

# HOUSING, HUMAN SERVICES, AND TRANSPORTATION COMMITTEE

Council of the County of Maui

## MINUTES

February 4, 2016

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 1:34 p.m.

**PRESENT:** VOTING MEMBERS:  
Councilmember Stacy Crivello, Chair  
Councilmember Robert Carroll  
Councilmember Don Couch  
Councilmember Don S. Guzman  
Councilmember Riki Hokama

**EXCUSED:** VOTING MEMBERS:  
Councilmember Gladys C. Baisa, Vice-Chair  
Councilmember Michael P. Victorino

**STAFF:** Michele Yoshimura, Legislative Analyst  
Tammy M. Frias, Committee Secretary  
Ella Alcon, Council Aide, 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.:** Donald A. Medeiros, Director, Department of Transportation  
Marc I. Takamori, Deputy Director, Department of Transportation  
Rowena M. Dagdag-Andaya, Deputy Director, Department of Public Works  
Jerrie L. Sheppard, Deputy Corporation Counsel, Department of the Corporation Counsel  
Seated in the gallery  
Joseph Pontanilla, Community Development Block Grant ("CDBG") Program Manager, Office of the Mayor

**OTHERS:** Jonathan Starr  
Seated in the gallery  
Susie Thieman

**PRESS:** Akaku--Maui County Community Television, Inc.

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CHAIR CRIVELLO: . . .(gavel). . . Good afternoon. The meeting of the Housing, Human Services, and Transportation Committee will now come to order. It is about 1:34 p.m. on Thursday, February 4, 2016. Before we begin, may I please request that we all turn off or silence our cell phones, or other noise-making devices. At this time, I'd like

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to introduce our Committee voting members. And, Members, we're at bare quorum. So show me the sign if you have to leave, and I can recess. Our Committee Vice-Chair Gladys Baisa is excused today. With us is Member Bob Carroll. Aloha, Bob.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR CRIVELLO: Thank you for being here. Councilmember Don Couch.

COUNCILMEMBER COUCH: Good afternoon, Chair.

CHAIR CRIVELLO: Thank you for being here. Member Riki Hokama.

COUNCILMEMBER HOKAMA: Madam Chairman.

CHAIR CRIVELLO: Thank you for being here, Mr. Hokama. Excused is Member Mike Victorino, and at this time Member Don Guzman. At this time we have no non-voting Members that are present. I'd like to introduce the Administration...oh, here comes Mr. Guzman with no orange shirt. He allowed Mr. Riki Hokama to wear the orange. Thank you. So from Transportation, we have Director of Transportation, Don Medeiros.

MR. MEDEIROS: Good afternoon.

CHAIR CRIVELLO: Deputy Director of Transportation, Marc Takamori.

MR. TAKAMORI: Good afternoon, Chair.

CHAIR CRIVELLO: And from the Department...Director of Public Works, Rowena Dagdag-Andaya. Thank you for being here.

MS. DAGDAG-ANDAYA: Aloha, Chair.

CHAIR CRIVELLO: And at this time representing our Department of Corporation Counsel, is attorney, Deputy Corporation Counsel, Jerrie Sheppard. Thank you. And, of course, you know our diligent Committee Staff, Tammy Frias, Committee Secretary, and our Legislative Analyst Michele Yoshimura. Members, we have a single item on the agenda today so we'll get started with public testimony. Assisting us this afternoon from the Hana District Office is Dawn Lono. Aloha, Dawn.

MS. LONO: Good afternoon, Chair. This is Dawn Lono at the Hana Office, and there is no one waiting to testify.

CHAIR CRIVELLO: Thank you. And from our Lanai District Office is Denise Fernandez.

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

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CHAIR CRIVELLO: Thank you. And from our Molokai District Office is Ella Alcon.

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai, and there is no one here waiting to testify.

CHAIR CRIVELLO: Thank you. Aloha, Ella. For individuals who would be testifying in the Chamber, please sign up at the desk located in the 8<sup>th</sup> floor lobby just outside the Chamber door. If you will be testifying from the remote testimony locations specified on the meeting agenda, please sign up with the Council Staff at that location. Pursuant to the Rules of the Council, each testifier will be allowed to testify for up to three minutes per item, with one minute to conclude if requested. When testifying, please state your name and the name of any organization you are representing.

**. . .BEGIN PUBLIC TESTIMONY. . .**

CHAIR CRIVELLO: At this time, the first testifier we have is Mr. Jonathan Starr.

MR. STARR: Good afternoon, Chair Crivello, honorable Council and Committee Members. My name is Jonathan Starr. I'm here representing myself only, and I'm here about the Maui MPO. And I'm asking you to please move this ahead expeditiously. I've been following this saga for about two and a half years. And I do really feel that not implementing it is in many ways costing us monies, but even more important than that, it's costing us time, and the ability to take control of our infrastructure, and get what we need put into the STIP, and built in time instead of settling for those projects which are just shovel-ready or, you know, easy to do. There are a lot of hard things to do that we need to work on. This process allows it. We did lose a year and a half. The first draft of this thing I understand was completely untenable. It called for only departmental employees to be all of the officers of this thing. My understanding is the current draft is more in line with what Oahu does, and it's workable. Oahu and the other places, and this is most of the municipalities across the country, follow this process, and it usually takes a couple of iterations and adjustments over time to get it perfect. So shouldn't let the perfect be the enemy of the possible here. So it can be adjusted. Please move ahead with it. I do think in the future would be good to get at least one member who's a citizen, participation would help. I know that a lot of municipalities do that. Perhaps the MRA could be involved with it. But right now I think it's important to get it done, and not getting it done, you know, where it's an apples and oranges thing and trying to compare the monies. But having spoken to people in the State high up in HDOT and also with the Oahu MPO, I'm convinced that it's really costing us a lot of monies and difficulties, and that can be rectified by moving it forward. So thank you, Chair. Thank you, Committee Staff, for getting it done. Aloha.

CHAIR CRIVELLO: Thank you, Mr. Starr. Members, is there a need to have any part of Mr. Starr's testimony rephrased, or comments, or questions? Thank you. Is there anyone in the gallery, or at the District Offices, who would like to testify? So it

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appears as though we don't have, but I'm just gonna double check with our District Office. I see no one here in the gallery. Any testifiers from Hana?

MS. LONO: The Hana Office has no one waiting to testify, Chair.

CHAIR CRIVELLO: Any testifiers from Molokai?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR CRIVELLO: Are there any testifiers from Lanai?

MS. FERNANDEZ: The Lanai Office has no one waiting to testify.

CHAIR CRIVELLO: Thank you, ladies. Members, as there are no further individuals in the Council Chamber or District Offices wishing to testify, without objection, I will now close public testimony.

COUNCILMEMBERS: No objections.

CHAIR CRIVELLO: Thank you.

**. . .END OF PUBLIC TESTIMONY. . .**

**ITEM HHT-29: MAUI METROPOLITAN PLANNING ORGANIZATION** (CC 15-294)

CHAIR CRIVELLO: So we have on our agenda the Maui Metropolitan Planning Organization, HHT-29. One item today, people. The Committee is in receipt of the following: County Communication 15-294, from the Director of Transportation, transmitting the following: A., a proposed bill to establish the Maui Metropolitan Planning Organization in Title 2 of the Maui County Code, to meet the requirements of Federal law for Federal funding for transportation planning. B., a proposed bill to authorize the Mayor to enter into an intergovernmental agreement with the State of Hawaii to establish the Maui Metropolitan Planning Organization to enable the County to receive Federal funding for transportation planning and carry out coordinated and integrated metropolitan transportation planning, in accordance with 23 United States Code sections 134 and 135, and Chapter 279D, Hawaii Revised Statutes. Two, correspondence dated January 19, 2016 from the Department of the Corporation Counsel, transmitting the following, a revised proposed bill entitled A Bill for an Ordinance Amending Title 2, Maui County Code, to Establish the Maui Metropolitan Planning Organization. The purpose of the revised proposed bill is to amend Title 2, Maui County Code, to establish the Maui Metropolitan Planning Organization. A revised...and B., a revised proposed bill entitled A Bill for an Ordinance Authorizing the Mayor of the County of Maui to Enter Into an Intergovernmental Agreement With the State of Hawaii to Fulfill Federal and State Transportation Planning Requirements Relating to the Maui Metropolitan Planning Organization, or we often refer to as MPO. The purpose of the revised proposed bill is to authorize the Mayor to enter into an

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agreement, in the form attached as Exhibit "A" to the revised proposed bill, relating to the Maui Metropolitan Planning Organization. And 3, correspondence dated January 25, 2016, from the Director of Transportation, transmitting a revised Exhibit "A," entitled Maui Metropolitan Planning Organization Comprehensive Agreement, to the revised proposed bill noted in paragraph 2b above. The Committee may consider whether to recommend passage of the revised proposed bills on first reading, with or without further revisions. The Committee may also consider the filing of County Communication 15-294 and other related action. We have available here in the Chamber as resources representatives from the Department of Transportation and Public Works. I will now open up the floor for Committee Members, and if you have any questions for Public Works or Transportation...and before I have the Department of Transportation walk us through the revisions to the bills. Members, any comments or questions for our departments, before we go through the bill?

COUNCILMEMBER COUCH: Madam Chair?

CHAIR CRIVELLO: Yes.

COUNCILMEMBER COUCH: Thank you, Madam Chair. I think we asked last time, but I'm not sure, is was there a dollar amount of money that we stand to get versus the dollar amount of money we stand...we have to expend? And were you guys able to come up with some numbers? Is that what this handout is?

MR. MEDEIROS: Thank you, Madam Chair. Yes, that is, Councilmember Couch. On the handout, the first listing of three fiscal years is a little over \$388,000 that we expect to get for the planning from the Federal government for the Metropolitan Planning Organization. Once the metropolitan...of which we have to provide a 20 percent match. Once we create, the County creates the Metropolitan Planning Organization, the County Department of Transportation, as you can see, over three fiscal years will gain a little over \$5 million. As discussed at the last meeting, the FAST Act has not published the funding levels yet, and that we like...those funding levels will likely increase. So in a nutshell, this is what we're looking at this time. And the other side of your question was, if we do not create the MPO, we stand to lose over \$200 million in Federal funding for projects in the County of Maui.

COUNCILMEMBER COUCH: Madam Chair --

CHAIR CRIVELLO: Yes.

COUNCILMEMBER COUCH: --if I may follow-up? My concern is not so much how much we could...we stand to get. How much does it cost us, because we have to now be a member of the MPO? For instance, the MS4 requirements and other things that may be costing the County because we have to now...we are now an urbanized area.

UNIDENTIFIED SPEAKER: You wanna handle the MS4?

CHAIR CRIVELLO: Department?

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MR. MEDEIROS: Well, if I understand your question, it's gonna cost us the matching 10 percent matching for the Metropolitan Planning Organization.

COUNCILMEMBER COUCH: Right. But part of this is also the MS4. I know it's not...I mean, this whole thing caused a lot of things to happen. One is the MPO, the other is the MS4. I thought there was one other thing that this triggered. And I know the MS4 is gonna cost us more money than we're gonna take in, as far as I can tell. And that's why I wanna know is what the differences are.

MS. DAGDAG-ANDAYA: Chair?

CHAIR CRIVELLO: Yes, Department?

MS. DAGDAG-ANDAYA: And for the record, Rowena Dagdag-Andaya, Department of Public Works. I think we need to maybe keep MS4 and MPO separate. The trigger for the MS4 and MPO was the census, and the designation of the urbanized area. For Public Works, we work with Department of Health and EPA in...well, mainly the State Department of Health in getting our permit, NPDES Permit. And under that permit, we have several requirements to fulfill. We created a work plan. Through the work plan, we determined what steps, action items, needed to be taken, and from there we kind of figured a cost amount as to how much it would cost, what kind of resources we would need, and staffing. So that, Public Works has already taken care of. We do have items that were discussed in last year's budget, and some items that will come up in this year's budget as well. Department of Transportation, County Department of Transportation, instead they handled the Metropolitan Planning Organization, you know, just organizing the structure, the agreements. So they took care of all the costing. The operational cost for the MPO, as Director Medeiros stated, would be that match that I guess the 50...I think it's \$50,000, and that's what was calculated from Department of Transportation. But I think we need to keep the two, the MPO and the MS4, both separate programs, 'cause they don't mix.

COUNCILMEMBER COUCH: And, Madam Chair --

CHAIR CRIVELLO: Yes.

COUNCILMEMBER COUCH: --I understand that, but the same trigger triggered the thing, and if we, for some miracle, get somebody to exempt us from that trigger, I don't wanna necessarily lose the funds that the MPO would generate. So that's why I'm a little concerned. I think, Madam Chair, that we should do this if there's...and then because it's required by law. And we need to get it going, and we can actually trump the State in what we need to do for the STIP. Most likely there's a couple of things, priorities that I think the County has over what the State thinks the County wants, that this could actually benefit us. Now, because it is mandated, I think we need to move forward with this today. However, there is a possibility that that may no longer be mandated. I'm just curious to see what we would lose versus what we would gain, if it no longer became mandated.

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CHAIR CRIVELLO: No, I understand you. And I think what the Department of Public Works is saying, the MS4 is separated from what we're trying to accomplish today with the MPO. But if I understand you, you're trying to define if the MPO, if it doesn't happen, does it affect MS4? But MPO has...is really not in existence until we accept this?

COUNCILMEMBER COUCH: Correct.

CHAIR CRIVELLO: If I understand it. Or don't accept it, you know, yeah.

COUNCILMEMBER COUCH: Okay, thank you, Chair.

CHAIR CRIVELLO: Thank you. Members, any other questions or comments? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. Yeah, I like the questions from Mr. Couch. I have an additional question. I know that it's required mandates, but I can't recall if there was a deadline, or is there sanctions imposed if we don't move forward on it? I can't recall at the last meeting 'cause I know we had some people here from Honolulu, and I can't recall what was said. Could you refresh my memory?

CHAIR CRIVELLO: Department?

COUNCILMEMBER GUZMAN: Please?

CHAIR CRIVELLO: Of Transportation, or...

MR. MEDEIROS: Yes, in...oops. Hang on. Okay, there we go. Our understanding from the Feds are we have currently on the STIP, which is five years, about \$200 million worth of projects. Most of those projects are highway projects. As you know, for highways projects, sometimes timelines change, you know, for whatever reason. If it was scheduled to happen in '16, but for some reason it's gonna happen in '17. If we do not create the MPO, and those things that are currently on the STIP, which is about 200 million, move, they fall out. They're gone, the money is gone, the project is gone. And so over time, we stand to lose that amount of money. And on the FTA side, we would start to possibly lose some of the funding as well. It's not clear as to what funding we might lose, but that some would be gone. What the advantage from the Transportation Department side, our side, is this additional money that I have shown on this piece of paper, about \$5 million. Wherein the past, the majority of our equipment, the rolling stock that we bought, has been with earmarks out of the Federal government. Earmarks are no longer available in the Federal government...from the Federal government to municipalities. So this would give us an edge when it comes to that. So all of this Federal money would come to us, and of course, we would have to provide the 20 percent matching. But the ramifications of...for not doing it are rather harsh.

COUNCILMEMBER GUZMAN: But there's no --

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MR. MEDEIROS: It would cost us.

COUNCILMEMBER GUZMAN: --deadline. It's just due the fact that we could potentially lose those projects which equivalent...would be equal to 2 million, the potential loss as you mentioned previously in your response?

CHAIR CRIVELLO: Ms. Dagdag-Andaya, would you like to respond to that?

COUNCILMEMBER GUZMAN: Or is that...oh, Public Works, sorry.

MS. DAGDAG-ANDAYA: My understanding in talking with staff from Federal Highway Administration, we did have a deadline to establish the MPO by 2013. I think it was the year after we were told that the designation would take place. You know, we were told that we...there was a urbanized area created. We worked with Federal Highway. I think...well, Department of Transportation did a lot of legwork in contacting their...making contact with Federal...the FTA, and working on the comprehensive agreement, talking with FHWA as well. Under, you know, we had discussions with the different Federal agencies, and they understand the situation that we're in. For most jurisdictions on the mainland, a lot of the smaller communities, or a lot of the smaller counties or cities, what they do is join up with larger, you know, other metropolitan organizations. Some, they create their own. In our case, you know, we had Oahu MPO as an example. But, again, you know, we're divided by water, whereas cities on the mainland, they're all connected in...through their highway system. Federal Highway worked with us for a number of years since 2013, and in fact, we're, you know, kinda told us right now State Legislature is working on their MPO legislation, trying to clean up some things that need to be taken care of. So we kinda waited on that. And during that time, we did have a interim MPO. Marc was the...basically working as the interim director and getting input from Planning Department, Public Works, and working with his Transportation Department staff. We worked with State Department of Transportation, and we worked together on creating items for Maui's submittal to...for the STIP process. So we did, you know, since 2013...we had an interim MPO working, and we did work with Federal Highway Administration. At this point, we are being told, you know, try to get it...work on getting it to fruition. Let's try to work on getting the comprehensive agreement completed, and that's what we're trying to do today. So in terms of a deadline, yes, we did have a deadline, but Federal Highway Administration knew that we had some challenges moving forward, and they were willing to work with us on establishing our MPO, so.

COUNCILMEMBER GUZMAN: Are there sanctions involved with...if we do not comply by the deadline?

MS. DAGDAG-ANDAYA: I think I'm gonna defer that to Transportation Department.

COUNCILMEMBER GUZMAN: Okay.

MR. MEDEIROS: Well, as I mentioned, the sanctions would be they would be holding back money.

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COUNCILMEMBER GUZMAN: Just that one, okay.

MR. MEDEIROS: Yeah, so that we stand to lose a pot of money.

COUNCILMEMBER GUZMAN: Okay, and then just getting back to Mr. Couch's question. Logistically how much would we be spending as a County to set it up? Like, I think...are we gonna hire new positions, are we...are there, you know, the ancillary expenses, what is that gonna total?

CHAIR CRIVELLO: Mr. Medeiros?

MR. MEDEIROS: Thank you, Chair. Under HRS, we are required to hire a full-time Executive Director for the MPO and likely have a staff member. The funding for that to pay for these things will come out of the Metropolitan Planning Organization Federal funding, and then our match. Our match would be approximately \$50,000 for that. And then as you can see in the handout, it's a yearly amount that we would get, almost \$400,000 per year for this to operate the Metropolitan Planning Organization. We would certainly look to have this new group housed, say, in County facilities that we could use then as in-kind match to the Federal money that could help to lessen our burden, or our 10 percent, or \$50,000 for the operation of the MPO.

COUNCILMEMBER GUZMAN: Okay, so what is your estimate for the new personnel? Salary and all that?

MR. MEDEIROS: We haven't gotten to that point. That'll be the responsibility of the MPO board of directors.

COUNCILMEMBER GUZMAN: But then it would actually...it's included in this total amount.

UNIDENTIFIED SPEAKER: Correct.

COUNCILMEMBER GUZMAN: The \$400,000 that we match?

UNIDENTIFIED SPEAKER: Correct.

MR. MEDEIROS: That is correct.

COUNCILMEMBER GUZMAN: The reason why I ask is I didn't...sometimes salaries can eat up a lot of the...you know, could almost be a wash if our ancillary expenses are more than what we're matching, you know. So thank you very much, Chair.

CHAIR CRIVELLO: Thank you. Mr. Carroll, any questions or comments before we go over the bill?

COUNCILMEMBER CARROLL: No, I think it covered about all my concerns already. Thank you.

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CHAIR CRIVELLO: Thank you. Mr. Hokama?

COUNCILMEMBER HOKAMA: I always have questions, so thank you, Chair. First, well, I have my own opinion of Federal Highways, and it ain't the same as those of, sitting across me, I can assure you. So were we ever given a choice of creating a rural planning organization? Because there are...there is such a creature for rural communities to do transportation planning.

MR. MEDEIROS: No, Member Hokama. We did receive rural funding...had received rural funding for years, but specifically, no.

COUNCILMEMBER HOKAMA: Well, I mean when you look at Spreckelsville, yeah, with 4 dots for 455 people as part of an urbanized area, it makes me question the competency and wisdom of the Federal Highway Program. Second, under this interim MPO that you folks said was...it existed since 2013, did you folks sign any documents or agreements? Because my thing is, who authorized this interim creation?

CHAIR CRIVELLO: Mr. Takamori?

MR. TAKAMORI: Yes, no, we didn't actually sign anything officially.

COUNCILMEMBER HOKAMA: But we were just informed that there was an interim entity so I wanna know under whose authorization did that occur?

MR. TAKAMORI: Right, we basically just held meetings with the different Federal agencies just to kinda get more information on this to kinda help move it forward. But in terms of any official MPO documents that needed to be signed, no, there wasn't any official signatures done on those.

COUNCILMEMBER HOKAMA: Okay, you already have assurances of the State's 10 percent? Is it in the current budget, proposed budget by the Governor to the Legislature, that if this moves, they're gonna give you your 10 percent?

MR. TAKAMORI: It is our understanding that they will. We've been in communication with Ken Tatsuguchi who was the person here two weeks ago...or on the phone two weeks ago. He's been in communication with his deputy director, Ed Sniffen, and in those conversations, they plan to be at the table along with us. They feel that they need to be a part of...they are gonna be a part of this. So they would be putting in their 10 percent.

COUNCILMEMBER HOKAMA: They're willing to put that in writing?

MR. TAKAMORI: Well, yes, so just to kinda give you an update, once this agreement moves forward, we need to start working on the financial supplemental agreement which would still need to come in front of you guys for review. And in there, we have to work with the State to kinda put that together. So I mean, it...technically in order for us to

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spend any monies that financial agreement will have to be moved forward as well. So don't think that we're gonna go off and never come back, you know. We'll be back for those agreements as well.

COUNCILMEMBER HOKAMA: Well, you can either face me now, or face me in Budget. My other area is the circle. So my current understanding is there is a proposed circle, but there is no circle as of today. Is that a good understanding on our part?

CHAIR CRIVELLO: Department, or any...

MR. TAKAMORI: So I believe that the circle you're referring to is the Metropolitan Planning Area. So on the graphic that you're probably looking at, the map that was in the handout provided today, that...in that Central Maui area is the red, kinda bolded line, and that is the urban zone area. I guess in the letter, is Exhibit "1" in the letter, that actually says between the Mayor and the State DOT, and the Governor, they basically said that the Metropolitan Planning Area is designated to encompass the entire island of Maui. Moving forward, the MPO will need to either agree to that, or potentially change it, because the MPO and the Governor is the one that will decide that. So whoever is gonna be on the policy board, will be able to at that time, figure out what the MPO wants to do, 'cause the MPO is a policy board.

COUNCILMEMBER HOKAMA: Okay, so cutting all that down to simple language, there is no official circle yet?

MR. TAKAMORI: No official circle.

COUNCILMEMBER HOKAMA: Okay. And the red line that you discussed with us is how the Feds is justifying the minimum of 50,000 population base for an MPO?

MR. TAKAMORI: Yes, you're correct.

COUNCILMEMBER HOKAMA: Yeah. And, again, Chairman, you know, for the record, it is interesting, again, that's my contention has been with the EPA and other White House initiatives, this is another attempt to circumvent County land use authority and responsibilities. We should be the one creating what we believe is the appropriate urbanized boundary area, not the Feds. We are the ones that deal with the County General Plan. We are the ones that deal with community plans. And how each district would like to be moving forward in the future of the plan timetables. I don't think Spreckelsville, Paia thought they would be urban, not during the first two passes of the updates of the community plans. And so for me, you know, I can see the sense of the Kahului-Wailuku areas and whatnot. Look where are the other concentrated areas, Kihei, Lahaina. But to make a stretch and yank part of the North Shore that to me has always, in my mind, in my experience, push to maintain that rural character is now being decided by bureaucrats in somewhere else that this should be the urban core of this County creates heartburn for me, Chairman. 'Cause I think we are the ones that should be asked, you qualify, where would you draw your circle? Where would you put then the second circle of where would be the so-called urbanized and

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qualified areas? I think that is more appropriate whereby then we would have better community understanding and buy in instead of just some bureaucrats in civil service position employees coming to us and saying this is what we think is best for you even if we don't live there. Okay, so I don't need to hear responses or excuses from departments. I'm just telling you my position as a Councilor that makes a vote on a decision. That I'm not happy how this has been moving forward. Again, I will give my comments to the appropriate Federal agency representatives in a few weeks of how I feel about this. And I thank you for letting me give you my thoughts, Chairman.

CHAIR CRIVELLO: Thank you, Mr. Hokama. May I ask you, Mr. Hokama, with your network of Federal bureaucrats, perhaps if that's the right description...

COUNCILMEMBER HOKAMA: Yes, it is.

CHAIR CRIVELLO: Is there...does it make sense to have that question put forth before them?

COUNCILMEMBER HOKAMA: I would say, Chairman, my main concern right now is I want a Federal bureaucrat to put in writing to show this County that if we move forward on this component, and under this...my understanding of what this is telling our community from one perspective, and again, that's part of my issue with the Feds, is they try to separate and make everything not connected. But it is connected in a certain manner, especially with the money. But I, as I stated, in my previous Budget meeting, I do not wanna lose one single CDBG dollar that this County can access to help those districts and entities have that Federal support for needed services or programs. Okay, and the way things are going, if we don't get the right assurances, Chairman...the biggest beneficiary is Molokai in our County, because that is the untouched component. But Lanai, we've already heard is not qualified for certain things. If the circle around this island is interpreted in a way, and we don't have the right documentation to fall back to justify it, Hana and other districts will not qualify for a lot of funding too. And I'm not just talking about CDBG. We got USDA monies, besides Transportation monies, you know. So I'm more concerned about not just transportation, but the loss of other Federal funds that is determined upon a nonurban designation.

CHAIR CRIVELLO: I understand, and I agree with your concern. Well, you know, this has been before us I think for some time, though I just got it into my Committee towards the end of this last year. And I guess for the Department as well as for us who have little feeble understanding of what this is all about, is there's the chance that we may lose Federal fundings which can be applied to projects for highways? Do I understand that, Ms. Dagdag-Andaya?

MS. DAGDAG-ANDAYA: Chair, there may be a possibility. At this point, our contacts at Federal Highways are saying, you know, push, you need to move forward with the MPO because...but...

COUNCILMEMBER HOKAMA: Miss, are they willing to put that in writing that it's not gonna impede our other Federal funds? 'Cause if they are, and it's on the record, and if we

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have that paper, I'm willing to be more open to what the Chair is gonna request of this Committee membership. But I don't need another Federal bureaucrat later saying, there's nothing in the file that said that Maui is not gonna lose other Federal funding because of this circle. I didn't make that agreement, that person is no longer here. So, you know what? Nothing in our files. So, you know what? You don't qualify anymore.

MS. DAGDAG-ANDAYA: Well, thank you, for your comments, Councilmember Hokama. We...just to give you an example for Oahu MPO, they've designated the entire island an MPO. That includes rural areas such as Waianae, and they still are able to get CDBG funding. We did reach out to Federal Highways and asked, you know, do you know if this MPO designation affects our CDBG status, or any type of funding that we receive through the program through HUD, and they reached out to their colleagues over at HUD. We received an e-mail saying that the MPO and the CDBG status are separate. They run along separate programs, and just to quote from the e-mail, most of the non-entitlement areas on the mainland are part of a regional organization like an MPO. And then he goes on to say COG, RPC, development district, et cetera, so they are fine. Based on this response, your CDBG will not be impacted if Maui County seeks an MPO status. We understand your concern about getting it in writing, and perhaps that's something that we could probably get from our contacts over at HUD, and you know, we're willing to find out the answers to those questions. But at this time, according to the response that we received from Mark Chandler over at HUD, it appears that the CDBG status will not be impacted if we do enter or become a MPO.

COUNCILMEMBER HOKAMA: And I know Mr. Chandler, and you know, I would say he's very consistent. But one thing I can tell you, in my experience, he hardly puts things in writing, okay. So I want it in writing to protect this County's interest, not my interest, this County's interest because I want those Federal dollars in other areas too. Thank you, Chair.

CHAIR CRIVELLO: Thank you. So in reference to the CDBG in addition to this e-mail as part of the initial documentation that there's no effect in CDBG funding, you also, Department, I think what I'm hearing from Mr. Hokama if we can have that, a formal correspondence. And perhaps Mr. Pontanilla can request that from the CDBG Office what you have you. My personal experience with CDBG coming from Molokai and on a nonprofit level, and my participation even going to Washington, and why Oahu still qualifies is because there's different entitlements that's allowed. And a lot of it depends on your community, what we call the con plan. And that's kinda your leverage, I believe. And, but we'll, you know, we'll...so we can have the assurance for our Committee, I think we can come back with that kind of formal correspondence. Any other comments or questions? Mr. Couch? No? You're good?

COUNCILMEMBER COUCH: Well, yeah, just real quick. Mr. Medeiros, you mentioned that we have, stand to lose some money off the STIP. I would wanna question that in that we already get money on the STIP for our projects when our turn comes up. So are you saying that there's other money that we normally wouldn't get on the STIP that is available?

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CHAIR CRIVELLO: Mr. Medeiros?

MR. MEDEIROS: I'm not saying it. Ken Tatsuguchi who we spoke with advised that our Federal money is in jeopardy, and that if the STIP does not move forward...I mean the MPO does not move forward, that we stand to lose the Federal money.

COUNCILMEMBER COUCH: Okay, 'cause, I mean, we already get Federal money on the STIP, and we're not...and haven't been MPO between now and then.

MR. MEDEIROS: Well, that's because we hadn't been designated by the census with the population. So that was the trigger which occurred at the last census. So that's the difference.

COUNCILMEMBER COUCH: Okay, so you're saying...I see, you're saying because we got triggered to be...form an MPO, now the money that we used to get when we weren't an MPO, will go away...could potentially go away.

MR. MEDEIROS: That was my understanding, yes.

COUNCILMEMBER COUCH: Okay. Thank you, Chair. That cleared it up a little bit.

CHAIR CRIVELLO: Okay, any further comments? Yes, miss...

MS. DAGDAG-ANDAYA: It also leverages us. You know, if we utilize planning funds for transportation studies, anything that the policy board determines as necessary, having those studies completed may also open doors for us in getting additional monies for transportation improvements, facilities, even, you know, multi-modal type of facilities as well. So there is a benefit in being part of that Metropolitan Planning...or having one, is that you do the study, you get the monies for the study, you do the study, and then the Federal...and Federal Highways looks at it as, oh, it's already been completed. We've been a partner in this, and when it comes time to do our TIP, that's one project that they'll look at as something that...favorable, and worthy of receiving funding.

CHAIR CRIVELLO: Mr. Hokama?

COUNCILMEMBER HOKAMA: So in your perspective being professionals in two very important departments, you folks see this as how the Feds are driving then, the growth for this County, by dangling all this money and saying, you want this, you gotta go with this kind of growth, and this type of population increase and whatnot, so you can keep getting my Federal money? So they're gonna be start making more of our decision-making on how we wanna grow our population at the velocity that we choose, and that now we're gonna punt, and let the Feds because they're dangling \$200 million in our face for us to sell our butts off?

MR. MEDEIROS: May I?

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CHAIR CRIVELLO: Yes.

MR. MEDEIROS: No, I don't see it that way at all, Councilmember Hokama. I look at what the MPO essentially is, is a planning organization to help to organize, between especially the State and the County, to organize projects, prioritize projects with the input of the general public. It's a public...the MPO is a public-driven process. The Federal monies...the Federal agencies are giving us the money for that process. And on top of that, because municipalities, once you're an urban-zoned area, you have the population, then different things are gonna happen. You're going to need to have...in my view, they're providing the additional money to help us with those increasing populations. I still see that how we plan our growth is still ours. They're not telling us how we should grow this island, or where this island should grow. It's based upon community input on Federal dollars and how we might better use them through the public process.

COUNCILMEMBER HOKAMA: Happy to hear that, Director, because that's what I going expect for you to fight for our communities at the pace we want to grow, not what others want us to grow, but what we want. I don't really care what the State wants us to grow either. It's depending on what our people in this County wants to grow is my priority, not D.C., not Honolulu. So I'm happy to have heard your words because I can support that fully, Mr. Medeiros, and I appreciate you stating that on the record 'cause I will support you on that. Thank you, Chair.

CHAIR CRIVELLO: Thank you. Ms. Dagdag-Andaya?

MS. DAGDAG-ANDAYA: No, I completely agree, Councilmember Hokama. I completely agree with that statement that Director Medeiros had made. It's about local control, and I know it's a...it's the Federal...it looks like the Federal government driving all of this. But our bottom line is it becomes more of our local control, local government being in control of the projects that we move forward. And I think that partnership, having the partnership with Transportation, Planning Department, the community, especially even with our Councilmembers on board with the policy board, I really think that this is something that will be a true benefit to our community. It really does come to that local control.

COUNCILMEMBER HOKAMA: And I thank you for your support of that, Director. My skepticism comes from, again, the continued interference from the White House, especially with EPA and waters of the U.S. That is to me, an outright attempt by the Feds to circumvent local government and this County's land use and zoning controls. And that I will not tolerate. I don't care who's in that bloody White House. This is our jurisdiction, that is our decision, not by an EPA administrative rule to circumvent our land use and planning decisions of how to move this County forward. So, again, my skepticism comes from what I observe from the White House through the various Federal agencies and how certain secretaries of the President has made pronouncements, and that is why at the national level we have fought hard against the White House on these kind of rules, because it is from a national point of view, an infringement on County's land use authority. So not to, you know, I'm not making

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excuses, but that is why I feel very strongly about specific things, especially coming from this type of Federal mentality, Chairman.

CHAIR CRIVELLO: Thank you. Thank you, Chair. You know, just side kinda comments. It's like CDBG. It's Federal monies, but it's controlled by the community's input to determine what our priorities, and then the office looks at how it's been prioritized to see if the applications are in sync into what has been established by the local. Our island has had opportunities of Federal funds, but it was driven by local, and decisions were made by the community. So I'm hoping this is something that is in line in that, it will still be local control because of the MPO board. And it will make sense on when we complete the...actually assignments, if this bill moves forward. So that being said, I have another question in regards to the County's match, or the 10 percent or what have you. You've attached from the Department of Transportation on the fiscal year summary, and I note also that you have Highway Fund for administration program of \$50,000. Can you explain why we have this handout, and is this monies already part of your line item that we want to match, that we need to match the 400,000? Can you explain that, please?

MR. MEDEIROS: Yes, the Department, in anticipation of the MPO moving forward, you know, wanting to have funds available, essentially this is our current budget for this fiscal year. And that on Page 15, which is from the Budget, it shows the matching funds that we would need, which comes out of the Highway Fund. And then the next page, which is Page 36 which is from the Budget, it shows we estimated about \$450,000 from FTA for the Metropolitan Statewide Planning Organization. So we already have that in the Budget. You all allowed us to put that in when this came before you. Thank you for that.

CHAIR CRIVELLO: Okay, thank you, just trying to understand if we have to go in again and add for increases. But it's already assigned. Mr. Hokama?

COUNCILMEMBER HOKAMA: We would need...would we need...I believe we would need to eventually add the State money, right, Director?

MR. MEDEIROS: That is correct.

COUNCILMEMBER HOKAMA: Yeah, so when it...so again, our assurance is upon final approval of an MPO for this County, then we get a \$50,000 check from the State of Hawaii?

MR. MEDEIROS: If it's...exactly how it's coming, I'm not really certain, but if it comes as a check or if it comes...normally, with Federal funding it comes as a reimbursement. So we'll have --

COUNCILMEMBER HOKAMA: The State's share?

MR. MEDEIROS: --to work out the details. You know, I'm not really sure. I'm sorry. I just...

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COUNCILMEMBER HOKAMA: Are you aware, Director Dagdag?

MR. MEDEIROS: I'm sorry.

MS. DAGDAG-ANDAYA: When I spoke with Oahu MPO, what they do is they, I mean the MPO, sends an invoice out to State. And then that's how the State pays back. So they have a revolving fund through State Department of Transportation, and it's in HRS and everything. So the monies would come from the Federal government, and then they would...the MPO would invoice City and County and the State. That's my understanding of how Oahu works. But as far as Maui, I think it could be a similar situation.

COUNCILMEMBER HOKAMA: Would you be able to forward the question and secure a response to how it would be proposed with the Maui situation?

MS. DAGDAG-ANDAYA: Sure, sure, Councilmember Hokama, and I think also that would warrant a discussion with our Budget Office to see how that could work.

COUNCILMEMBER HOKAMA: Yeah, with Director Baz. And just one quick one, because this is basically road systems and we have the word "transit," is the Honolulu transit project also under Oahu MPO? Because they have a HART board, their own rapid transit board of directors that they respond to the Feds regarding the Federal funds. So they report to Oahu MPO also?

MS. DAGDAG-ANDAYA: The way...what my understanding is, I don't know for sure if they're part of the policy board. But they are also an entity that provides monies to the Oahu MPO, so they also get invoiced. So it's coming...the match is actually coming from HART, City and County, and State.

COUNCILMEMBER HOKAMA: So then, and I'm just thinking this, if we move forward, so that transit project that is already ongoing for Oahu competes...would it be in any way a competition for us with our Federal money, or there's not...there's no chance of competing against each other? 'Cause the Feds just have one pot of money, FAST money, well, two pots, you know, basically but.

CHAIR CRIVELLO: Marc?

MR. TAKAMORI: Yes, I guess to kinda answer Rowena's question, the HART Executive Director is on the policy board for Oahu MPO. And to answer your question in regards to when the Feds give the money to the State for metropolitan planning funds, there is an agreement that will be signed between Oahu MPO and the Maui MPO in how the breakdown of the funds will be distributed. And I think it's basically distributed based on the population.

COUNCILMEMBER HOKAMA: Not by importance or priority of the project? That...I mean I'm sure you have one rating, right. The projects will be rated, you know. So for me,

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then, you're telling me no matter what happens, we always going lose because Oahu always has the population over us. So what's my advantage now?

MR. TAKAMORI: I'm sorry. I guess what I'm trying to answer is based on when you look at the breakdown for the...around the \$400,000 we're getting for the planning funds, that's what that breakdown is.

COUNCILMEMBER HOKAMA: No, I'm more concerned about the pot for do the projects.

MR. TAKAMORI: Oh, I see.

COUNCILMEMBER HOKAMA: Not the administrative funds to run the organization, but the monies for the projects itself. So for, like Director Medeiros mentioned for us, currently we have a general understanding over 200 million on the books for future Maui transportation projects. That's part of the STIP, or, well, the current STIP.

MR. MEDEIROS: That is correct.

COUNCILMEMBER HOKAMA: Yeah, so I just wanted to know if are we then also compete in the FAST monies that are now available for the five-year authorization, are we competing with Oahu MPO? Or there's no competition for those Federal dollars that comes to the State of Hawaii? Maui will have its set amount because of the TIP from the MPO?

MS. DAGDAG-ANDAYA: So the distribution allocation for Federal Highway projects remains the same. It wouldn't be in competition with Oahu or HART. We wouldn't be in competition. There's that...already that distribution allocation. So Federal monies come from the State...Federal monies come to the State, there's that currently, you know, the allocation that we receive, that, it doesn't change. There may be instances where sometimes, for example, Maui County might get more of their share because of priority projects. And then the following year we wouldn't get as much because you gotta share with Kauai, or the Big Island. So with that, yeah, it doesn't...the distribution allocation stays the same. There's something called the Transportation Alternatives program, and that one is for a lot of multi-modal bikeways, pedestrian paths. For those monies, Oahu, because they are a large metropolitan planning area, the monies come directly to their policy board for those types of projects. Because we're a small MPO, we would have to compete for Transportation Alternative program monies with the different counties. So things like...

COUNCILMEMBER HOKAMA: So . . . *(inaudible)*. . . Kauai County, Big Island County?

MS. DAGDAG-ANDAYA: Exactly. So things like safe routes to school, any kind of bikeway type of projects, we would still have to compete for those.

COUNCILMEMBER HOKAMA: With two counties that do not have to deal with an MPO but we still in the same --

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UNIDENTIFIED SPEAKER: Right, yeah, yeah.

COUNCILMEMBER HOKAMA: --situation.

MS. DAGDAG-ANDAYA: Because we don't meet that 200,000 population threshold.

COUNCILMEMBER HOKAMA: The...what?

MS. DAGDAG-ANDAYA: Oh, I'm sorry. Yes, because Oahu has 200,000, their...what is it, TMA, yeah, they are a transportation management area because they have a population of 200,000 or more. So the way they operate, in a TMA they operate differently from a small Metropolitan Planning Organization.

COUNCILMEMBER HOKAMA: Okay.

MS. DAGDAG-ANDAYA: But if we ever become, or get to that point, then that would kick in different requirements. And right now we're not looking at that. We're looking at --

UNIDENTIFIED SPEAKER: Please.

MS. DAGDAG-ANDAYA: --our current...

COUNCILMEMBER HOKAMA: All of us will be dead and gone.

UNIDENTIFIED SPEAKER: Including the young one.

MS. DAGDAG-ANDAYA: So we don't...we're not looking forward to that at this point.

COUNCILMEMBER HOKAMA: Okay, as far as our understanding is with your Department and Director Medeiros, for this fiscal year's, there's no impact on the current projects, right?

MS. DAGDAG-ANDAYA: For the Department of Public Works, no. We have no...it's not impacting our Department in any way for our current projects.

COUNCILMEMBER HOKAMA: Okay, and then I think didn't I speak, didn't I ask whether or not some of the things we're moving forward now that you...I guess you folks indicated that it could possibly have qualified if there was an MPO for, considered a reimbursement such as the South Maui master plan project, the Haleakala project, that's all coming up tomorrow for approval by Council, and we're talking about million dollars at least if you look at all three projects, Keanae, Haleakala, South Maui. We're looking at big monies. Those would have been reimbursables if we were an MPO more than likely, Director Dagdag?

MS. DAGDAG-ANDAYA: Yes, Councilmember. We can get reimbursed for those...for planning type of projects. So things like the South Maui Transportation Study, in my discussion with Federal Highways, I asked, you know, we are moving forward with

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that at this point. The Council is about to hear the, you know, our request...I mean, the full Council. So say we were to get the monies from Council, can we come back and say, and put in our work plan, hey we wanna use Federal monies to fund this. And my contact, Liz Fischer, said yes, you can put that into your...you can get reimbursed for it. But again, I mean it's all...

COUNCILMEMBER HOKAMA: We have to do a timely submittal though, right?

MS. DAGDAG-ANDAYA: Exactly, and that's subject to what the policy board agrees to and our timely submittal. And I asked, well, how fast can we get these monies, and, I mean, of course, you know, they try to be as expeditious as they can, but we know that it will probably take some time before we can get reimbursed for that. But that's one area that we could probably get some monies for.

COUNCILMEMBER HOKAMA: In your discussions, and I'm looking at all of you, what is your anticipated timetable to get this...if Council gives final approval, what is your timetable to get this thing in place so that they can act as a policy board? One month? Three months? Six months? You folks have a time schedule on how...I mean you guys impress upon us that time needs to be a factor for us. So let's say we buy in and move it out, how long does it take then from the administrative perspective to get this squared away?

CHAIR CRIVELLO: Mr. Medeiros?

MR. MEDEIROS: Yes, thank you, Chair. Once the Council has voted on it, then we need to get several things in place prior to convening the board for the first meeting. And so we would hope that within the next couple of months we can start to get that done, and bylaws as such, elect a Chair, Vice-Chair, elect a...have...this is all the board now, and that the board will then have a search committee for an Executive Director, go through that process, and hire an Executive Director. So being that this is the 1<sup>st</sup> of February, the monies...our matching monies from the County technically don't...are available now. The Federal money's technically available now in our budget. So we could move forward as fast as we can move these projects forward. I would hope that we could do it, you know, within the next few months. I don't have a exact timeline on that. But we've been trying to do some of that work ahead of time now so that we can push that forward.

COUNCILMEMBER HOKAMA: So the search for the Executive...if I may?

CHAIR CRIVELLO: Yes.

COUNCILMEMBER HOKAMA: Just so we're clear as a Committee. Okay, so the Council will put up its names for membership, Admin will put up its names for membership, more likely Governor will give DOT Director or a Deputy the assignment, so that's your seven. Because government funds is used, then does DPS go and put out the recruitment notice for the new Executive Director 'cause this is government funds? I mean who is gonna do the actual...

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MR. MEDEIROS: We, yes, we spoke with DPS on this already, and what we were...our conversations with them were is there any precedent for this? And there is in the County because salaries have to be paid, et cetera. So there is precedent for that with Federal money. So we could move this forward, but our E/P count to actually hire the folks isn't in this budget. It'll be...we're putting it in and asking it for next year's budget which would...once we start our budget process, it'll actually be available July 1.

COUNCILMEMBER HOKAMA: Wait, wait, wait, see because...

COUNCILMEMBER COUCH: Yeah.

CHAIR CRIVELLO: Yeah.

COUNCILMEMBER HOKAMA: Yeah, and that's why we're asking these questions --

MR. MEDEIROS: Yeah, I know.

COUNCILMEMBER HOKAMA: --yeah, Director, so we...

MR. MEDEIROS: Correct, got it.

COUNCILMEMBER HOKAMA: My understanding is this is a semiautonomous policy board.

MR. MEDEIROS: That's correct.

COUNCILMEMBER HOKAMA: Yeah, so, you know, for us in budget, then we're gonna say whether or not you really need to put one E/P count. Because for me, one, is although I gotta ante up some County resources, my understanding is they're not under County control.

UNIDENTIFIED SPEAKER: Correct.

COUNCILMEMBER HOKAMA: They're independent of us in a sense, as I understood legal counsel give us one perspective of this entity. And that's why I'm trying to just figure out how we're gonna get this all squared away because you're gonna need certain Council action, there's gonna be some budgetary approvals by Council.

UNIDENTIFIED SPEAKER: Correct.

COUNCILMEMBER HOKAMA: But we're not really in charge of this body, right? Because they don't really report to us, the policy board, right? They report to the Feds, right?

CHAIR CRIVELLO: I guess, Mr. Hokama, if I can follow up with you?

COUNCILMEMBER HOKAMA: Please, Chair?

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CHAIR CRIVELLO: So in line with Mr. Hokama and perhaps Ms. Sheppard can answer this, if the bill is to establish the MPO in the Maui County Code, if we understand it, you know, create a County agency. But if the intent is *not* to create a County agency as it's been mentioned as it's independent, but to establish a board independent of the County, why do we need this bill to establish the MPO in the County Code? You know, because it's independent. They're not County employees if the Executive Director and his or her staff, with that 400,000 that you would use for part of your planning as far as operation also.

MR. MEDEIROS: The...Chair?

CHAIR CRIVELLO: Yes.

MR. MEDEIROS: The Federal money would come to us via a grant process like it always has.

CHAIR CRIVELLO: Okay.

MR. MEDEIROS: We would reimburse...we would ask for the money by reimbursements. But we have to create a chain of money to flow through the Fed's through the State to the County, and expend the funds, and then bill it back, of course. So having to create...how do you run that process through? In order to run through the government, we have to, through our systems, we have to create these E/P counts. They won't be County...they'd be exempt County employees as we currently have in several of our departments. But that would allow us the mechanism to cut checks, to give them the benefits that are required, and then within the County system, our financial systems, to cover the cost of expenses, and then subsequently get reimbursed by them. And so as an example of that, in Housing, under Section 8, those folks are paid through Federal funds. And that's the analysis the DPS used with us.

COUNCILMEMBER HOKAMA: Actually I was just looking at having the Council consider a grant to the MPO, and have the MPO be responsible and give us their auditor's report. That's how I was looking at funding it, Chair. Having us consider a grant to that organization.

CHAIR CRIVELLO: Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair. This brings up a bunch of questions. I thought the MPO was, like you said, not part of the County. It is a different agency. Yeah, we need to figure out a way to accept money and pay them, and I guess with part of this agreement you can do that through Department of Personnel Services. But in my mind as a County Councilmember who deals with the budget, that should not be on our books anywhere. I mean they don't have to be civil service. I'm assuming they don't have to be union. They don't have to...that department, or that agency can do whatever kind of benefits they want for the two people there. Would they fall under our healthcare plan? Is that something that now

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the County has to pay for the healthcare plan? And if that's the case, then the MPO gets money from the...or, you know, now we're not separate and independent anymore. We're kinda like this, you know. It's not a separate entity anymore, and that bothers me. Is there any way throughout this whole process that eventually it'll be a separate process, a separate entity that doesn't have anything to do with the County? They have their own payroll system. They have their own bank accounts. They have their own check writing capability as opposed to get it out of the County process.

CHAIR CRIVELLO: Mr. Couch, and again I think Ms. Sheppard can answer that, because we have this bill to establish the MPO in the Maui County Code. And then if it is the intent is *not* to create a County agency is what I understand, but to establish a board independent of the County. So is it independent of the County? And then, then come back to why do we need this bill to establish the MPO in the County Code if it's such? Ms. Sheppard?

MS. SHEPPARD: Thank you, Chair. Thank you, Mr. Couch. The Federal legislation that requires us to establish the Maui Metropolitan Planning Organization once we hit the threshold says that the designation shall be made by agreement between the Governor and units of general purpose, local government. And then it also says, or in accordance with procedures established by applicable State or local law. The State law, 279D, provides that each policy board shall appoint a full-time Executive Director, and that the Metropolitan Planning Organization who shall be independent of State and County agencies, and it does say that the Executive Director, and staff if appointed, for an MPO shall not be subject to Chapter 76, Civil Service. All other benefits generally applicable to the officers and employees of the State shall apply to staff members of the Metropolitan Planning Organization. So we do have a mandate by the Federal government to enter into this agreement. The State has set up legislation that says how we're going to do it. We start with the comprehensive agreement at...well what we start with, the enabling legislation that says we can create the organization. And then we work with the comprehensive agreement between the MPO and the State government, and then they, the MPO starts doing their business which is coming up with the financial agreements and the staffing and how they're gonna operate their bylaws and things like that. So it's a sequential bit of steps. And apparently we've done this before with other Federally-mandated agencies, and I can't think of what they are right now, but they're in the Maui County Code. They've already been established. So this is similar in the set up and establishment that we've done in the past with Federal mandates.

CHAIR CRIVELLO: Mr. Couch?

COUNCILMEMBER COUCH: Yeah, those Federal mandates, though, don't say it's an independent agency, do they? This is an independent agency that can override...not override, but they get the public input for what goes on the STIP. And they get to say what goes on the STIP, not what the County Department of Public Works wants. They have the final say.

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CHAIR CRIVELLO: Ms. Sheppard?

MS. SHEPPARD: Yes, thank you. If you look at the makeup of the policy board, we have components from the County Council and from the three Departments and the Administration, plus the State DOT. So I do think they do have a say. It's just that they're going to make those decisions independent of just the Department of Transportation, or of just the Department of Public Works. And correct me if I'm wrong, that that is a cohesive group doing the public's business rather than a department establishing it individually. So the MPO, although it's made up of components of all this, they really are separate and distinct because that body makes a decision. Hopefully it's gonna be in concert with what everybody else wants.

COUNCILMEMBER COUCH: Yeah, 'cause it's mainly people...I'm sorry, Madam Chair.

CHAIR CRIVELLO: Yes, go ahead.

COUNCILMEMBER COUCH: It's mainly people involved in the County, but at some time like other MPOs, there may be citizens, you know, on there who have no involvement in County government at all. So that's what makes it not as quite as like these other entities. I'm just concerned about, you know, who handles the OPEB? Who handles all the unfunded liabilities? Do we...are we creating two more positions that we now have to do those benefits for? Is that something that the County's responsible for, or the MPO's responsible for?

MS. SHEPPARD: Chair, my understanding is that money comes from the Federal appropriations for the MPO to operate and they pay those funds. We just have to be an implementation of that.

COUNCILMEMBER COUCH: Okay, so here's the big can of worms. We have this unfunded liability that the County's dealing with, and they have OPEB, other post-employment benefits, for the people on TV, that are handled by the County and paid for by the County. Now we have this other entity who two people at least get benefits. Now the Federal government sends the money to the County who sends it to the MPO who then pays back into the County's unfunded liability account and OPEB account, or do they have their own separate...I mean we're starting to really mix...

CHAIR CRIVELLO: Right, I think these are the questions we had initially.

COUNCILMEMBER COUCH: Yeah.

CHAIR CRIVELLO: And this is --

COUNCILMEMBER COUCH: It's getting real...

CHAIR CRIVELLO: --where the concern was. But in meeting with Ms. Sheppard, I was assured that this is a complete independent board, independent from County. So I would think at that time, once the drawdown of the funds, from the Federal funds

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come down, and it's...I don't know what kind of entity they're gonna form. And that's the process as far as that's gotta be determined. It's in collaboration with how does Oahu...you know, how do they do it. Yes, Ms. Sheppard?

MS. SHEPPARD: One of the agencies that was created after a Federal mandate was the Maui Redevelopment Agency. So this is similar in that context.

COUNCILMEMBER COUCH: Don't use that as an example. But my question I guess is gonna...who's gonna sign what paycheck and what bank account does it come out of?

MS. SHEPPARD: I think when they get their bylaws and their organization up and running, some of those decisions have to be made by that policy board.

COUNCILMEMBER COUCH: Okay, so they can make those decisions and finally become...

MS. SHEPPARD: It says that they are supposed to make those decisions.

COUNCILMEMBER COUCH: Gotcha. Okay, that's the important...

CHAIR CRIVELLO: Yeah, I think that's...yeah, yeah.

COUNCILMEMBER COUCH: Okay. That's a little better 'cause it's not as enmeshed in the County's machine.

CHAIR CRIVELLO: Right. Are we clear that we need to take a break and get ready to review the bill, or do you have more questions? Okay, so why don't we take a...come back at three o'clock. . . .(gavel). . .

**RECESS: 2:53 p.m.**

**RECONVENE: 3:02 p.m.**

CHAIR CRIVELLO: . . .(gavel). . . Thank you, Members. The Housing, Human Services, and Transportation Committee will reconvene. Okay, I guess during recess we got some things clarified. Ms. Sheppard, do you wish to explain further on how the employee and the operations? And then we can go over the bill.

MS. SHEPPARD: Thank you, Chair. I can tell you what the State law says. I can't tell you how to functionally perform these responsibilities. But it does say that the policy board shall appoint a full-time Executive Director who shall be independent. And then it does say that employees of a Metropolitan Planning Organization are exempt from Chapter 76, but shall be eligible to receive the benefits of any State or Federal employee benefit program generally applicable to officers and employees of the State.

CHAIR CRIVELLO: Is that understandable...understood, Members? Any questions? Yes, Mr. Couch?

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COUNCILMEMBER COUCH: Real quick. Does that allow that organization then to open their own bank account if they wanted to and pay their people from that account and be --

MS. SHEPPARD: Chair?

COUNCILMEMBER COUCH: --totally independent from the County?

CHAIR CRIVELLO: Ms. Sheppard?

MS. SHEPPARD: Also the State law says the Metropolitan Planning Organization may enter into agreements with the County as needed to fully comply with all requirements of Federal law in this chapter. It may be placed within a State or County agency as appropriate for administrative purposes only. MPO may contract to purchase goods and services including professional and technical assistance and advice. And they go on with some other contracting authority.

CHAIR CRIVELLO: So there is the allowance also of contracting, and not mandated that. So I guess this is where the MPO board would make that kind of, if you so call it, policies perhaps. Mr. Couch?

COUNCILMEMBER COUCH: And, Madam Chair, I think the way she read it, it also is that that board can use, say, the payroll system for Maui County. It says... 'cause it can use administrative functions of the County but be independent from, something like that.

MS. SHEPPARD: Yes, yes.

COUNCILMEMBER COUCH: So I...that answers a lot of the questions for me. Thank you, Madam Chair.

CHAIR CRIVELLO: Answers your question.

COUNCILMEMBER COUCH: Yeah.

CHAIR CRIVELLO: Does it answer your question, Mr. Carroll? You're good? Mr. Hokama, still contemplating? Mr. Guzman, you're okay?

COUNCILMEMBER HOKAMA: Chair, I appreciate the, you know, the efforts of the Departments and Corporation Counsel. And I don't have a problem helping you to move it along, but I am not in strong support of this as of yet.

CHAIR CRIVELLO: Thank you. And I'm going to ask, depending how this does move, or does not move, but if it does move, I'd like to ask the Department as well as Corporation Counsel, and then we'll ask Staff to do follow-up letters in regards to the concerns that we have if this becomes part of the County agency, and does the employee become part of the County agency versus the independence of a board? So that being said, I'd

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like for us to move on further. And, Department...Members, you have before you the, A Bill for an Ordinance Amending Title 2, Maui County Code, to Establish the Metropolitan Planning Organization. So at this time, I'm going to ask the Department or Corporation Counsel, whomever may choose to review this bill with us before we make our determination or recommendation. Department?

MR. MEDEIROS: I'll be happy to answer any questions.

CHAIR CRIVELLO: Well, I think we need to at least go page by page, and not having to read it all, but, you know, let's see if we have questions, and what's been amended, and what have you. And which one...which bill are we looking to recommend. So it's correspondence dated...

MS. SHEPPARD: Chair, if you're looking at my reply that I submitted dated February 3, 2016.

CHAIR CRIVELLO: Right. Okay.

MS. SHEPPARD: We have the first ordinance is the ordinance to amend Title 2, which establishes the Maui Metropolitan Planning Organization per Federal law. And then we have following that an amendment to Chapter 2.40 which recognizes that there is a Metropolitan Planning Organization under our County Code. And then following that is a bill for an ordinance authorizing the Mayor to enter into the comprehensive agreement with the State to set up the Maui MPO. And following that the MPO once established would be appointed membership from the County Council and the three people in the comprehensive agreement from the Administration, the three Departments, the State DOT person, and then they would meet to formulate how that organization is to operate. They have to establish bylaws, work on financial agreements, figure how they're gonna interrelate with the County by supplemental agreements.

CHAIR CRIVELLO: Okay, so, Members, do you have any questions, or you'd want for us to go page by page? Or do you wanna kinda checkpoint it as we move along? So...yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: May I ask a question of our Corporation Counsel, please? Ms. Sheppard, you know, on a lot of the attachments to the revised bill for an ordinance, the original bill for an ordinance, we have three signatures, yeah, from the State of Hawaii, Governor Abercrombie, Glenn Okimoto, then...

MS. SHEPPARD: On the exhibit, Mr. Hokama?

COUNCILMEMBER HOKAMA: Exhibit "1".

MS. SHEPPARD: Yes.

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COUNCILMEMBER HOKAMA: Then Director of Transportation, and of course, our own Mayor signed off. And for me, the key is the first paragraph where it says it has been agreed to by the State Department of Transportation and Maui County to ensure coordination, the Metropolitan Planning Organization is designated to encompass the entire island of Maui. So I'm viewing this as an intergovernmental communication.

MS. SHEPPARD: I believe, yes. May I, Chair?

CHAIR CRIVELLO: Yes.

MS. SHEPPARD: I believe that is an intergovernmental communication, but it's not an agreement about the comprehensive agreement under the MPO because we don't have an MPO yet.

COUNCILMEMBER HOKAMA: Yeah.

MS. SHEPPARD: And the MPA has to be designated by the MPO. So even though this says we intend to have it, it doesn't mean it is.

COUNCILMEMBER HOKAMA: So this not one accurate letter, then?

MS. SHEPPARD: Not from...

COUNCILMEMBER HOKAMA: Because the letter is saying that it has been agreed upon that the entire island of Maui is the area.

MS. SHEPPARD: Yeah, but I don't think they can usurp Federal Code. And the Federal Code says the MPO will designate the MPA. So I think that is like a desire expressed there. I don't think it's a obligation of the MPO yet. So I still think that's subject to determination by the MPO.

COUNCILMEMBER HOKAMA: Well, first it's gonna be determined whether Council allows the County to enter into an intergovernmental agreement.

MS. SHEPPARD: Correct.

COUNCILMEMBER HOKAMA: 'Cause if the answer is no, that's the end of the story. So thank you for that. And so since...I understand your legal perspective and I tend to agree that it doesn't make sense to keep Exhibit "1" still as an attachment because it's not an accurate reflection of what is.

MS. SHEPPARD: But isn't it an accurate reflection of the intent to designate the MPO for this jurisdiction because we hit that census level. So I think it is accurate as the day as it was written. It just doesn't have the authority to designate the MPA. It does say that we're designating the MPO for Maui County. It just doesn't have the authority to say the MPA is this, period --

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COUNCILMEMBER HOKAMA: See, but my point is --

MS. SHEPPARD: --this place.

COUNCILMEMBER HOKAMA: --the Mayor agrees, the County never agreed 'cause the Council never took action to agree, okay. The Mayor agreed with the Governor, that's all I get from this letter, not the County agreed with the Governor. The Mayor agreed, period. So to me this is not an accurate reflection of the County's true position. And I need that to be corrected for the record. Thank you, Chair.

CHAIR CRIVELLO: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Along those same lines, so you say that that's what the intent is here. But as soon as we pass this bill with that exhibit, does that mean we agree to that?

MS. SHEPPARD: No.

COUNCILMEMBER COUCH: Okay.

MS. SHEPPARD: That means that that letter designated the need for an MPO because of the census threshold that we reached. I don't think that that can usurp the idea that the MPA should be the entire island of Maui. I don't think that can usurp the Federal --

COUNCILMEMBER COUCH: Okay.

MS. SHEPPARD: --Code.

COUNCILMEMBER COUCH: Okay.

CHAIR CRIVELLO: Okay? All right, I'm gonna ask that we...as we...yes, Mr. Couch?

COUNCILMEMBER COUCH: I'm sorry. Are you going to do one bill at a time? Because I have some questions on the agreement itself.

CHAIR CRIVELLO: Yes.

COUNCILMEMBER COUCH: I don't know if...

CHAIR CRIVELLO: Yes.

COUNCILMEMBER COUCH: When you wanna do that?

CHAIR CRIVELLO: I'm gonna ask the Department and Corporation Counsel to assist us in going through the...let's deal with the first bill at least to have an understanding that we've...have some clarity and understanding before we can accept, or not accept this bill at the time that I recommend. So, Ms. Sheppard...and if you have any questions,

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Committee Members, I think we have the Department as well as Ms. Sheppard available to ask. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair. On Page 4 of the agreement...

MS. SHEPPARD: The comprehensive agreement?

COUNCILMEMBER COUCH: Comprehensive agreement, sorry.

CHAIR CRIVELLO: Okay, so excuse me. So we're okay with the first bill amending Title 2?

COUNCILMEMBER COUCH: Oh, yeah.

CHAIR CRIVELLO: Okay.

COUNCILMEMBER COUCH: Sorry.

CHAIR CRIVELLO: Okay, thank you.

COUNCILMEMBER HOKAMA: Chair?

CHAIR CRIVELLO: Yes.

COUNCILMEMBER HOKAMA: My only request to you is as part of the enabling legislation for the Code, I prefer the policy board makeup be in the Code also. I think it's important enough to have standing in the Code, and not just be part of an administrative rule.

CHAIR CRIVELLO: Okay, so you're referring to the Rules?

COUNCILMEMBER HOKAMA: Composition and Authority of Membership I think should be also part of the Code, and not be only part of the Rules and administrative support for the ordinance itself. But I think the makeup of the board is important enough to be in the County Code itself. So it could be, you know, 035 or whatever it be, but I would say for many of our people who follow things, they're not gonna read administrative rules. They're gonna look at State statute and County ordinances. And so I would have us consider placing the makeup of the seven members, three Councilors, three Departments, one State official to be considered to be placed in Chapter 2.35.

CHAIR CRIVELLO: Two point three five. You have that, Ms. Sheppard?

MS. SHEPPARD: I'm sorry. I was just checking the Federal Code. What is the question? You want me to add a 2.35 something?

COUNCILMEMBER HOKAMA: Well, wherever is the appropriate place. But I think we need to add the membership within the Code.

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CHAIR CRIVELLO: If we look at Composition and Authority that Mr. Hokama's referring to, Members.

COUNCILMEMBER HOKAMA: So it could be another subsection of 030 which is the Organization, powers, duties, and functions.

MS. SHEPPARD: So you want that redundant in the Code? That same section, you want it added to the Code under the 2 point....

COUNCILMEMBER HOKAMA: So my thing is you can knock it out of the Rules 'cause it's in the Code, but I prefer it in the Code. I want it upfront for anybody who wants to see it can find it.

MS. SHEPPARD: Okay.

CHAIR CRIVELLO: Do we have that? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair. And at this point, I'm not, you know, I can be convinced otherwise, I don't know that I would support that only because this is supposed to be an independent agency as opposed to, you know...so at that point when it gets to a point where if they decide they want more people from the public to come on, they can change their agreement. Then they go to the Council and the Administration to amend the agreement. But to have to go to the County to, if they're independent from the County, to have to go to them to change their makeup --

CHAIR CRIVELLO: Okay.

COUNCILMEMBER COUCH: --I don't think is...

CHAIR CRIVELLO: Okay.

COUNCILMEMBER COUCH: First of all, I don't know if it's legal or not I mean.

CHAIR CRIVELLO: Okay. Ms. Sheppard?

MS. SHEPPARD: I just wanted to add that under the proposed Section 2.35.030 Organization, powers, duties, and functions, Subsection A says the MPO shall operate according to executed comprehensive agreements. And the comprehensive agreement provides for the membership, so I do believe it's already kind of in the Code, if this is approved.

COUNCILMEMBER HOKAMA: That's not what I asked. I said I wanted specific name of positions, not referral to one damn agreement.

CHAIR CRIVELLO: Okay, so, Ms. Sheppard, can you respond to Mr. Hokama's concerns and his request, and where we can note that, as also clarifying what Mr. Couch is saying

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in regards to independence versus the Rules? But we do also have, Mr. Couch, references to the different Codes in our revised bill anyway, so.

MS. SHEPPARD: Well, I'm not sure. Are you asking me to change this submission to you by...well, repeating what's in the comprehensive agreement section in the Code? Is that what is being chosen now?

CHAIR CRIVELLO: I think we...if I hear Mr. Hokama, he wants us to add that as part of it in identifying the said positions.

MS. SHEPPARD: And is that the decision of the Committee?

COUNCILMEMBER HOKAMA: It is my request to the Chair.

CHAIR CRIVELLO: It is Mr. Hokama's request, and we'll deal with that at the time. Do I have...

COUNCILMEMBER GUZMAN: Yeah, I would support that.

CHAIR CRIVELLO: Okay.

COUNCILMEMBER GUZMAN: Also, you know, Chair, sometimes these agreements can change, and they do have addendums attached to them later on. So the makeup of the, you know, members can be changed. It's more easily to be changed via agreement than it is via an amendment to the Code.

CHAIR CRIVELLO: Right.

COUNCILMEMBER GUZMAN: So as far as the conflict of interest, that needs to be, you know, if it is an independent board, that needs to be analyzed as well. You know, so...

CHAIR CRIVELLO: Oh, I think that will be determined when they approve their bylaws 'cause it is required for them to have their conflict of interest policy in place.

COUNCILMEMBER GUZMAN: No, I was just trying to address Mr. Couch's concern of whether we can in fact put it in the Code, him stating that it should an independent board. So I would reference to the HRS chapter on corporations because they do have required positions of, you know, shareholders, president, vice, you know, treasurer, things like that. There's positions that are required under corporation law under our HRS. So I would probably designate that in the same kind of category that we're requiring certain positions within the Code. But that needs to be all verified, you know, an analysis be conducted. Thank you, Chair.

CHAIR CRIVELLO: Thank you. I appreciate it. Ms. Sheppard, I think your assistance is needed here as to how we want to respond to Mr. Hokama's concerns and the comments from Mr. Guzman as well as clarity for Mr. Couch. Mr. Couch?

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COUNCILMEMBER COUCH: Thank you, Madam Chair. And I'm, you know, Mr. Guzman was right. The agreement can change, but correct if I'm wrong, Corp. Counsel, that if the agreement changed, it has to come through Council to be approved.

MS. SHEPPARD: If it's in the Code, if this is specified...

COUNCILMEMBER COUCH: No, I'm talking about in the...if it was an agreement versus in the Code. My stance is if it's in the agreement, and the agreement changes, it has to come before Council to change because the agreement changed.

MS. SHEPPARD: Yes.

COUNCILMEMBER COUCH: So --

MS. SHEPPARD: That is correct.

COUNCILMEMBER COUCH: --the question is do we want Council to have one reading, or two readings on the change of the agreement? If we put it in the Code, then it has to be two readings, you know, first and second 'cause --

MS. SHEPPARD: Yes,

COUNCILMEMBER COUCH: --it's a bill. It's not a resolution. Whereas, if it was an agreement, it would be in the form of a resolution that the Council accepts that change of agreement.

MS. SHEPPARD: Yes. You're...Chair?

CHAIR CRIVELLO: Yes.

MS. SHEPPARD: I believe that is an accurate statement which is...just because you're...I mean just as you're looking at two different Code sections now, we would have to look at two Code sections again if there's gonna be a change in the membership. If it's only in the one section, then it would be just that one section that gets changed, which is then an amendment by resolution.

COUNCILMEMBER COUCH: Okay, thank you, Chair. I still am not convinced it needs to be in the Code.

CHAIR CRIVELLO: Okay. As we try and figure it out, we're gonna go that further. In the...I wanna go back to the...A Bill for an Ordinance Amending Title 2, on the first page. Okay, so the second to the last paragraph, it says, in the 2010 United States Census, the geographic area encompassing Kahului, Wailuku, and Paia was found to have a population exceeding the threshold of 50,000. In June 2013, the Governor of the State of Hawaii advised that the State Department of Transportation and the County had agreed to designate the entire island of Maui a metropolitan planning area to ensure a coordinated and integrated planning effort as reflected in Exhibit "1,"

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attached hereto and incorporated herein by reference. So I think we go back to that Exhibit "1" when you mentioned it's just an attachment. And, but according to the bill it's really...it's referencing Exhibit "1" as like it is according...we're in agreement to that, and then I think that's where Mr. Hokama's concerns come about. So I think it's...does this...is this . . .*(inaudible)*. . . as far as the June 18, 2013 Exhibit "1" that you have attached to this bill? And if it's not, then we should not have the June...that comment on the June 2013.

MS. SHEPPARD: That could be omitted.

CHAIR CRIVELLO: Okay.

COUNCILMEMBER COUCH: Yeah, Madam Chair, if you needed a motion, I move that we remove that paragraph. Or if you wanna do it by --

CHAIR CRIVELLO: Consensus.

COUNCILMEMBER COUCH: --consensus.

CHAIR CRIVELLO: Okay, so are we okay to remove this paragraph, Committee?

COUNCILMEMBERS: Consensus.

**COUNCILMEMBERS VOICED CONSENSUS** (excused: GCB, MPV).

**ACTION: APPROVE amendment.**

CHAIR CRIVELLO: Okay. All right. Thank you. So we got that, Ms. Sheppard. And then we are now trying to determine at this point if you can add in, or not add in, Mr. Hokama's concerns about the composition, I guess, and authority of the members, and that would be part of the comprehensive agreement. I guess I'm looking for your legal advice on this. Or does the reference to the HRS in regarding to the formulation of corporations or an entity, with reference to that, would be sufficient?

MS. SHEPPARD: I apologize. I don't know what the HRS corporations section reads so I can't really opine about that. But if you want to put in the membership specifically in 2.35.030, Subsection A as delineated, you can do that. It just makes it more cumbersome anytime there's any kind of changes. Because the policy board is self-governing, they can change their membership just through Council agreeing to an amendment of that comprehensive agreement. So I think there's no loss of power by having it only in the comprehensive agreement.

CHAIR CRIVELLO: Okay, so to have it in the comprehensive agreement, or do we want it under Chapter 2.35, Mr. Hokama, where your concerns are? With the amended bill.

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COUNCILMEMBER HOKAMA: You know, for me, Chair, in my experience, the more you put it in, less excuse of people saying they didn't know. So I don't have a problem adding it in. I don't have a problem it needs to go through an additional reading from Council to get approved. I want it difficult to change. So for me, whatever is the Council's jurisdiction, I'm gonna work hard to retain the jurisdiction. This board has its own powers by Federal law, and that's fine with me. I just control...we just control County money. That's good enough for me.

CHAIR CRIVELLO: Ms. Dagdag-Andaya?

MS. DAGDAG-ANDAYA: Chair, I'm looking at the City and County of Honolulu Code, their City Code, and there is language in there regarding committee membership. So it's the designation of, let's see...it's in their Section 4-2.3 under Committee Membership. And it provides information about the Mayor's appointees to the policy committee. I mean they have their own language in here. But I think maybe we can work together in putting in our own language in our Code that would specify the membership as it relates to just those from the County. I think we can do that.

CHAIR CRIVELLO: Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, I just reiterate that I would support Mr. Hokama's request to put it in the Code. I find that to be more, I guess, permanent, or at least more...making it more difficult for it to be changed.

CHAIR CRIVELLO: Thank you. How about you, Mr. Couch? Mr. Carroll? I'm looking for consensus.

COUNCILMEMBER COUCH: No consensus.

CHAIR CRIVELLO: No consensus.

COUNCILMEMBER COUCH: Madam Chair? The only reason it still, it's supposed to be, according to HRS and Federal Code, an independent body. And if there's Code in the Maui County Code that says, well, you're not really independent. If you wanna change your makeup, you have to come to us. And if we decide no, then too bad. It's no longer independent in my mind. Yes, I see that it's in Oahu's, you know. I just still think if we want this to be an independent board, then it shouldn't be in the Code. It should be in the agreement.

CHAIR CRIVELLO: I hear you. You know, but...and then the only...I guess maybe the Department of Transportation can help me to clarify. Say this does move forward, who...and then the Chair of the Council's role would be to appoint the three Council, respective Councilmembers. Who decides who else...is it then...is it an automatic that it's the members of the Departments as well as citizens? To be part of the membership, who determines who sits on there initially? And I think that's where, you know...

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UNIDENTIFIED SPEAKER: It's right there.

COUNCILMEMBER COUCH: Madam Chair, if I may?

CHAIR CRIVELLO: No, I know it says here. Composition and Authority, Members. The policy board shall be composed of, you know. What I'm trying to clarify is that the only part where the Council is, with looking at all of this, is in reference to being part of the composition of membership. So I guess, Mr. Hokama, so we can have a better understanding and maybe I can put this forward, in your opinion what...how it's determined on the membership is not sufficient and you want...my understanding is for the Council to have more oversight on how the membership is changed or created?

COUNCILMEMBER HOKAMA: You know from one perspective, I understand Mr. Couch's point, and he brings up a good point. My thing is if then it is truly what, you know, the Feds want which is an independent, then why ask me and why ask this Council to create it through the Code?

CHAIR CRIVELLO: Well, that's what I asked earlier?

COUNCILMEMBER HOKAMA: Okay. Come 'on.

CHAIR CRIVELLO: That's what I asked earlier.

COUNCILMEMBER HOKAMA: Why ask us for this legislation then?

CHAIR CRIVELLO: Right.

COUNCILMEMBER HOKAMA: Just file this if that's what they really want.

CHAIR CRIVELLO: Right. And that's the question that was posed, you know.

COUNCILMEMBER HOKAMA: You know, and that's why it's a interesting situation with this --

CHAIR CRIVELLO: It is.

COUNCILMEMBER HOKAMA: --because they want this independence, but they're telling us we have to create it.

CHAIR CRIVELLO: Mr. Couch?

COUNCILMEMBER COUCH: Technically, I mean Mr. Hokama has an excellent point. Technically, I would imagine it should be a Charter amendment then.

CHAIR CRIVELLO: We're not there...

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COUNCILMEMBER COUCH: I know we're not there, but I mean that's where...that's the level I think it should be. But that's gonna take forever.

CHAIR CRIVELLO: Yeah.

COUNCILMEMBER COUCH: Yeah, so at this point, yeah, now we have to have it in Code, but then why do we have to have it in Code if it's something that is mandated by the Federal government?

CHAIR CRIVELLO: And yet it's the...

UNIDENTIFIED SPEAKER: State law.

CHAIR CRIVELLO: Yeah.

COUNCILMEMBER COUCH: And State law.

CHAIR CRIVELLO: Right, right, yeah. So, and yet we're establishing the MPO in the County Code. So I guess we're semi...if it's established, it's a semi, you know.

COUNCILMEMBER HOKAMA: And again, Chair, I just bring up, yeah, in the drafting, 010B, the intent of this chapter is to establish the MPO. So if they're telling us this is your responsibility and like anything if we're the ones gonna create this creature, I really wanna retain the right to kill this creature, too.

CHAIR CRIVELLO: Okay. Let's go for it, let's have a motion from that, Mr. Hokama. May I have a motion?

COUNCILMEMBER HOKAMA: On which, killing the creature? Okay, I'll just make the motion that the makeup of the MPO should be placed within the County Code Chapter 2.35.

COUNCILMEMBER GUZMAN: Second.

CHAIR CRIVELLO: We have a motion as such to reference the makeup of the membership. Mr. Couch?

COUNCILMEMBER COUCH: Does that include removing it from the agreement?

COUNCILMEMBER HOKAMA: No.

CHAIR CRIVELLO: No.

COUNCILMEMBER COUCH: No, so you leave it in the agreement so if you have to change it, you have to change the agreement and have a resolution from Council. Now we have three steps. Resolution from Council to accept the agreement, and then also a bill to change the Maui County Code which has to be heard twice. So now we got three

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cracks at it. So we're adding a little bit more red tape, which I understand and if it goes that way, that's what happens. But I just want the Members to know that that's now three cracks 'cause you have to change the agreement which is a Council resolution, and then you have to change the Code which is to a bill, which is two hearings, first and second reading.

COUNCILMEMBER HOKAMA: Well, then again though, you look at the Charter, resolutions regarding the effect of law can have two readings, and that's why certain resolutions we pass two readings that the Charter requires. So again, depending upon the interpretation of the status regarding the resolution component, Council may do two readings on it, like we've done on other resolutions every year through the budget process.

CHAIR CRIVELLO: Okay, so --

COUNCILMEMBER HOKAMA: And again, Chair...

CHAIR CRIVELLO: --any further discussion?

COUNCILMEMBER HOKAMA: Thank you, Mr. Couch. I understand that, and I like that additional.

CHAIR CRIVELLO: So we're gonna put in the amendment. Ms. Sheppard, you've got it?

COUNCILMEMBER COUCH: Wait, we have to vote on it.

CHAIR CRIVELLO: No, I know.

COUNCILMEMBER COUCH: Oh, okay.

CHAIR CRIVELLO: I'm sorry. It was my intention.

COUNCILMEMBER COUCH: Oh, okay, sorry.

CHAIR CRIVELLO: Okay, thank you, Mr. Couch. So no further discussion, I'd like to call for the approval of the motion. All those in favor?

COUNCILMEMBERS: Aye.

CHAIR CRIVELLO: Opposition?

COUNCILMEMBER COUCH: No.

CHAIR CRIVELLO: None. So we have Mr. Carroll, Mr. Couch, Mr. Guzman, Mr. Hokama, and myself, five "yes."

COUNCILMEMBER COUCH: No, no, no. I said "no."



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**COUNCILMEMBERS VOICED NO OBJECTIONS** (excused: GCB, MPV).

**ACTION: APPROVE amendment.**

CHAIR CRIVELLO: Yeah, thank you. Anything further? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair. On the agreement on Page 4.

CHAIR CRIVELLO: Agreement. Thank you.

COUNCILMEMBER COUCH: Where it says, Exception, No. 3, Exception. Less than a quorum of Policy Board members may discuss Maui MPO business, without limitation, outside of a duly noticed meeting of the Policy Board, pursuant to Section 297D-9(c) [sic], HRS. Which is very interesting, I wish we had that capability. However, does that, you know, if they discuss it outside, can they vote? I know there won't be a quorum --

CHAIR CRIVELLO: You won't have a quorum.

COUNCILMEMBER COUCH: --but it isn't...yeah, they don't have a quorum, but they can certainly discuss and commit to a vote?

CHAIR CRIVELLO: Ms. Sheppard?

MS. SHEPPARD: I don't know that they can commit to a vote, but they can discuss.

COUNCILMEMBER COUCH: Okay, wow. That's...how do we get that in this...

MS. SHEPPARD: The State legislation allowed that.

COUNCILMEMBER COUCH: Okay, all right. Thank you, Madam Chair, that was one. Now for the language that we just put into the Code where it says three members of the Maui County Council appointed by Council Chair, is it a situation where the Chair if they decide they don't like the way it's going and wants to remove some of the members, can that happen? There's nothing in there about removing a member, and I'm a little concerned that if you have...and not saying that this Chair, or any Chair, that of anybody here would do that. But at some time somebody could say, well, I don't know, I don't like the way Councilmember Sheppard is handling this committee, so I'm gonna remove that person and put a new person in. Is there any safeguard against that at this point?

CHAIR CRIVELLO: I would...if I may before Ms. Sheppard. Maybe you can...well, wouldn't the bylaws of the MPO board policy...

COUNCILMEMBER COUCH: Not if this is now in Code.

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CHAIR CRIVELLO: Okay.

COUNCILMEMBER COUCH: In my opinion. I'm not a lawyer.

CHAIR CRIVELLO: Yeah, okay. Ms. Sheppard?

MS. SHEPPARD: I think the power of appointment also includes the power of removal.

COUNCILMEMBER HOKAMA: I would say so.

CHAIR CRIVELLO: That's the interpretation of Corporation Counsel.

COUNCILMEMBER COUCH: Is that something that this body wants? I know...and again, not necessarily us, but further down the line. Is this something this body wants?

CHAIR CRIVELLO: Mr. Hokama?

COUNCILMEMBER HOKAMA: Madam Chairman, I wasn't really thinking about that. I was thinking about if anything we should be putting what we believe is an appropriate term for the members to sit on this board. 'Cause right now there's no term as I understand it. We just said that they will be comprised and how they'll be placed on the board, but I haven't seen about the term of the board, whether --

CHAIR CRIVELLO: Would that be...

COUNCILMEMBER HOKAMA: --and again for me, Council should be automatic. At the maximum would be two years because that's the end of their term of office. So that would make general sense, right? Or since they're independent...well they still gotta be a sitting Councilmember to qualify.

CHAIR CRIVELLO: Ms. Sheppard?

MS. SHEPPARD: Yes, I'd like to respond, thank you. Two-seventy-nine D(6) of the Hawaii State law says that as appropriate any agreement or committee bylaws that established policy board membership may also include specifications regarding terms, term limits of members, alternates, quorums, and other considerations.

COUNCILMEMBER HOKAMA: Okay.

COUNCILMEMBER COUCH: So does that...oh, sorry. Madam Chair?

COUNCILMEMBER HOKAMA: Yeah, go ahead, Mr. Couch.

COUNCILMEMBER COUCH: Is that...

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CHAIR CRIVELLO: Yeah, so but I just wanna add what I'm hearing is, it's from the HRS...is the...actually bylaws will determine, you know, and obviously if you're termed out or you're elected out --

COUNCILMEMBER COUCH: Right.

CHAIR CRIVELLO: --then that's, I think, an obvious that you no longer...

COUNCILMEMBER COUCH: So I guess I would like to hear that again. I thought she said it could be done in bylaws, or the agreement.

MS. SHEPPARD: Under the State law, it does say as appropriate, any agreement or committee bylaws that established policy board membership may also include specifications regarding ex officio membership, terms, term limits of members, member alternates, quorums, and other considerations as permitted by law. So it can be put in the comprehensive agreement.

COUNCILMEMBER COUCH: Or in the bylaws and if...

MS. SHEPPARD: Or it can be left up to the policy board when they start effectuating their bylaws.

COUNCILMEMBER COUCH: Right.

CHAIR CRIVELLO: Yeah.

COUNCILMEMBER COUCH: Okay, I just wanna make sure that somebody --

CHAIR CRIVELLO: Okay.

COUNCILMEMBER COUCH: --who've...okay, thank you.

CHAIR CRIVELLO: Okay. Mr. Hokama?

COUNCILMEMBER HOKAMA: Chair, I just would like to ask a question so I get a good sense. On this ordinance we currently talking about which is the second ordinance, Chair, there is attached to the bill an Exhibit "A." So approving the ordinance also approves Exhibit "A?" That's what I need to know, because then I would say I think we have --

CHAIR CRIVELLO: Exhibit "A."

COUNCILMEMBER HOKAMA: --the jurisdiction if we choose to adjust the exhibit because that's part of the approval. Or if you tell me, well, it's take it or leave it, then I know how to vote on this request for this specific bill. So I just wanted to see if this is an agreement that is still fluid enough for us to make revisions to, or this is in final form and we take it, or leave it?

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CHAIR CRIVELLO: I think we talked about, at least with the first bill, to remove the Exhibit "1," and the paragraph which we talk about it, which is mentioned. But Exhibit "A" --

COUNCILMEMBER HOKAMA: Which is the --

CHAIR CRIVELLO: --is the comprehensive agreement.

COUNCILMEMBER HOKAMA: --comprehensive agreement. Yeah, that exhibit, Chairman. Ms. Sheppard, can you...would you mind giving us comment, please?

MS. SHEPPARD: Yeah, thank you. Chair? Yes, if you agree to this bill as written, the Exhibit "A" proposed would be the one that you're approving. If you wanna change that before you enter into this bill, then you would want to change that.

COUNCILMEMBER HOKAMA: Thank you for that clarification.

CHAIR CRIVELLO: Mr. Couch?

COUNCILMEMBER COUCH: But after the bill is passed, and that agreement is solidified, it can't be changed unless the Council approves the agreement 'cause the Council approved this very agreement.

MS. SHEPPARD: Right.

COUNCILMEMBER COUCH: And if it changes, Council has to approve that again by resolution.

MS. SHEPPARD: Yes.

CHAIR CRIVELLO: Yes.

COUNCILMEMBER COUCH: Okay, and if they change the composition, they also have to approve it by a bill.

MS. SHEPPARD: Yes.

COUNCILMEMBER COUCH: Okay, thank you. I don't know if that answers Mr. Hokama's question.

CHAIR CRIVELLO: So nothing necessitates for us to remove the so-called Exhibit "A" as --

COUNCILMEMBER COUCH: Right.

CHAIR CRIVELLO: --listed, yeah. We continue, anymore comments? Mr. Couch?

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COUNCILMEMBER COUCH: Thank you. Members, on Page 6, No. B, this talks about a technical advisory committee, and it goes on to say the policy board shall determine the members of the technical advisory committee, the chair of which may be a voting member of the policy board. Does that now mean that the policy board has eight members, eight voting members? So you're saying, if one of the members of the policy board wants to be on this technical advisory committee, they pretty much have to be the Chair? I just wanna get that...

COUNCILMEMBER HOKAMA: I think that was drafted with the alternates yet.

COUNCILMEMBER COUCH: Yeah, yeah, yeah.

COUNCILMEMBER HOKAMA: It makes sense with the alternates.

COUNCILMEMBER COUCH: Yeah. I'm just wanting to make sure that it's clear that there's not an eighth...now that that person is now, not an eighth member, and therefore must be a voting member of the policy board.

MS. SHEPPARD: I don't think it must be a voting member of the policy board. I think it...it says it may be a voting member.

COUNCILMEMBER COUCH: Okay.

MS. SHEPPARD: So I think it doesn't exclude the policy board members from being --

COUNCILMEMBER COUCH: Gotcha.

MS. SHEPPARD: --the Chair of that committee.

COUNCILMEMBER COUCH: Okay, that answers my question, Madam Chair. Thank you.

MS. SHEPPARD: Can I draw the Chair's attention to one thing? You had a question earlier and we removed it from the other Code section, and on Page 2 of the comprehensive agreement, we again refer to that June 18<sup>th</sup> letter. I don't think it's erroneous to refer to the letter because it designates the MPO, but perhaps you would want it ended after the word, "designated as a Metropolitan Planning Organization," then omit the language "and identifying the entire island of Maui as an MPA." But do keep the reference in there. I don't think it obligates anybody to declare the entire island of Maui as an MPA because that's still under Federal law, the domain of the MPO. But if you wanted to correct that one section by omitting that language, then it would be consistent with what you've made in the other change.

COUNCILMEMBER COUCH: No objections.

CHAIR CRIVELLO: Members? Are you folks okay with that?

MS. SHEPPARD: Was that clear?

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CHAIR CRIVELLO: Mr. Hokama?

COUNCILMEMBER HOKAMA: And thank you for bringing that. You know, in general I can be very supportive of that. The one that actually makes me, and I appreciate it, 'cause she made me reread the proposed ordinance again, Chair, is Section 2 of Page 2 of the second bill for an ordinance, especially as it regards to this exhibit that we're discussing as part of this consideration.

CHAIR CRIVELLO: Oh, yeah, I was gonna bring this up, yeah.

COUNCILMEMBER HOKAMA: As I understand, I'm not supportive of Section 2 because right now the way I read Section 2 is there, if there was any revisions to Exhibit "A," it can just be done with the Mayor's signature. I won't agree to that.

CHAIR CRIVELLO: Okay, because it...pursuant to Section 2.20.020 Maui County Code, the Council of the County of Maui hereby authorizes the Mayor to enter into an intergovernmental agreement, in the form attached hereto as Exhibit "A," which is our comprehensive agreement, all other necessary documents relating to the agreement, and any amendments thereto.

COUNCILMEMBER HOKAMA: I don't have one issue 'cause we need to allow him to sign the initial document.

COUNCILMEMBER COUCH: Right.

COUNCILMEMBER HOKAMA: But on the amendments, no.

CHAIR CRIVELLO: Okay.

COUNCILMEMBER COUCH: Right, agreed.

CHAIR CRIVELLO: Consensus? Mr. Couch?

COUNCILMEMBER COUCH: Mostly I would agree with that. The question is, is this standard boiler plate language that we've always had? If it is, then we have a huge problem with all the other intergovernmental agreements we agreed to. But I certainly agree that we need to remove that.

CHAIR CRIVELLO: Okay, so I have consensus?

COUNCILMEMBERS: Consensus.

**COUNCILMEMBERS VOICED CONSENSUS** (excused: GCB, MPV).

CHAIR CRIVELLO: Okay, consensus.

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**ACTION: APPROVE amendment.**

CHAIR CRIVELLO: You've got that, Ms. Sheppard?

MS. SHEPPARD: Yeah, more or less, yeah.

CHAIR CRIVELLO: Okay, moving on. Anything further for us to address?

COUNCILMEMBER COUCH: One last one, Madam Chair.

CHAIR CRIVELLO: Yes, Mr. Couch?

COUNCILMEMBER COUCH: On Page 9, where it talks...actually it starts on 8, No. 3 Delegation. It talks about who can have delegates. The State DOT person may designate a delegate. The Department Directors may designate the Deputy Director. Doesn't say anything about Council. What if we have a situation where the Councilmember can't make it, can they designate a delegate, or are we just out of luck on that? And is that a Sunshine Law issue thing, or I don't know?

CHAIR CRIVELLO: I know we've, in Staff meetings, we've sort of tossed that around, and I have to say, you know, I sort of conclude that we have three Council people, and it's our...if we accept...if the Councilmember accepts to serve, then it's their kuleana to show up for meetings and what have you. And the other two are, or one or the other, could be there on their behalf, as opposed to the Department of Transportation Director, and/or Deputy so...

COUNCILMEMBER COUCH: And I'm okay with that. It's just sometimes, you know, somebody gets sick.

CHAIR CRIVELLO: Of course.

COUNCILMEMBER COUCH: And so if all the other people get a delegate, why can't the Council? But I understand also that, you know, we have voting responsibilities here. So if you add a fourth Councilmember, that...I would think you could only add another Councilmember as your delegate. Then all of a sudden you have to say, well, in order to...

CHAIR CRIVELLO: And who will it be?

COUNCILMEMBER COUCH: Correct.

CHAIR CRIVELLO: I mean does the Chair have to appoint it?

COUNCILMEMBER COUCH: Correct.

CHAIR CRIVELLO: So it gets kind of...

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COUNCILMEMBER COUCH: So it does get a little bit crazy. I just wanted to discuss that. I don't know that we need to make a change on it. I just...

CHAIR CRIVELLO: I wouldn't go in for a change at this time. Ms. Sheppard?

MS. SHEPPARD: At the last meeting, it was discussed whether or not you wanted ex officio members, and the decision of the Committee was you wanted all three voting Members.

COUNCILMEMBER COUCH: Right.

MS. SHEPPARD: So when we took out the ex officio members, we took out the delegation of appointing an ex officio member in the stead of the serving Member.

COUNCILMEMBER COUCH: Gotcha, okay.

CHAIR CRIVELLO: Mr. Hokama?

COUNCILMEMBER HOKAMA: And so since it is not at this point a prohibited option, I would assume a policy board member can actually give his vote by proxy, by writing to the policy board Director. That I would...it says, designate the substitute. I can say I'm gonna give it to Member so-and-so with my proxy to vote on my behalf since it is not prohibited. I don't see why it would...that wouldn't be one of the options of the policy board member.

CHAIR CRIVELLO: I understand what you're saying. But I would think at that time, it would come from policies from within the board as to how they would determine how proxy voting will be handled. So I don't know, in my opinion, I don't know why we need to have that listed. Unless, Members, part of the delegation that what we're talking about if you do want, in addition to your three Councilmembers, an alternate, to satisfy the, you know, unavailability of a policy board. In reviewing this, I chose not to have it because we've got nine Members and --

COUNCILMEMBER COUCH: Right.

CHAIR CRIVELLO: --you know.

COUNCILMEMBER COUCH: And, Madam Chair, I agree, and also I would have concerns about Sunshine Law issues.

CHAIR CRIVELLO: Right, right.

COUNCILMEMBER COUCH: So I'm fine with leaving it. I just wanted to hear what the discussion was. Almost done, Madam Chair.

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CHAIR CRIVELLO: Okay. Any...okay, thank you. Thank you, Committee. Anything further that we need to review and as such? We're good?

COUNCILMEMBER COUCH: No. So do you need a motion to pass these two bills --

CHAIR CRIVELLO: I will --

COUNCILMEMBER COUCH: --as amended?

CHAIR CRIVELLO: --entertain a motion as long as I'm satisfied that we have no further discussion, or comments, or any other...yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, just on the last item that we were discussing. Did we come to terms that one of, the designated Councilmember who has voting rights can designate a substitute?

CHAIR CRIVELLO: No, no, no, we've left it as such. We have three voting Members.

COUNCILMEMBER GUZMAN: Oh, there were three voting Members?

CHAIR CRIVELLO: We have three.

COUNCILMEMBER GUZMAN: Not just one voting Member.

CHAIR CRIVELLO: No, we have three voting Members --

COUNCILMEMBER GUZMAN: Okay.

CHAIR CRIVELLO: --for Council, based on that basis. Any...I'd like to at this time call for a brief recess with the request from Staff. . . .*(gavel)*. . .

**RECESS: 3:54 p.m.**

**RECONVENE: 4:01 p.m.**

CHAIR CRIVELLO: . . .*(gavel)*. . . The Housing, Human Services, and Transportation Committee will reconvene. Thank you, Committee Members, I appreciate the recess. And I'm gonna ask you to turn to...go back to what we've made consensus on, on the, A Bill for an...Authorizing the Mayor of the County of Maui. So if we go back to Page 2, we need to revisit Section 2. And I'm gonna ask Ms. Sheppard to please give us an explanation why we need to revisit this and do a consideration again on the consensus.

MS. SHEPPARD: Thank you, Chair. Section 2 provided that Section 2.20.020 of the Maui County Code allows the Mayor to enter into an IGA, intergovernmental agreement, like the comprehensive agreement, in the form attached to Exhibit "A." But then there was a discussion about amendments. I thought that we were only striking the last phrase

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of that, "and any amendments thereto," but I was apprised that the consensus was to strike all of Section 2.

UNIDENTIFIED SPEAKER: No.

MS. SHEPPARD: Is the consensus...I don't know for sure.

CHAIR CRIVELLO: Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, Madam Chair, and thank you for asking for that clarification, Corporation Counsel. I think we need to be very clear on the record. What I had proposed, and what I believe the Committee had supported 'cause of the discussion we had, was that under Section 2, we basically agree all the way up to Exhibit "A," and I would put the period right there at the end of Exhibit "A."

CHAIR CRIVELLO: Okay.

COUNCILMEMBER HOKAMA: And we had consensus to delete all other words --

CHAIR CRIVELLO: Yes.

COUNCILMEMBER HOKAMA: --after Exhibit "A."

MS. SHEPPARD: All right, my only comment to that would be if there is agreements that deal with the County administering the support services, do you want that...all of those individual agreements to come back here if there's no financial impact?

CHAIR CRIVELLO: What are you referring to?

MS. SHEPPARD: Under 2.20.020 of the Maui County Code, the Mayor can enter into agreements or amendments to those agreements which don't place financial obligations on the County or any department or agency thereof. And that's stated in Section 1 at the end, on the top of that page. And then Section 2 --

COUNCILMEMBER HOKAMA: Understand.

MS. SHEPPARD: --is a little bit inconsistent with that if he says, yeah, but he can't enter any other necessary documents relating to the agreement, but he could under the Code if they don't have a financial impact. So I just wanna make sure that we've got this not inconsistent.

COUNCILMEMBER HOKAMA: Yeah, I know what I'm...the limitations I'm putting on the Administration, yes.

MS. SHEPPARD: Okay, so you're leaving --

COUNCILMEMBER HOKAMA: All others...

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MS. SHEPPARD: --Section 1 as is.

COUNCILMEMBER HOKAMA: Yes, because for me with the creation of this new baby, I think Council needs to know exactly what is being created. And again, there'll be...there's times we have disagreements of interpreting on what is one financial commitment.

COUNCILMEMBER COUCH: Right.

COUNCILMEMBER HOKAMA: So I would just prefer to be safe and that the Council is at least aware of what the County will be agreeing to prior to an agreement. And that way when things come forward, we're prepared to deal with those issues. So that's how I saw our action, Chairman.

CHAIR CRIVELLO: Thank you.

COUNCILMEMBER HOKAMA: Thank you.

CHAIR CRIVELLO: So our original consensus is consensus to delete that consensus and now I ask for consensus of this amendment. Do I have consensus?

COUNCILMEMBERS: Yes.

**COUNCILMEMBERS VOICED CONSENSUS** (excused: GCB, MPV).

**ACTION: APPROVE amendment.**

CHAIR CRIVELLO: Okay, thank you. So any other addition, amendments, questions or further comments in regards...

COUNCILMEMBER HOKAMA: Yeah, one please, Chair?

CHAIR CRIVELLO: Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Page 11, Madam Chairman, under number, Roman No. V, Section A, the last sentence talks about the agreement will be reviewed and reevaluated by the parties, and you know, and the agreement is that the parties will try to work it out. I'm just trying to understand who is the parties? Is it just the State and the County's the parties? Or is the parties all seven members that make up the policy board, is the parties? I just want some, you know, maybe if someone could give us some good understanding of what is the parties, please?

CHAIR CRIVELLO: I'm gonna ask Ms. Sheppard first of all to try and define parties.

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MS. SHEPPARD: The parties addressed on Page 12 would include the Governor, and the Mayor for the County of Maui, who is authorized to enter into the comprehensive agreement by this ordinance. And then apparently the way this is structured, the ordinance is structured reserving the authority to make any amendments thereto, also subject to Council approval of any further amendment to IGA. So I believe that if there were to be an amendment, the amendment before the Mayor could sign it, would have to come back through you for approval before the Mayor could sign into an amendment of the IGA, the comprehensive agreement.

COUNCILMEMBER HOKAMA: So that's kinda interesting for me because we're asking the State and County, as the parties, to agree. But this is about a agreement about the seven-member policy board.

COUNCILMEMBER COUCH: Right.

COUNCILMEMBER HOKAMA: So you would think you would want the policy to have understanding and agreement of this document.

MS. SHEPPARD: But there's no policy board yet to sign this agreement. So in order to establish the policy board, you have to have a comprehensive agreement --

CHAIR CRIVELLO: Right.

MS. SHEPPARD: --approved by this body, by the Council, and then you go from there.

COUNCILMEMBER HOKAMA: I don't know whether we're the chicken, or we're the egg.

UNIDENTIFIED SPEAKER: Yeah, yeah, yeah.

COUNCILMEMBER HOKAMA: But thank you for your comment, Counselor.

CHAIR CRIVELLO: Any further comments or questions in regards to our agenda items today? If not...yes, Mr. Couch?

COUNCILMEMBER COUCH: No, no, I'm ready for the motion.

CHAIR CRIVELLO: Oh, okay.

COUNCILMEMBER COUCH: Oh, wait.

CHAIR CRIVELLO: And...

COUNCILMEMBER HOKAMA: Just one quick last one.

CHAIR CRIVELLO: Yes, Mr. Hokama?

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COUNCILMEMBER HOKAMA: On page...it's regarding the Council's committees, Madam Chairman.

CHAIR CRIVELLO: Page?

COUNCILMEMBER HOKAMA: One quick one.

CHAIR CRIVELLO: Under Members?

COUNCILMEMBER HOKAMA: Page 7 I believe, 7-h.

CHAIR CRIVELLO: Okay.

COUNCILMEMBER HOKAMA: Who would make the determination whether the Council's meeting, or the Council's Committee Budget meetings, will be viewed as citizen forums? Who makes that determination? If it's a Budget Committee meeting, as the Chairman do I make the determination whether it's a public forum or not? Or does the future potential policy board Director say that, well since Council is meeting and they're talking in general \_\_\_\_\_, we'll consider that the forum.

CHAIR CRIVELLO: Okay, so what we have before us is...Ms. Sheppard, Page 7, alpha (h), develop and implement the Public Participation Plan (PPP) during the Maui MPO transportation planning process. The Maui County Council's or Council committee's annual budget meetings for the Department of Planning, Public Works, and Transportation may serve as citizen forums.

MS. SHEPPARD: Yes, that used to say "shall" serve as citizen forums. It was changed to "may" so that it's an option for inclusion in the PPP. But they can set up their own policy...or public input forums, but it's an option for them. It's not a requirement for them.

COUNCILMEMBER HOKAMA: So who would make that determination that if I hold a Budget meeting, that my meeting now serves as their citizen forum?

MS. SHEPPARD: I think when they develop the public participation plan, they have to determine how that public input is gonna be made. And right now this says that that as an option that they could work that into their public participation plan.

COUNCILMEMBER HOKAMA: Then they're ingraining themselves into the County's government.

UNIDENTIFIED SPEAKER: Yeah.

COUNCILMEMBER HOKAMA: This independent.

CHAIR CRIVELLO: Yeah, quite a bit of contradiction.

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COUNCILMEMBER HOKAMA: They're intruding in the County's now --

CHAIR CRIVELLO: Yeah, I see.

COUNCILMEMBER HOKAMA: --governance.

CHAIR CRIVELLO: But it *may* serve, yeah.

COUNCILMEMBER HOKAMA: Well, and that's why my question is, who make, will then make the determination? If it's up to the Councilors, the nine of us, Chairman, I would say I can be very supportive. If it's the potential future policy board's Executive Director, I would tell him earn your money, and do your own work, you know. So again I just bring this up because it's in the document, and I just wanna know what I'm gonna be agreeing to.

CHAIR CRIVELLO: I understand.

COUNCILMEMBER HOKAMA: Thank you.

CHAIR CRIVELLO: Yeah. Ms. Sheppard, any further comments on this?

MS. SHEPPARD: Yeah, the policy board, these are duties of the policy board so it's up to the policy board to develop and implement the public participation plan. You don't have to have that second sentence in there. That was in there as an option for them to consider.

COUNCILMEMBER HOKAMA: Thank you.

CHAIR CRIVELLO: Mr. Couch?

COUNCILMEMBER COUCH: Madam Chair, I don't mind leaving that in there just so, but, so the policy board understands that it has to get buy-in from the Chair of the committee, or the Chair of the Council --

CHAIR CRIVELLO: Right.

COUNCILMEMBER COUCH: --that, you know, this is also...counts as public input for the policy board.

CHAIR CRIVELLO: Right.

COUNCILMEMBER COUCH: But the Chair of the committee runs the meeting, and that determines what is brought up. All right, thanks.

CHAIR CRIVELLO: Okay, anything further? Are we okay with leaving that all in right now? Okay, thank you. Department, any further comments, or questions, or any further input? Okay, Ms. Sheppard? Members? Okay, all right, at this time then I would like

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to entertain a motion to recommend passage on first reading of a revised, revised...a revised proposed bill entitled A Bill for An Ordinance Amending Title 2, Maui County Code, to Establish the Maui Metropolitan Planning Organization. And two, a revised proposed bill entitled, A Bill for an Ordinance Authorizing the Mayor of the County of Maui to Enter Into an Intergovernmental Agreement With the State of Hawaii to Fulfill Federal and State Transportation Planning Requirements Relating to the Maui Metropolitan Planning Organization, and three, filing of County Communication 15-294. All in favor?

COUNCILMEMBER COUCH: No, so moved.

CHAIR CRIVELLO: I'm sorry. I have a motion. I'll call for a recess. I needed...okay, let's start over. Do I hear a motion?

COUNCILMEMBER COUCH: So moved, Madam Chair.

CHAIR CRIVELLO: I have a motion to accept. Do I hear a second?

COUNCILMEMBER HOKAMA: I'll second it.

CHAIR CRIVELLO: Thank you. We have a motion, and a second to accept the recommended passage of first reading. Do I hear any further discussion? Mr. Couch?

COUNCILMEMBER COUCH: I just wanna say real quickly, thank you for bringing this through, and who knew that at this stage in your life, you're gonna have another baby. Here you go, this is your baby.

CHAIR CRIVELLO: Okay, I would say something, but off the record. Okay.

COUNCILMEMBER HOKAMA: Chair?

CHAIR CRIVELLO: Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Chair, I'm gonna support you this afternoon to help move, to keep this moving forward, but I will say I do still have my reservations. I would really request appropriate departments, whether it's Public Works, or Mr. Medeiros, please secure in writing some confirmation about no negative impact regarding other Federal funds that the County may because of this designation. And hopefully Mr. Chandler can have that sent to either you, or the Council prior to us taking it up on the floor for a Council meeting. So that would be my request to you, Director Medeiros, 'cause that's gonna make a big difference for me on the Council floor, Chairman. So thank you.

CHAIR CRIVELLO: Thank you, Mr. Hokama. I appreciate all of your contributions and your support so that we can move forward on this. Any further discussion? And also in this motion is to allow Staff to make the necessary changes as to our thing. So all those in favor, say "aye."

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COUNCILMEMBERS: Aye.

CHAIR CRIVELLO: Opposed? We have, motion carried, with Mr. Bob Carroll, Mr. Couch, Mr. Guzman, Mr. Hokama, and myself, Stacy Crivello. Wait, one, two, three, four...five "yes," two excused, Gladys Baisa, and Mike Victorino excused. At this time, motion carried.

**VOTE: AYES: Chair Crivello and Councilmembers Carroll, Couch, Guzman, and Hokama.**

**NOES: None.**

**EXC.: Vice-Chair Baisa and Councilmember Victorino.**

**ABSENT: None.**

**ABSTAIN: None.**

**MOTION CARRIED**

**ACTION: Recommending FIRST READING of revised bills and FILING of communication.**

CHAIR CRIVELLO: We're all done. I'm sorry, I have a late appointment that I've passed. Thank you, Members. Thank you, Members. And, Members, we have completed today's agenda, and we have no further discussion and nothing else to go further. I thank you again for your support. Thank you, Department. Thank you, Staff. Thank you for all of your assistance. Meeting is adjourned. . . .(gavel). . .

**ADJOURN: 4:15 p.m.**

APPROVED:



STACY CRIVELLO, Chair  
Housing, Human Services, and  
Transportation Committee

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CERTIFICATE

I, Reinette Kutz, 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 26<sup>th</sup> day of February, 2016, in Makawao, Hawaii

  
Reinette L. Kutz