the amendment. And so when I analyze this by changing to "shall" it's basically requiring an infrastructure funding strategy, but if we're doing it already I don't see that it makes any difference whether we place "shall" in there. We're doing it anyway. I think it's just a matter of requiring it --

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: --placing it in black and white.

CHAIR COUCH: Yeah. Mr. Hopper?

MR. HOPPER: I wanted to note the latter portion of this is probably the more...the biggest change I would think. It says that establishing a strategy is one thing, but it says to ensure that infrastructure improvements are implemented prior to or concurrent with development by the responsible party depending on the nature of the infrastructure project. And I'm not sure if that analysis goes on in the County's own infrastructure. You're talking about the infrastructure of the whole County and basically saying...it appears to say that no, you wouldn't have new development until the infrastructure was built and that would be built into the plan. I'm not sure if that's already built into the County...I mean, and you're not just talking about County infrastructure it seems. It seems to be a funding strategy that may be funded by, you know, by developers or other things. I'm not sure exactly what exists. But I'm not sure if that second portion is currently part of what's being done already or maybe it is, but I think that that was the different language that was discussed in the past if I recall as being the change.

COUNCILMEMBER GUZMAN: Oh, okay. Chair, is there a possibility to bring up Mr. Mayer for...

CHAIR COUCH: In just a second. Mr. Victorino had some comments.

COUNCILMEMBER GUZMAN: Okay.

VICE-CHAIR VICTORINO: I'll wait for Mr. Mayer and then...'cause I think my questions would incorporate what the departments are saying and maybe what Mr. Mayer wants to bring up, so I will yield until that point if you don't mind, Mr. Chair?

CHAIR COUCH: Okay. Any other comments? Any objections to bringing up Mr. Mayer?

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: No objections. Okay, Mr. Mayer? Okay, so what's the question you have for Mr. Mayer?

COUNCILMEMBER GUZMAN: Yes, in regards to this amendment what in fact are you trying to change? 'Cause it sounds as though we're already doing the funding strategies.

MR. MAYER: Let me give one ...(inaudible)... a project that will maybe make it an example. Right now the Waiale project, the large A&B Waiale project, extension essentially of Maui Lani is being proposed and has gone through some entitlements. And at the same time, you know, there's the Waikapu Town project which is in the Maui Island Plan. Those are two projects will have 4,000 total units available. One of the great pressures in that, if that gets built out is Waiko

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

Road, the road that goes down from Waikapu down to...there's no provision in any of the plans, the State hasn't made any provisions, I haven't seen in the County any provisions to build or improve that road into really what will be needed as a four-lane, at least four-lane, two lanes each way highway with 4,000 houses all converging, that's the only route they would have to get in and out of those areas. So what I'm saying is that if this project requires it, somebody has to make the provision. Is that going to be of the County's responsibility, the State's responsibility or the private developers who are on both sides of that road going to be developing it? And that would require that somehow we know that that issue is going to be taken care of. I mean, there may other, water and all kinds of other infrastructure issues, but I just wanna use that as an example of why a strategy is needed so it's really clear whose responsibility those are prior to actually building out that project, not after-the-fact with ____ traffic jams and that says, well we're not sure we can get the money for that. We have other priorities in the County. If we're gonna build a project like Waiale and Waikapu projects that we have the money to do it right. That's why it "shall" be done before. We get it after-the-fact and people all complaining to you folks, the Council, hey, how come we get traffic jams here and we got problems here, whatever the infrastructure issue would be.

COUNCILMEMBER GUZMAN: Hm. Chair, thank you for the opportunity for that clarification.

CHAIR COUCH: Well...

COUNCILMEMBER GUZMAN: I don't read it that way on the second sentence.

CHAIR COUCH: Hang on a second. Mr. Victorino may have had a --

COUNCILMEMBER GUZMAN: Oh, yes. I'm sorry

CHAIR COUCH: --question.

COUNCILMEMBER GUZMAN: I yield.

VICE-CHAIR VICTORINO: Thank you, Mr. Guzman. Thank you. And so what I would for the departments as you've heard Mr. Mayer's response to that that these large subdivisions that are to be built that there is no, if I'm hearing you correctly, there's no way of knowing whether they're gonna put infrastructure improvements or not? Am I correct, Mr. Mayer? Is that what I heard you say?

MR. MAYER: There's some infrastructure where they may be put in there. But there may be other ones, very important ones which are not in the approval process and this would require that we at least look at all those issues that may force the County at some later date to spend a lot of money.

VICE-CHAIR VICTORINO: And what would that be? Give me a specific.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

MR. MAYER: It would...

VICE-CHAIR VICTORINO: I know you talked about the two subdivisions, but give me a specific item.

MR. MAYER: The Waiko Road.

VICE-CHAIR VICTORINO: Okay.

MR. MAYER: And who would be responsible for upgrading that project which is now I guess a County Road? Would the County automatically be required someday to spend several, tens of millions to make that into a four-lane road? And at least we should know or you may say, no, we have a strategy in place, we know that that will be shared 50/50 with the developer, or maybe we'll ask the State to come in and help subsidize it. It would at least allow us to know what the... who will pay for it and perhaps even the timetable upon which it will be done.

VICE-CHAIR VICTORINO: Isn't that part of our process when we're going through the approval process, putting in conditions, putting in all what we and the departments have said to us that are important and need to be put in? I think we do that when we go...just like yesterday for that development down in Kihei, right? We spent extensive time making sure everything was covered even though much of it was there, we expounded on it to make sure it wasn't missed. I mean that's been our call and our responsibility and as an elected official, I take that very seriously. You've come to me with different stuff and I made sure that has been included, so I'm missing the point if I may?

MR. MAYER: Okay, let me...your project yesterday, let me give you an example. You required that access be done on the mauka side by the developer, but who's gonna pay for that mauka highway? The State has not got it on any of their long-range plans at this stage. The County has drawn a conceptual line on there. Somebody will have to...in other words, that would be your relief from that project.

VICE-CHAIR VICTORINO: Right.

MR. MAYER: But who's going to pay for that highway? And if you had an infrastructure requirement in there that said this will be paid for 30 percent by the developer or 50 percent by the developer, the rest will be done by...you would know 'cause right now there is no plan to build a mauka parallel highway in Kihei. There are many other higher priorities in the County, the road to Lahaina, the Paia bypass, and many others. That probably won't get built for 30, 40 years and yet that project will be there and people there will have a tough time getting in and out it. So that's exactly the type of...it's a good example, of the type of thinking that we need to do prior to building and approving especially large substantive projects, 600 units.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

VICE-CHAIR VICTORINO: Okay, I can, I can see your point in that respect, yeah. I can understand what you're saying. Okay, thank you, Chair. I like that clarification just so that we know where we're going with this.

CHAIR COUCH: Thank you. Mr. Spence, you had a comment?

MR. SPENCE: Thank you, Mr. Chairman. Just quick comment on that. Developers pay for their impacts. Like if for instance Waiale Road or Waiko Road, excuse me or actually both, when the Waiale project goes in that's why we do all the big studies. That's why you see thousand-page EISs and Change in Zoning applications is all those studies are in there. What's the impact of this project gonna be? What are the requirements going to be? If Waiko Road needs to be four lanes, you know, that's supposedly what the studies would show and those are conditions that this Council can place on approvals. What the...as far as like the Kihei mauka collector road or bypass, whatever you wanna call it, you know, there's going have to be some agreement between those landowners. And we're already talking about meeting with them or okay, how is this gonna work, et cetera, et cetera. I know the Public Works Department's doing a master plan for the Kihei area, transportation master plan. So those things, you know, it's not...those aren't things that we're ignoring or not you know, already in consideration. What you can't do to developers by you know, case law is require more than what their, than what their impact is. So they must contribute to what their impact is and that's a part of our subdivision and other development laws, but not more than that.

CHAIR COUCH: Members...thank you, Mr. Spence, for that. Members, I gonna put a question to you. We went...had extensive discussion on the January 23rd meeting on this very subject. We're essentially rehashing it. In that meeting we did change it from "shall" to "may". So my question to you is do you wanna have further discussion on this when we already discussed it? Same people in the room. It's my intent to...I mean my recommendation to say, look, we discussed this already. How many times are we gonna rehash things, you know? It's my thought that it's been discussed enough. But I'll leave it open to you folks to, to decide if it's worth rehashing again or not. Chair Baisa? Oh, and Mr. Mayer, thanks. We'll...

MR. MAYER: Thank you very much.

CHAIR COUCH: Yeah, I don't want you hanging there.

MR. MAYER: No, no, no, no. Thank you.

COUNCILMEMBER BAISA: Chair, in view of your remarks, one way we could solve this is to have a motion and let's vote up or down.

CHAIR COUCH: Well, the motion would be to file this communication at this point. If we, if we vote to file the communication then we're done. If not, then we have to figure out what we're gonna go from there.

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

COUNCILMEMBER BAISA: Are you ready for a motion?

CHAIR COUCH: I'm ready.

COUNCILMEMBER BAISA: So move.

VICE-CHAIR VICTORINO: Second for discussion purposes. We can get this done.

COUNCILMEMBER BAISA: Get it done.

CHAIR COUCH: Okay, so it's been moved by Chair Baisa, and seconded by Mr. Victorino to file County Communication 14-139. For discussion. Ms. Baisa, any further discussion?

COUNCILMEMBER BAISA: No.

CHAIR COUCH: Mr. Victorino?

VICE-CHAIR VICTORINO: No. I'll turn it over...

CHAIR COUCH: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair, for pointing out that we have discussed this certain amendment. But I don't recall at that discussion the argument for having it renamed as "shall".

CHAIR COUCH: Well, actually the discussion at the time it was "shall" and we changed it to "may".

COUNCILMEMBER GUZMAN: To "may" yeah. I don't recall why we did that. And I'll place that on the record. I just don't recall --

CHAIR COUCH: That's fine.

COUNCILMEMBER GUZMAN: --the discussion.

CHAIR COUCH: I know we have so much things that we discuss in every Committee.

COUNCILMEMBER GUZMAN: But that was prior to budget I believe.

CHAIR COUCH: Yes.

COUNCILMEMBER GUZMAN: Lost a lot of brain cells in budget.

CHAIR COUCH: So you know, I'm willing to go forward with the filing of this. And then you know the meeting date is the 23rd of January?

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

COUNCILMEMBER GUZMAN: Yeah, I'll go back and look at the minutes.

CHAIR COUCH: You can check through it, take a look. If you feel that it's something that you really want to bring back then we can certainly revisit it, you know, in a form of a communication again. But we did discuss it for a long time.

COUNCILMEMBER GUZMAN: Well, I would feel more comfortable if we could defer this matter and then I would have an opportunity to look at the minutes and then...I just would feel better of being able to look at what was discussed.

CHAIR COUCH: Okay, understood.

COUNCILMEMBER GUZMAN: Okay, thank you.

COUNCILMEMBER COCHRAN: Chair?

CHAIR COUCH: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, and just to chime in on for discussion purposes at this point, and being the Infrastructure Management Chair for this Council and I do see both sides and Mr. Mayer's points too. But there's a huge hardship, I mean, I'm thinking well then we should have made the...improve the Pali road because of all the development that's been occurring in West Maui and obviously we know that's a total impossibility to preplan and prebuild, and pre all that, and so you know, I see the point but as Infrastructure Chair I also know that we do get the...through via budget the opportunity to fund the projects that are coming on line that we're looking into the future to build and it's not gonna...our CIP stuff is not going to get built without the funding. So those are the kinda things we vet through, we know what the dollar amounts equate to for the particular projects and infrastructure needs of this community. So for me, how far in the future do we need to go and prebuild things prior or concurrently? And I see it's, it's depending on the nature of the infrastructure project stated. So you know, I understand, but again I think we do do the best we can with the monies available for the particular projects that are put forward to us through the various departments. So you know, Chair I'm okay in filing if you feel, but then deferral too for further. But I know we did vote the "may", "shall" thing out and vetted it through.

CHAIR COUCH: Okay, thank you.

COUNCILMEMBER COCHRAN: So for me at this point, I'm comfortable with how it is. Thank you, Chair.

CHAIR COUCH: Okay. And Ms. Crivello, any comments?

COUNCILMEMBER CRIVELLO: No, not at this time. Thank you.

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

CHAIR COUCH: Any further comment? Okay, I'll call the question. All those in favor of filing County Communication 14-139, please say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR COUCH: Opposed?

COUNCILMEMBER GUZMAN: No.

CHAIR COUCH: Okay. I hear that it's pretty much a five ayes and one no. Okay, the motion passes.

COUNCILMEMBER GUZMAN: Thank you.

VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers Baisa, Cochran and Crivello.

NOES: Councilmember Guzman.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember White.

MOTION CARRIED.

ACTION: FILE COUNTY COMMUNICATION 14-139.

CHAIR COUCH: Thank you for that. All right, next one. This is County Communication 14-140, from Chair Baisa, talking about time limits on future community plan and zoning entitlements be placed on this agenda, and this is very timely. We discussed it yesterday, so Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. And it's serendipitous that we did spend an awful lot of time on an issue like this yesterday afternoon, so I think we're all very much in tune of what this would mean. And if I got anything out of that discussion yesterday it was that if we are going to do anything like that that we need some kind of an ordinance. And we don't have anything before us, but we all know the debate.

CHAIR COUCH: Yes.

COUNCILMEMBER BAISA: Like I say, it's fresh in mind, we just did it yesterday. And we know that setting time limits is not an easy thing. It's very complicated and a lot of it depends on the size of the project, the complexity of the project. However, I think we all agree and I certainly do that there needs to be some kind of monitoring mechanism to make sure that after a period of

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

time has gone that there's a check-in so that they come back and say, hey, Council, we got the land entitlement but we've run into a brick wall or we've run into this complication and so can you please give us a little more time and we have that opportunity. I think it helps us to you know, make sure that we're not just land banking or we're just not giving people an opportunity to get their land rezoned or their entitlements given and then they sit on it, sit on it, and probably sell it or do something else, 'cause that's not the intent of what we're trying to do particularly when we're talking about housing projects.

CHAIR COUCH: Yep.

COUNCILMEMBER BAISA: You know we have such a serious issue here in this County with housing that we really have to be more proactive about making sure that these affordable units get built. Our record is dismal, and I'm not proud of it. And this is why when this was brought up as a concern by the approval of the Implementation Plan, I felt that it was important to forward it to this Committee to continue to look at it and hopefully if we do want to do something that we send it to PIA to get an ordinance done. So that's where I'm coming from.

CHAIR COUCH: Thank you, Madam Chair. And I believe everybody here today including...except for Mr. Taylor, was in the room yesterday. So it was a healthy discussion and I'd like to hear Planning Department's take on this. Although we heard it yesterday, let's hear it again today.

MR. SPENCE: Mr. Chairman, I would tend to agree with Chair Baisa that there should be some kind of monitoring. You know, and it has been the Council's practice as a grant zoning particularly on larger projects that they file, that the applicant files an annual report with the Planning Department and with the Council, and I think that's a good step. I also think that, you know because our...I mean, as far as an automatic termination of entitlements, I think Corporation Counsel has already opined on that and that's not just an automatic thing you could...the Council could do. But certainly it's within its purview to revisit entitlements once they're granted, so...

CHAIR COUCH: Thank you. And I do recall Mr. Hokama saying yesterday that you know, he's not in favor of doing it individually for each project. And at the same time we discovered yesterday that each project is different. So I think we need to come up with a discussion, and you're right, Chair Baisa, it should be in PIA as to how we wanna craft this. I believe there should be some sort of ordinance but we can't put actual time limits or anything in there, but something that says you know, the Council needs to come up with a time limit on each project or something, something along those lines. So, Members I'm kinda hearing from our discussion yesterday and today that that's kinda where the route we wanna go. Is any comments, concerns on that?

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Yes, Mr. Victorino?

VICE-CHAIR VICTORINO: You know, I agree with Ms. Baisa. We've sat here for seven and a half years and watched some of these projects never come to fruition. I agree that we need to have

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

some mechanism to review again. And upon that review have some kinda adjudication power to say, you're not complying so we're gonna give you two years, you either comply or else. Now if they can bring compelling evidence and Corp. Counsel can chime in on this, you know, I think we have the right to ask. We have the right to say, if you're not and you don't bring compelling evidence to the contrary that we have that opportunity to say, you're entitlement will be changed and instead of Urban go back to Rural or Ag or I don't know, I guess that, that would be where I would want it to be specific enough to make sure we're putting the fire to the feet. I guess that's what I'm trying to get. I want something moving and all the ladies on that side smiling 'cause I know what they thinking. I mean, they got the fire to my feet already. So, with that in mind, no and you know, I making light of something, but it's very serious because I agree with Mr. Mayer and the others that we've been promised affordable housing, we've been promised homes for years, and years, and years and if it wasn't for the good work of Mr. Jesse Spencer and his people we wouldn't even have affordable housing here in Wailuku and they're building 56 more right at the corner of Waiale and Waiko. You know, but we need some others to step up to the plate. The big boys who play in town, they gotta step up to the plate. And so I'm looking for some mechanism for which we have some kind of power, adjudication power to say no, you're not doing what you intended to do, and for that consequence this is what we intend to do, and we'll change it based upon that. Give 'em a period of compliance, you know, I mean I don't wanna say you do this today or else, but you know again, but Mr. Hopper, listening to what I just said, and I tried to confuse you as best I could, and I do a good job, I learned that from Mr. Guzman never say what you meant, but say what you mean. Go ahead, tell me what I've said and tell me if it's possible? Thank you, Mr. Guzman.

MR. HOPPER: Thank you. Mr. Chair.

CHAIR COUCH: Mr. Hopper? Go for that.

MR. HOPPER: I think in general, you know, the County Code and I think I read the provision before and I could be read it again, but I know you love hearing me read the County Code, but the Code basically says that right now if there's noncompliance with the condition, the Council can seek to have the, have the entitlements reverted back to the previous classification. That's for any condition that's violated so there needs to be evidence of the violation of the condition. I think what we're talking about here is a standardized condition potentially or at least something that would say in all developments they have to be for a limited time. If you're talking about zoning, that's something that's possible, but I think we're talking about basically a strict time limit on either completion or initiation, and so it would be another type of condition among the others that the Council already places that the Council can through a process look to seek enforcement by downzoning the property. Now to make clear in the Code already, the Council has the authority to downzone properties for noncompliance with conditions. So that's not something new necessarily for zoning applications and it has to be done by ordinance. What I think this provision is talking about is some kind of a standard process where all the...all Changes in Zoning or I suppose other developments are required to either complete construction, begin construction, et cetera within a certain period of time, and if that's not done, then the property could be reverted back. So I don't see...that could, that as you saw yesterday can be done now if

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

for each project coming forward you want to have some sort of time limit. It can be done now, but it's not required for everything. And I should note it is for Change in Zoning applications it can sometimes be odd setting forth requirements for future Councils because those Changes in Zonings are adopted by ordinance as well by Council. For other permits, it could be a bit different, but it's...it can be hard sometimes to say future Councils shall require this time limit. There could be an argument that the future Council if it elects to disregard that or of course, could even amend that ordinance could change that. But in any case, standardizing this it would really be I think the first time we're looking at a standard Change in Zoning type of condition although the Department may generally recommend conditions to Council that are standard. I think that'd be the first time we'd be looking at something like that. But it's certainly within the Council's purview to require a time limit for developments and to enforce those by potentially downzoning the property. And if the Council sees noncompliance, what the Department does, they can have the property downzoned by ordinance. That's something that can be done. Standardizing it may be a bit more difficult, and I don't even think those proposing this say there should be a set limit that's the same for everybody, because different developments are different, have different schedules and obviously building 3,000 units is going to be a lot less than 50 units. So, but this is something Council can do and if we're looking to standardize I think something can be done along those lines. But again, the downzoning would have to be by ordinance if there's enforcement sought along those lines.

VICE-CHAIR VICTORINO: Thank you very much, Mr. Hopper. You're the only one that give a longer answer than my long questions. Thank you very much. And I think, Mr. Chair, I basically got a few answers to the questions that were asked and I believe you know, Mr. Hopper, that standardizing certain categories of subdivisions, affordable housing, 201Hs may be the way to go so that everyone is treated fairly. That you know, maybe I like Don better than like you so I gave Don five years, but I gave you three. But if there's a set five-year or whatever--not Guzman, Couch, okay--oh, he's getting all nervous again. Cannot make examples without everybody getting upset. No, but you know all joking aside, you know that standardization really puts everybody on the same page from the start, and obviously as you go along like you said, if I've got a 3,000 home development versus a 50 obviously there's going to be differences in requirements. And we gotta make sure that we look at each one and put something standard so that everybody is treated equally, and when they walk in the door and they're standing there and said, you know, we gotta do this because we need affordable housing and we're gonna do this 'cause it's gonna create jobs, that 15, 20 years later we're not still waiting, that something has happened or at least, and you said mandating future Councils to review or to look at things. Well, we got the same thing right now, we had to look at our workforce...I mean, the affordable housing funding. I mean, there's things that every so many years come back to us that we have to look at so I got no problem. I mean, that's what we get paid to sit here and make those kinds of changes and decisions and we need to see what's going on around us at that point in time. And that's another issue, economies change, the world changes around us and without these abilities to really review, how can we honestly say we've given them a fair chance? So that's what I'm looking for some kind of review method, and then from there putting in stipulations and whatever repercussions that would be necessitated. Thank you.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

CHAIR COUCH: Thank you, Mr. Victorino. Mr. Hopper, you mentioned some things and Mr. Victorino reiterated them about compelling other Councils, you know, and I understand what you're saying, Mr. Victorino, but your examples were all Charter requirements. But I'm sure there's instances in the ordinances where we're compelling other Councils, I think, I don't know. That would be a concern of mine if we can compel other Councils to make these requirements. The second question or comment, I have a question, if we were to for instance find a development that we, we may doing this in a couple...in another year, that says you know what, you haven't done your...what you said you're gonna do so we're going to change your zoning back. That would be a whole, it would probably be a Council initiated zoning, but it would still have to go to Planning Commission and then go through the whole process, is that right?

MR. HOPPER: That's correct, Mr. Chair. That's what the Code says. It would have to be a new ordinance to change the previous ordinance.

CHAIR COUCH: Okay. So that's...that allows for further public review. So that's really good, but the bit about compelling other Councils I'm a little concerned about that saying, look, next Council, you have to tell them, you have to give them a time limit. How does that work?

VICE-CHAIR VICTORINO: Well...

CHAIR COUCH: Go ahead.

VICE-CHAIR VICTORINO: Mr. Chair, I agree with you. Some of the examples I gave are more of Charter, but the one that you're talking, referring to is a 201H, okay.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: We gave them that opportunity.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: And that would be one of the first ones that I would be looking at is that 201Hs because they come in and they got all these exemptions and if nothing happens we're the loser.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: Okay, so that one would be one of those for sure. But the larger subdivisions ensuring that review process, now I'm not saying that they're gonna make any changes, that they would review and while they review them, maybe they will say, wait a minute, you're not complying with the original conditions that were put on here or you're not complying with that. Annual reports we require that on every...so I'm doing annual reports from projects that many years ago still come to us every year to look over and say, oh yeah, okay, fine. They're complying to this point.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: So anyhow, Mr. Hopper, I apologize.

COUNCILMEMBER CRIVELLO: Chair?

CHAIR COUCH: Mr. Hopper was going to respond.

MR. HOPPER: Oh, the only thing that I would say is that the community plan...well, I'm not sure exactly what language we're looking at in the Countywide Policy or sorry, the Maui Island Plan, but I think the initial proposal was to just say that time limits would have to be established by the approving authority as it gets approved. The only concern I raised was let's say that there's an ordinance that says all entitlements are only good for 10 years and if the infrastructure is not completed within 10 years, you know or that it says future Councils for Changes in Zoning must require a condition that the backbone infrastructure be built in 10 years. Would that mean that if a project came before the Council and 20 years from then and they said, you know what, I want to allow 15 years for the infrastructure and you have it in the Code that says, no you can only allow 10 years, that would be the potential problem with a uniform time limit for every project that you would have. I'm raising that as a potential issue.

CHAIR COUCH: Sure.

MR. HOPPER: You know, the Council has in the past on conditions of zoning required things different from the County Code, for example, increased park fees, increased donations of land to mitigate impacts that go beyond what may be the Parks Ordinance would require for dedication and we have Corporation Counsel opinion saying that's okay in most cases because the ordinance, it's passed by ordinance and so the latter ordinance would generally prevail. But just raising that as a potential issue. I know we're not talking about establishing the time line now, but if there's a uniform time line established for everybody and a future Council granting a entitlement says maybe we want to allow 15 years, that could be a dilemma if the Code says only 10 years for the infrastructure to be allowed. If it's you know potentially a massive project, a Maui Lani or a Kehalani type project maybe that's something that the Council would want to look into changing versus saying all future Councils must establish some sort of limit. But I mean that's a policy issue if you want to do it case by case or if you want to have a uniform one as applied. Just cautioning that that issue might come up in the future.

CHAIR COUCH: Okay. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Well, you know time limits I think are...gives us a way of having the developer come back to us. But I was just thinking of information that I received from the Department of Housing which I asked, there's a whole list of developments that were approved and how many owes us affordable housing, and I think it was a total...going back to 1992, and I don't have that information in front of me, but it's like 5,000 affordable homes are due us

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

because of the entitlements. And then there's like about 3,000 plus that is still owed. And when you check further, you know, could it be 'cause of the economic downfalls that took place or what have you? That's quite a number that goes back many years. So who has or who was supposed to have the oversight to monitor and to see if that was supposed to happen? And there's the annual reports, do we have the...are we the monitoring people that have say on the...if they're in compliance or not? So I like this thought, but I think we need to have more work involved to see how we're gonna...actually who will be monitoring all this and we already have the opportunities to set conditions. I've noticed that since I've come on board. Council lays in my opinion quite a number of gridlocks and then you know, if that's the case then how do we motivate for the developer to be able to provide in my opinion the most crucial need that we have here,. the affordable homes that are priced to be affordable? But if they keep delaying all costs increase, so time limits may just avoid more delays for the costs to keep rising.

CHAIR COUCH: Right. Members...oh, Ms., Chair Baisa you had a question, yes?

COUNCILMEMBER BAISA: Not necessarily a question, Chair but a comment. You know it appears to me from the discussion as well as what happened yesterday that there is a sufficient interest here --

CHAIR COUCH: Yes.

COUNCILMEMBER BAISA: --in doing something. And so my recommendation to you, Chair, and you know, you're the Chair, I think this is a matter that we should formulate and send to PIA --

CHAIR COUCH: Yes.

COUNCILMEMBER BAISA: --so that we have something. You know if we had had something yesterday we wouldn't have had to sit here for a couple of hours playing back and forth if we had already done it. So I think this merits sending this forward to PIA for further work.

CHAIR COUCH: And that's exactly what I was gonna say is I think this might be another referral as was done by consensus on County Communication 14-138. I think this should be referred to Council and then the Council will refer it to the proper Committee to have this discussion and potentially...question I would have for the Committee is do we...would we request the PAF now or have that done through the PIA Committee?

VICE-CHAIR VICTORINO: Now.

CHAIR COUCH: Pardon?

VICE-CHAIR VICTORINO: I would like us to do it now.

CHAIR COUCH: Okay.

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

VICE-CHAIR VICTORINO: And formulate that and send it.

CHAIR COUCH: So, so the question then would be to request a PAF to be submitted to the Council Chair --

VICE-CHAIR VICTORINO: Right.

CHAIR COUCH: --to come up with from our discussions today and yesterday, come up with some sort of language for an ordinance to require time limits on entitlements, not a specific time limit but time limits to be discussed as a condition of entitlements. Is that clear?

UNIDENTIFIED SPEAKER: Yes.

CHAIR COUCH: Is that clear, Staff? Okay, just so that the folks downstairs are clear, this is by consensus we're asking for that. Is that correct?

VICE-CHAIR VICTORINO: That's correct.

COUNCILMEMBER BAISA: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: Okay, thank you. Okay, that being referred, then I would like to . . . I will entertain a motion to file County Communication 14-140.

VICE-CHAIR VICTORINO: So moved, Mr. Chair.

COUNCILMEMBER BAISA: Second.

CHAIR COUCH: Any further discussion? Okay, all those in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR COUCH: Opposed? Let the record show it's six ayes and zero noes with one excused. Thank you, Members.

**VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers
 Baisa, Cochran, Crivello and Guzman.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

EXC.: Councilmember White.

MOTION CARRIED.

ACTION: FILE COUNTY COMMUNICATION 14-140.

CHAIR COUCH: We might be able to do this. The next communication and last communication although it has three items in it is County Communication 14-141, and that's from me and it's talking about the items that were also, that also came up. Essentially No. 1 we discussed including information on additional potential funding sources for infrastructure improvements in the Capital Improvements Requirements and Financing section. Oh, I'm sorry, no we haven't discussed that yet. That in essence is I believe table, what it was, 9-1 and 9-2. So Mr. Spence, do you want to talk to us about Table 9-1 and 9-2?

MR. SPENCE: As I recall...thank you, Mr. Chairman, and as I recall they were just, they were lists of potential funding sources, different mechanisms that have been adopted elsewhere and as an inclusion as a table either...I think one Member one time mentioned maybe as an appendix or something like that that I think those things would be fine.

CHAIR COUCH: Okay, Members we have, Staff has what would go back into those tables. If you are okay with it, we'll probably make quick copies. They're gonna get it stamped and make some quick copies and get 'em out to you if you will discuss it as they're sending this out. So, Mr. Guzman?

COUNCILMEMBER GUZMAN: Oh, thank you Chair. I would be in support of including Tables 9-1 and 9-2 back into the Implementation Plan. When I reviewed those tables, it was amazing to me the thought and creativity of the various revenue sources that are potential revenue streams and sources that we could look at at least for future Councils. And for that to be lost or not be included, I think you're gonna be starting from scratch in terms of trying to think about different sources and at least you'll have a baseline. You know, and when I looked at it, I said, wow, I didn't even think about these difference sources of funding and it gave me some ideas where to pursue or what to look at, but in a general sense it's a guideline.

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: I don't think it has any impact or negative impact on it. Thank you, Chair.

CHAIR COUCH: Mr. Hopper, you look like you may have had a comment?

MR. HOPPER: No.

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

CHAIR COUCH: Oh okay, okay. Members, any other comments on this? We will be passing this out as soon as the copies get made, but I think everybody kind of remembers what this is about. Chair Baisa?

COUNCILMEMBER BAISA: Thank you, Chair. I'm trying to recall but when we were discussing the Implementation Plan and the changes that were recommended, if I'm...if my memory serves me I think the Planning Director said that he had no serious objections to this?

CHAIR COUCH: Right, and he just...yeah. Well, for some reason he had removed them and we just didn't put 'em back and I can't recall the discussion, maybe Mr. Spence?

MR. SPENCE: No, Mr. Chairman, as I recall we viewed them as something just not necessary for that chapter. It was, you know, whether those tables are in there or not, a part of that chapter or an appendix or not does not place any limitations on the Council as far as developing new funding mechanisms such as I believe we actually already have special districts, but in addition to bond funds, special districts, you know, there's...whether they're in or out doesn't hinder or add to the Council's ability to develop other funding sources.

CHAIR COUCH: Okay. Members, we're passing around the copy that I have right now until, till they're gonna get that done. I believe the procedure that we're gonna have to go through on this is this isn't...the actual table isn't agendized, so we're gonna have to do a PAF to come up with a...it will be an ordinance to change the Implementation Plan which means it's gonna have to go through the Planning Commission. So, it's my...it would be my recommendation to essentially come up with the PAF and send it to Council to have it go through the whole process. Is there any concern with that, any comments on that?

VICE-CHAIR VICTORINO: No.

CHAIR COUCH: Because at the time we get the actual PAF, we'll have the language and we can discuss that and then send it out to the Planning Commission.

VICE-CHAIR VICTORINO: So Mr. Chair, is that your recommendation? Is that...you want us to make a motion on that?

CHAIR COUCH: That is my recommendation. I believe if you have any more further comment before we go on?

VICE-CHAIR VICTORINO: So move, Mr. Chair.

COUNCILMEMBER GUZMAN: Second.

CHAIR COUCH: So it's been moved by Mr. Victorino and seconded by Mr. Guzman to come up with a PAF, and then we'll go through the whole process and submit it to the Council. So all those in favor, say "aye".

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

COUNCIL MEMBERS VOICED AYE.

CHAIR COUCH: Opposed? Motion carries, six ayes and one excused. Thank you, Members.

**VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers
 Baisa, Cochran, Crivello and Guzman.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember White.

MOTION CARRIED.

**ACTION: Create a PAF; send it to Council; then have it go through the
 Planning Commission.**

CHAIR COUCH: The second one on this list is allowing the Planning Director stronger oversight. This one's gonna take a while.

COUNCILMEMBER BAISA: Yes.

CHAIR COUCH: Members, I think 15 minutes isn't enough time to discuss this one. So, I'm gonna skip over that one for right now. And let's talk real quick about stating the County's discretion to require updating and resubmission of outdated documentation in land use applications.

VICE-CHAIR VICTORINO: Even that one, Mr. Chair.

CHAIR COUCH: This one might take a little bit longer, but I'd like to hear what Mr. Spence has to say?

VICE-CHAIR VICTORINO: Because, Mr. Chair, before he starts, you know, one of things I hate doing --

COUNCILMEMBER BAISA: Yeah.

VICE-CHAIR VICTORINO: --is when at the very end of the day you shove something down and...

CHAIR COUCH: Right. I don't know that we're gonna shove this...

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

VICE-CHAIR VICTORINO: I would prefer...and we can listen to what he has to say, but I would prefer coming back and doing this.

CHAIR COUCH: Understood.

VICE-CHAIR VICTORINO: And if we need PAFs to vet it out I would have no objection to asking for a PAF from both of them because I think it's important. These are very important subject matters. You know, this is not something we would just wanna glance over. Okay, but that's my recommendation to you, Chair, and it's all your call. Thank you.

CHAIR COUCH: Sure. Well, let's hear what Mr. Spence has to say about this one.

MR. SPENCE: Thank you, Mr. Chairman. The bottom line of this is is we already do it as a matter of practice. Something gets stuck in Planning Commission for whatever reason, you know, you can't get the Army Corps' comments back or whatever, something gets to Commission and they just say or to this Council for that matter and they just recognize something has changed. You need to update this study. Just the very conditions yesterday on that zoning project, the conditions were to...DOT requires updates to the traffic plans. Some things it's applicable in some cases, it's not applicable in other cases. I think every decision making body knows when something needs to be updated, when something doesn't, there's no need.

CHAIR COUCH: Okay, now the question I have given that response, do you still wanna go further into this subject as well? Any comments?

VICE-CHAIR VICTORINO: I think, you know, Mr. Chair, I appreciate Mr. Spence's comments, but I think these were items, this one too, I mean, the GPAC and all those people that worked hard, I just don't want this, again, I guess I would rather review it, but I don't know what the other Members you know I'm speaking for myself. I don't wanna speak for anybody else.

CHAIR COUCH: Chair Baisa?

VICE-CHAIR VICTORINO: Thank you.

COUNCILMEMBER BAISA: I hear what the Planning Director is saying. The problem that I have is the Planning Director may not be here --

VICE-CHAIR VICTORINO: The next time.

COUNCILMEMBER BAISA: --the next time something happens and if it's written somewhere, it's written. Policies and practices as you know tend to change with personalities. So if this is something that's really important then would it hurt to have it written somewhere? I don't think it would.

CHAIR COUCH: Okay. Ms. Cochran?

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

COUNCILMEMBER COCHRAN: Yeah Chair, thank you. And thank you, Mr. Spence, for your comments, but I do think we...I'd like to have more discussion.

CHAIR COUCH: More discussion?

COUNCILMEMBER COCHRAN: Yes.

CHAIR COUCH: Okay. Now the other method of having this discussion is going to be either we just...I defer this communication, the whole communication and we bring it back at my next meeting and have further discussion, or to request that we do a PAF on each one of these and have it as a separate item, send it to the Council Chair and then have it as a separate item either at this Committee or Policy Committee. Any, any...

VICE-CHAIR VICTORINO: Mr. Chair?

CHAIR COUCH: Yes?

VICE-CHAIR VICTORINO: I would prefer a PAF.

CHAIR COUCH: On each, on each, on No. 2 and 3?

VICE-CHAIR VICTORINO: So we can move, you know, and so we can get to a point where we're actually discussing and coming to resolution. Not have another meeting talk --

CHAIR COUCH: Sure.

VICE-CHAIR VICTORINO: --discuss and then, oh yeah, then we need a PAF.

COUNCILMEMBER BAISA: Yes.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: I think it's time for expediency.

CHAIR COUCH: And I'm fine with that too, so...

VICE-CHAIR VICTORINO: Okay, I mean if the other Members agree, that's my take on all of this.

CHAIR COUCH: Okay, so if the Members agree, then we'll do a PAF to...for Item No. 2, to actually come up with some language allowing the Planning Director stronger oversight of the preparation of the Environmental Impact Statement and Environmental Assessment documents, and then the same thing, PAF on Item No. 3, County's discretion to require updating and resubmission of outdated documentation in land use applications, in other...Mr. Hopper?

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

MR. HOPPER: I just wanted to note that at the outset, I would want to reiterate of course talking about environmental or old documents, there's a variety of documents that could be involved in any land use process. If we're talking about specifically Environmental Assessments or Environmental Impact Statements under HRS 343, then I need to note that that is governed by State Law and is also governed by Administrative Rules that govern if Supplemental Impact Statements are required, who reviews them and how they are prepared. While the County has substantial authority over other applications such as Change in Zoning applications and the reports thereunder that are separate from those documents, in preparing those PAFs I think it needs to be kept in mind that there is a State Law that designates these, many of these issues with respect to EAs and EISs and it may not be possible to alter those processes without actually having that law amended. So I wanted to get that on the record in the preparation of those PAFs that will need to be considered.

CHAIR COUCH: Thank you and I agree with you. It may be that via the PAF process that that's what comes out and then all that comes up is a communication that says that's what came out.

VICE-CHAIR VICTORINO: And fine, Mr. Chair. I agree for expediency purposes we do it this way and we find out one way or the other.

CHAIR COUCH: Exactly. And I agree with that. So without objection from the Members, we'll do two PAFs, one for Item No. 2 and Item No. 3.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: No objections. Okay, that being said then I will entertain a motion to file County Communication 14-141.

VICE-CHAIR VICTORINO: So move, Mr. Chair.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: Second.

CHAIR COUCH: It's been moved by Mr. Victorino, and seconded by Chair Baisa to file County Communication 14-141. Any comment? All those in favor, please say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR COUCH: Opposed? Let the record show that the motion carries six, zero with one excused.

PLANNING COMMITTEE

Council of the County of Maui

July 3, 2014

VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers Baisa, Cochran, Crivello and Guzman.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember White.

MOTION CARRIED.

ACTION: FILE COUNTY COMMUNICATION 14-141.

CHAIR COUCH: Members, thank you for a very healthy discussion. We've come up with a lot more work for several Committees, mostly this Committee. We'll get this stuff done. Anything that actually does go into ordinance as far as the Implementation Plan as you well know will have to go through a complete process. So first thing is it's gonna come to the Chair and she's gonna put it to the right Committee, probably this one for most of them. So yes, Mr. Hopper?

MR. HOPPER: Just to reiterate, are these PAFs going to be to amend the Island Plan --

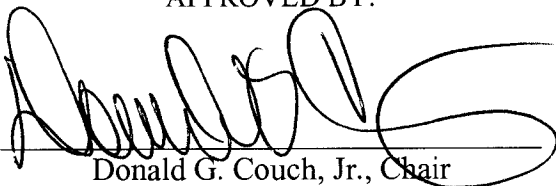
CHAIR COUCH: Yes.

MR. HOPPER: --in order to...okay, thank you.

CHAIR COUCH: Yes. Okay? All right, any further discussion? That being said, thank you, Staff, thank you, Administration. This meeting is adjourned. . . . *(gavel)* . . .

ADJOURN: 11:52 a.m.

APPROVED BY:



Donald G. Couch, Jr., Chair
Planning Committee

pc:min:140703

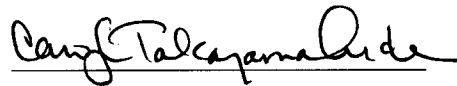
Transcribed by: Carolyn Takayama-Corden

PLANNING COMMITTEE
Council of the County of Maui

July 3, 2014

I, Carolyn Takayama-Corden, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 25th day of July, 2014, in Makawao, Hawaii



Carolyn Takayama-Corden