

**PUBLIC WORKS COMMISSION
ACTION MINUTES
May 26, 2021**

A. CALL TO ORDER

The regular meeting of the Public Works Commission was called to order by Deputy Director of Public Works at approximately 1:31 p.m., Wednesday, May 26, 2021, via a BlueJeans online video conference, Meeting ID 400 894 053.

A quorum of the Commission was present. (See Record of Attendance.)

B. ACCEPTANCE OF MEETING MINUTES

The Commission unanimously approved the acceptance of the April 28, 2021 meeting minutes.

C. PUBLIC TESTIMONY

1. Ernest Delima, president of the Central East Maui Little League, testified in support of naming the scorebooth at Maehara Stadium after the late Glenn H. Otani. Mr. Delima stated that Mr. Otani volunteered for many years with little league and high school baseball on Maui. Mr. Otani spent much time in the scorebooth and it is fitting to name the scorebooth after him.
2. Kraig Otani, son to the late Glenn H. Otani, expressed support for both naming applications.
3. Mark Makimoto, head baseball coach for King Kekaulike High School, testified in support of naming the baseball diamond at the New Kula Ball Park in honor of the late Glenn H. Otani. Mr. Makimoto stated that Mr. Otani started coaching baseball in Kula and helped to expand baseball opportunities to the Kula community. Mr. Otani was a key proponent for the development of the baseball field at the New Kula Ball Park, which provided an additional, centrally located baseball field in Kula that previously had only one baseball field at the Keokea Park.

Also in attendance were Russell Otani, son to the late Glenn H. Otani, and Dawn Otani-Hernandez, daughter to the late Glenn H. Otani. No testimony was provided by these individuals.

D. NEW BUSINESS

- 1. Facility naming application to name the baseball diamond on the upper field at the New Kula Ball Park as the Glenn H. Otani Baseball Field.**

A motion was made by Commissioner De Jetley and seconded by Commissioner Kawa'a to recommend approval to name the baseball diamond on the upper field at the New Kula Ball Park as the Glenn H. Otani Baseball Field. The Commission voted 6-0 to approve the motion.

- 2. Facility naming application to name the scorebooth at the Ichiro "Iron" Maehara Baseball Stadium as the Glenn H. Otani Scorebooth.**

A motion was made by Commissioner De Jetley and seconded by Commissioner Kawa'a to recommend approval to name the scorebooth at the Ichiro "Iron" Maehara Baseball Stadium as the Glenn H. Otani Scorebooth. The Commission voted 6-0 to approve the motion.

3. Street lighting request to deactivate an existing street light at 35 Ka'ana Street in Maunaloa, Moloka'i.

The Department informed the Commission that the request to deactivate the existing street light was received in early 2020. Letters requesting support of the deactivation were sent in March 2020 to five property owners adjacent to the street light and no responses were received. The Department sent a second letter in March 2021 to the property owners that stipulated a non-response would be considered support for the deactivation. One property owner responded in opposition of the deactivation and the remaining property owner did not respond. The Department determined that the necessary support for the deactivation from the adjacent property owners was achieved and that review of the application by the Commission can proceed.

A motion was made by Commissioner Kawa'a and seconded by Commissioner De Jetley to recommend approval of the request to deactivate the existing street light as described in the application. The Commission voted 6-0 to approve the motion.

E. NEXT REGULAR MEETING DATE: Wednesday, June 23, 2021 at 1:30 p.m.

F. ADJOURNMENT

The meeting was adjourned at 2:03 p.m.

Submitted by,



cn=Jordan Molina, Deputy Director, o=County of Maui, ou=Department of Public Works, email=jordan.k.molina@co.maui.hi.us, c=US 2021.05.27 10:04:58 -10'00'

Jordan Molina
Deputy Director of Public Works

Date

RECORD OF ATTENDANCE**Present**

Joshua Berlien
Alberta de Jetley
Luana Kawa'a
Pelenatita Namoa-Hanusa
Derek Ono
Michael Silva

Excused

John Blanchard (alternate)
Stacy Otomo (alternate)

Absent

Colette Augustiro
Robert Johnson
Ben Wilson

Others

Rowena Dagdag-Andaya, Director of Public Works
Jordan Molina, Deputy Director of Public Works
Kurt Watanabe, Department of Public Works Engineering Division
Michael Hopper, Department of the Corporation Counsel
Susan Watanabe, Office of the Mayor

S:\ALL\Public Works Commission\MEETING MINUTES\2021 Minutes\PWC Minutes 2021-05-26.doc

Sunshine Law Amendments Allowing Remote Meetings

April 27, 2021

On April 27, 2021, the Legislature passed landmark legislation allowing Sunshine Law boards to remotely conduct public meetings, which will go to Governor David Ige for his review. [Senate Bill 1034](#), [Senate Draft 1](#), [House Draft 2](#), [Conference Draft 1](#) adds a new option to the Sunshine Law on January 1, 2022, which would allow boards to hold remote meetings via interactive conference technology (ICT), such as online meeting platforms like Zoom or WebEx, teleconferences, videoconference, and voice over internet protocol. The bill would also make amendments to the existing option for boards to hold a public meeting at two or more physical locations connected by ICT, would require all meeting notices to list the board's contact information for submitting testimony, and would require the Office of Information Practices (OIP) to report on the implementation of remote meetings before the 2023 session. The various bill drafts, committee reports, testimony have been posted on [OIP's legislation page](#).

New Meeting Option: Remote Meeting

As the Legislature and boards have been doing during the COVID-19 pandemic, boards will be given the option under the Sunshine Law to hold remote meetings so that members of the board and the public may participate from their homes, workplaces, or other locations without having to show up in person at a physical meeting site. While the bill thus expands public and board participation and access throughout our island state by allowing for remote meetings, it also recognizes that there is a digital divide that could affect members of the public or board who do not have the equipment, reliable internet connection, skills, or desire to participate online. Therefore, a board must also provide at least one physical location, with guaranteed connection via ICT to the remote meeting, where board members and the public can go to participate in person if they so desire. Although a board is not required to provide more than one physical location, it may choose to provide for the public's convenience additional physical locations with ICT connectivity to the remote meeting, but without being required to terminate the meeting if connectivity is interrupted or lost to those courtesy sites.

If the board's ICT connection for the remote meeting and mandated physical location are lost, however, the meeting must recess until the connection is restored. In the event the board is only able to re-establish an audio connection, the meeting can continue as audio-only, assuming the notice adequately explained how to access the reconvened meeting, but the board cannot act on items involving visual aids unless those are shared with all participants, and all speakers must state their name when making remarks. If the connection cannot be restored within 30 minutes, the board must either continue the meeting to a reasonable date and time as previously set out in the notice, or terminate the meeting.

For transparency, board members who are participating remotely from their homes or other private locations must announce who is at the private location with them. The board must also announce the names of participating members at the beginning of the meeting, and voting must be by roll call except where a vote is unanimous. A quorum of board members must be visible online, except when full visibility cannot be restored after a connection problem, or during executive sessions closed to

the public when board members need only be audible. To ensure confidentiality for the executive session, the names of authorized participants must be announced and the participants must confirm that no unauthorized person is present, and if the online meeting platform is one that shows who is connected, the person running the meeting must confirm that only the authorized participants are connected.

Note that if the bill had required “all” board members to be visible at all times, boards may have been unable to conduct remote meetings if they had any member who was disabled, travelling or located on another island and lacked the online connectivity, equipment, or skills to be able to participate online or in person and could do so only by teleconference or voice over internet protocol. Moreover, the visibility requirement does not apply to members of the public, who can now participate more conveniently online from their homes, schools, workplaces, or other locations on any island.

Finally, to take advantage of the recording ability offered by many online meeting platforms, a board must record a remote meeting “when practicable,” and make the recording available to the public after the meeting until such time as the meeting minutes have been posted online.

Current Meeting Option as Revised: Multi-Site Meeting

The bill retains the Sunshine Law’s existing option for a board to hold a multi-site meeting, in which the meeting is held across two or more physical locations connected by ICT. For this option, all meeting locations must be open to the public and listed on the notice, and board members can participate only from the noticed locations. Only a member hampered from in-person attendance by a disability can participate remotely from a private location after announcing who else is present with the member.

A substantive change this bill makes for multi-site meetings is that boards will not have to automatically terminate a meeting if ICT connectivity is lost between the official meeting sites. Boards will have 30 minutes to restore connectivity between the official meeting sites before having to either terminate or, with adequate notice, continue the meeting to a reasonable time and place.

These requirements, however, do not apply to the “additional locations” where no board members will be present and which OIP formerly referred to as “courtesy” sites. Boards may choose to expand convenient public access by setting up additional locations where, with advance notice to the public, an interruption in connectivity will not cause the termination or continuance of the official meeting.

New Requirement for Meeting Notice

For all types of meetings, a board’s notice must now include its electronic and postal contact information for the public to submit testimony before the meeting.

Report on Remote Meeting Implementation

Finally, this bill requires OIP, in consultation with the Disability and Communication Access Board and the Office of Enterprise Technology Services, to assess and report on the implementation of remote meetings, including participation by members of the public who need an accommodation due to a disability, before the 2023 legislative session. Therefore, OIP hopes that the boards and the public will share their experiences with OIP next year when the new law goes into effect.

A BILL FOR AN ACT

RELATING TO SUNSHINE LAW BOARDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the coronavirus
2 disease 2019 (COVID-19) pandemic forced the implementation of
3 emergency measures suspending certain requirements of the
4 State's sunshine law in order to allow boards to continue
5 meeting and conducting necessary business while protecting
6 participants' health and safety and expanding public access to
7 meetings throughout the State. Due to the emergency
8 stay-at-home orders and travel restrictions, board members,
9 staff, or members of the public could not attend public meetings
10 in person. In lieu of traditional in-person meetings, remote
11 meetings connected people in different physical locations
12 through the use of interactive conference technology and thus
13 enabled and enhanced board and public participation.

14 The legislature further finds that, based on boards'
15 experiences with remote meetings during the COVID-19 pandemic,
16 the increased costs of staffing, technological equipment, and
17 resources needed to conduct remote meetings are offset by the
18 savings in time, convenience, and travel costs for board members



1 and participants, especially those from the neighbor islands.
2 During the COVID-19 pandemic, remote meetings helped to prevent
3 the spread of disease, and even when there is not an ongoing
4 pandemic, remote meetings can be a way to protect the health and
5 safety of participants, particularly those who have disabilities
6 or medical conditions that would place them at greater risks
7 during travel or attendance at in-person public meetings.

8 The legislature additionally finds that the benefits of
9 remote meetings should continue in non-emergency times,
10 requiring permanent amendments to the sunshine law. For remote
11 meetings not held during times of emergency, there is a need for
12 boards to provide for an in-person meeting location where
13 members of the public can come to observe the remote meeting or
14 testify in person using interactive conference technology
15 equipment provided by the board, without requiring board members
16 to be at the in-person location.

17 The purpose of this Act is to allow boards the option to
18 use interactive conference technology to conduct remote meetings
19 under the sunshine law, while still retaining the option to
20 conduct traditional in-person meetings at a single meeting site



1 or at multiple meeting sites connected by interactive conference
2 technology.

3 SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended
4 by adding a new section to part I to be appropriately designated
5 and to read as follows:

6 "§92- Remote meeting by interactive conference
7 technology; notice; quorum. (a) A board may hold a remote
8 meeting by interactive conference technology; provided that the
9 interactive conference technology used by the board allows
10 audiovisual interaction among all members of the board
11 participating in the meeting and all members of the public
12 attending the meeting, except as otherwise provided under this
13 section; provided further that there is at least one meeting
14 location that is open to the public and has an audiovisual
15 connection. A board holding a remote meeting pursuant to this
16 section shall not be required to allow members of the public to
17 join board members in person at nonpublic locations where board
18 members are physically present or to identify those locations in
19 the notice required by section 92-7; provided that at the
20 meeting, each board member shall state who, if anyone, is



1 present at the nonpublic location with the member. The notice
2 required by section 92-7 shall:

- 3 (1) List at least one meeting location that is open to the
4 public that shall have an audiovisual connection; and
5 (2) Inform members of the public how to contemporaneously:
6 (A) Remotely view the video and audio of the meeting
7 through internet streaming or other means; and
8 (B) Provide remote oral testimony in a manner that
9 allows board members and other meeting
10 participants to hear the testimony, whether
11 through an internet link, a telephone conference,
12 or other means.

13 The board may provide additional locations open for public
14 participation. The notice required by section 92-7 shall list
15 any additional locations open for public participation and
16 specify, in the event an additional location loses its
17 audiovisual connection to the remote meeting, whether the
18 meeting will continue without that location or will be
19 automatically recessed to restore communication as provided in
20 subsection (c).



1 (b) For a remote meeting held by interactive conference
2 technology pursuant to this section:

3 (1) The interactive conference technology used by the
4 board shall allow interaction among all members of the
5 board participating in the meeting and all members of
6 the public attending the meeting;

7 (2) Except as provided in subsections (c) and (d), a
8 quorum of board members participating in the meeting
9 shall be visible and audible to other members and the
10 public during the meeting; provided that no other
11 meeting participants shall be required to be visible
12 during the meeting;

13 (3) Any board member participating in a meeting by
14 interactive conference technology shall be considered
15 present at the meeting for the purpose of determining
16 compliance with the quorum and voting requirements of
17 the board;

18 (4) At the start of the meeting the presiding officer
19 shall announce the names of the participating members;

20 (5) All votes shall be conducted by roll call unless
21 unanimous; and



1 (6) When practicable, boards shall record meetings open to
2 the public and make the recording of any meeting
3 electronically available to the public as soon as
4 practicable after a meeting and until a time as the
5 minutes required by section 92-9 are electronically
6 posted on the board's website.

7 (c) A meeting held by interactive conference technology
8 shall be automatically recessed for up to thirty minutes to
9 restore communication when audiovisual communication cannot be
10 maintained with all members participating in the meeting or with
11 the public location identified in the board's notice pursuant to
12 subsection (a)(1) or with the remote public broadcast identified
13 in the board's notice pursuant to subsection (a)(2)(A). This
14 subsection shall not apply based on the inability of a member of
15 the public to maintain an audiovisual connection to the remote
16 public broadcast, unless the remote public broadcast itself is
17 not transmitting an audiovisual link to the meeting. The
18 meeting may reconvene when either audiovisual communication is
19 restored, or audio-only communication is established after an
20 unsuccessful attempt to restore audiovisual communication, but
21 only if the board has provided reasonable notice to the public



1 as to how to access the reconvened meeting after an interruption
2 to communication. If audio-only communication is established,
3 then each speaker shall be required to state their name before
4 making their remarks. Within fifteen minutes after audio-only
5 communication is established, copies of nonconfidential visual
6 aids that are required by or brought to the meeting by board
7 members or as part of a scheduled presentation shall be made
8 available either by posting on the Internet or by other means to
9 all meeting participants, including those participating
10 remotely, and those agenda items for which visual aids are not
11 available for all participants shall not be acted upon at the
12 meeting. If it is not possible to reconvene the meeting as
13 provided in this subsection within thirty minutes after an
14 interruption to communication and the board has not provided
15 reasonable notice to the public as to how the meeting will be
16 continued at an alternative date and time, then the meeting
17 shall be automatically terminated.

18 (d) During executive meetings from which the public has
19 been excluded, board members shall be audible to other
20 authorized participants but shall not be required to be visible.
21 To preserve the executive nature of any portion of a meeting



1 closed to the public, the presiding officer shall publicly state
 2 the names and titles of all authorized participants, and, upon
 3 convening the executive session, all participants shall confirm
 4 to the presiding officer that no unauthorized person is present
 5 or able to hear them at their remote locations or via another
 6 audio or audiovisual connection. The person organizing the
 7 interactive conference technology shall confirm that no
 8 unauthorized person has access to the executive meeting as
 9 indicated on the control panels of the interactive conference
 10 technology being used for the meeting, if applicable."

11 SECTION 3. Section 92-2, Hawaii Revised Statutes, is
 12 amended by amending the definition of "interactive conference
 13 technology" to read as follows:

14 "Interactive conference technology" means any form of
 15 [~~audio or~~] audio and visual conference technology, or audio
 16 conference technology where permitted under this part, including
 17 teleconference, videoconference, and voice over internet
 18 protocol, that facilitates interaction between the public and
 19 board members."



1 SECTION 4. Section 92-3.5, Hawaii Revised Statutes, is
2 amended by amending its title and subsections (a) through (c) to
3 read as follows:

4 "§92-3.5 [~~Meeting~~] In-person meeting at multiple sites by
5 interactive conference technology; notice; quorum. (a) A board
6 may hold [a] an in-person meeting at multiple meeting sites
7 connected by interactive conference technology; provided that
8 the interactive conference technology used by the board allows
9 audio or audiovisual interaction among all members of the board
10 participating in the meeting and all members of the public
11 attending the meeting, and the notice required by section 92-7
12 identifies all of the locations where participating board
13 members will be physically present and indicates that members of
14 the public may join board members at any of the identified
15 locations. The board may provide additional locations open for
16 public participation but where no participating board members
17 will be physically present. The notice required by section 92-7
18 shall list any additional locations open for public
19 participation but where no participating board members will be
20 physically present and specify, in the event one of those
21 additional locations loses its audio connection to the meeting,



1 whether the meeting will continue without that location or will
2 be automatically recessed to restore communication as provided
3 in subsection (c).

4 (b) Any board member participating in a meeting by
5 interactive conference technology under this section shall be
6 considered present at the meeting for the purpose of determining
7 compliance with the quorum and voting requirements of the board.

8 (c) A meeting held by interactive conference technology
9 under this section shall be ~~[terminated]~~ automatically recessed
10 for up to thirty minutes to restore communication when audio
11 communication cannot be maintained with all locations where the
12 meeting by interactive conference technology is being held, even
13 if a quorum of the board is physically present in one location.
14 ~~[If copies of visual aids required by, or brought to the meeting~~
15 ~~by board members or members of the public, are not available to~~
16 ~~all meeting participants, at all locations where audio only~~
17 ~~interactive conference technology is being used, within]~~ The
18 meeting may reconvene when either audio or audiovisual
19 communication is restored. Within fifteen minutes after audio-
20 only communication is ~~[used,]~~ established, copies of
21 nonconfidential visual aids that are required by or brought to



1 the meeting by board members or as part of a scheduled
2 presentation shall be made available either by posting on the
3 Internet or by other means to all meeting participants, and
4 those agenda items for which visual aids are not available for
5 all participants at all meeting locations [~~eannot~~] shall not be
6 acted upon at the meeting. If it is not possible to reconvene
7 the meeting as provided in this subsection within thirty minutes
8 after an interruption to communication, and the board has not
9 provided reasonable notice to the public as to how the meeting
10 will be continued at an alternative date and time, then the
11 meeting shall be automatically terminated."

12 SECTION 5. Section 92-7, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The board shall give written public notice of any
15 regular, special, emergency, or rescheduled meeting, or any
16 executive meeting when anticipated in advance. The notice shall
17 include an agenda that lists all of the items to be considered
18 at the forthcoming meeting; the date, time, and place of the
19 meeting; the board's electronic and postal contact information
20 for submission of testimony before the meeting; instructions on
21 how to request an auxiliary aid or service or an accommodation



1 due to a disability, including a response deadline, if one is
2 provided, that is reasonable; and in the case of an executive
3 meeting, the purpose shall be stated. If an item to be
4 considered is the proposed adoption, amendment, or repeal of
5 administrative rules, an agenda meets the requirements for
6 public notice pursuant to this section if it contains a
7 statement on the topic of the proposed rules or a general
8 description of the subjects involved, as described in
9 section 91-3(a)(1)(A), and a statement of when and where the
10 proposed rules may be viewed in person and on the Internet as
11 provided in section 91-2.6. The means specified by this section
12 shall be the only means required for giving notice under this
13 part notwithstanding any law to the contrary."

14 SECTION 6. The office of information practices shall, in
15 consultation with the disability and communication access board
16 and the office of enterprise technology services, assess the
17 implementation of meetings held using interactive conference
18 technology, including participation by members of the public who
19 need an accommodation due to a disability. The office shall
20 submit a report of its assessment, including recommendations and



1 proposed legislation, to the legislature no later than forty
2 days prior to the convening of the regular session of 2023.

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on January 1, 2022.



Report Title:

Sunshine Law; Interactive Conference Technology; Remote Meetings

Description:

Authorizes boards to use interactive conference technology to remotely conduct meetings under the State's open meetings law. Amends the requirements for public notices of board meetings and for in-person board meetings held by interactive conference technology. Requires the Office of Information Practices to assess the implementation of meetings held using interactive conference technology and submit a report of its findings to the Legislature. Effective 1/1/2022. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



RECEIVED
CORPORATION COUNSEL

2015 MAR 31 PM 2: 39

DEPARTMENT OF PUBLIC WORKS

COUNTY OF MAUI

Adoption of Chapter 15-113
Rules of Practice and Procedure for the
Public Works Commission

SUMMARY

Chapter 15-113, entitled "Rules of Practice and Procedure for the Public Works Commission", is adopted to read as follows:

"TITLE MC-15
DEPARTMENT OF PUBLIC WORKS
SUBTITLE 01
PUBLIC WORKS COMMISSION
CHAPTER 113

RULES OF PRACTICE AND PROCEDURE FOR THE
PUBLIC WORKS COMMISSION

Subchapter 1 General Provisions

§15-113-1	Title
§15-113-2	Purpose
§15-113-3	Construction
§15-113-4	Definitions

Subchapter 2 Organization and Parliamentary Rules

§15-113-5	Office
§15-113-6	Communications
§15-113-7	Membership
§15-113-8	Meetings
§15-113-9	Quorum
§15-113-10	Agenda
§15-113-11	Minutes
§15-113-12	Public works commission records
§15-113-13	Computation of time
§15-113-14	Retention of documents by the public works commission
§15-113-15	Officers and their duties
§15-113-16	Voting
§15-113-17	Disclosure of conflict
§15-113-18	Motions
§15-113-19	Question of order
§15-113-20	Attendance

Subchapter 3 Rule Making Procedures and
Declaratory Rulings

- §15-113-21 Public works commission rules
- §15-113-22 Petition and procedures for adoption,
amendment, or repeal of rules by the
public works commission
- §15-113-23 Petition for adoption, amendment, or
repeal of rules by interested persons

SUBCHAPTER 1

GENERAL PROVISIONS

§15-113-1 Title. The rules in this chapter shall be known as the "Rules of Practice and Procedure for the Public Works Commission" of the County of Maui. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-2 Purpose. These rules govern practice before, and procedures of, the public works commission. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-3 Construction. (a) These rules shall be construed to secure the just and efficient determination of proceedings before the public works commission. These rules should be read in conjunction with the Hawaii Revised Statutes, the revised charter of the County of Maui (1983), as amended, and the Maui County code. If there is a conflict between state law, the revised charter of the County of Maui (1983), as amended, or the Maui County code and the provisions herein, state law, the revised charter of the County of Maui, or the Maui County code shall govern.

(b) If there are conflicts between the general provisions herein and specific rules of any other subchapters, the specific rules shall govern. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-4 Definitions. The following definitions shall apply for all matters before the public works commission:

"Agency" means any agency, board, commission, committee, department or officer of the County or State government, including the public works commission.

"County" means the County of Maui.

"Department" means the department of public works of the County.

"Director" means the director of public works of the County or the director's authorized representative.

"Government record" means information maintained by an agency in written, auditory, visual, electronic, or other physical form, or as otherwise defined in chapter 92F, Hawaii Revised Statutes, as amended.

"Meetings" means the convening of the public works commission for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the public works commission has supervision, control, jurisdiction, or advisory power.

"Person" means any agency, individual, partnership, firm, association, community group, trust, estate, private corporation, or other legal entity, whether or not incorporated, including governmental departments or agencies.

"Proceeding" means any matter brought before the commission over which the public works commission has jurisdiction. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

SUBCHAPTER 2

ORGANIZATION AND PARLIAMENTARY RULES

§15-113-5 Office. The office of the public works commission is at 200 South High Street, Wailuku, Maui, Hawaii 96793. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-6 Communications. Unless otherwise specifically directed, all communications to the public works commission shall be directed to the department, at the Kalana O Maui Building, 200 South High Street, Wailuku, Maui, Hawaii 96793. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-7 Membership. The public works commission consists of nine members, and two alternates appointed by the mayor, with the approval of council. The members shall consist of three registered, State of Hawaii licensed engineers, one member who is knowledgeable in the Hawaiian language, one member who is a resident of Lanai, and one member who is a resident of Molokai. One alternate shall be a registered, State of Hawaii licensed engineer. Each public works commission member serves from the time the member is appointed until his or her term expires. [Eff 4/4/15] (Auth: §§2.80B.050, 2.98.010.A, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-8 Meetings. (a) The public works commission may meet and exercise its powers anywhere within its jurisdiction. Unless otherwise provided by law, all meetings shall be open to the public.

(b) The public works commission shall base the parliamentary procedures for conducting its meetings on the revised edition of Robert's Rules of Order. If there is a conflict between the provisions herein and the revised edition of Robert's Rules of Order, the provisions herein shall apply.

(c) General meetings shall be scheduled as needed to efficiently conduct public works commission business.

(d) The public works commission shall allow all interested persons an opportunity to submit data, views, arguments, or present oral testimony on any agenda item in an open meeting. The public works commission may provide for the recordation of all oral testimony. A reasonable time limit may be imposed on oral testimony.

(e) The public works commission shall comply with chapter 92, Hawaii Revised Statutes, as amended.

(f) Special meetings may be called by the chairperson, the director, or a majority of the public works commission members at any time and place as scheduled.

(g) Emergency meetings and executive meetings may be held pursuant to chapter 92, Hawaii Revised Statutes, as amended.

(h) Public hearings may be held after thirty days notice, published in a newspaper of County circulation.

(i) Executive meetings closed to the public may be held by the public works commission upon affirmative vote, taken at an open meeting of two-thirds of the members present; provided the affirmative vote constitutes the majority to which the public works commission is entitled. The meeting, closed to the public, shall be limited to matters specifically allowed by law, and the reason for holding such a meeting shall be publicly announced and the vote of each member on the question of holding the meeting closed to the public shall be recorded and entered into the minutes of the meeting. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §§91-2, 92-4, 92-5, HRS)

§15-113-9 Quorum. A majority of all members to which the public works commission is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all members to which the public works commission is entitled shall be necessary to take any action. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §§91-2, 92-15, HRS)

§15-113-10 Agenda. The public works commission shall file an agenda with the county clerk at least six calendar days before the meeting. Nothing on the agenda shall be changed without a two-thirds recorded vote of all members to which the public works commission is entitled. An item of major importance that may affect a significant number of persons shall not be added to an agenda. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-11 Minutes. (a) The public works commission shall keep written minutes and may provide for the audio recording or transcription of meetings. The minutes shall give a true reflection of the matters discussed at the meeting and the views of the members. These minutes shall include, but need not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the public works commission recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided;
- (4) A record, by individual member, of any votes taken; and
- (5) Any other information that any member of the public works commission requests be included or reflected in the minutes.

(b) The written minutes shall be public records and shall be available within thirty days after the meeting except where such disclosure would be inconsistent with section 92-5, Hawaii Revised Statutes, as amended; provided, that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting. Any person may obtain a copy of a transcript of an audio recording provided that the person pays the costs incurred in the preparation of the transcript. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-12 Public works commission records. Records that are government records shall be disclosed according to chapter 92F, Hawaii Revised Statutes.

[Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §§91-2, 92-9, HRS)

§15-113-13 Computation of time. In computing any period of time under the rules herein, by notice, or by any order or rule of the public works commission, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or holiday. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-14 Retention of documents by the public works commission. All documents filed with, or presented to, the public works commission shall be retained in the files of the public works commission. However, the chairperson of the public works commission may permit the withdrawal of original documents upon submission of properly authenticated copies. [Eff 4/4/15] (Auth: §2.98.010.D, MCC; §91-2, HRS) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-15 Officers and their duties. (a) The public works commission shall elect annually a chairperson and vice-chairperson from its members. Their terms shall be for one year and may continue until their successors are duly elected. In the absence of the chairperson and vice-chairperson, the public works commission shall elect a chairperson pro tempore, who shall preside at the meeting. The chairperson shall be the presiding officer of the public works commission, and the vice-chairperson shall act as the presiding officer in the absence of the chairperson.

- (b) The presiding officer shall:
- (1) Open all meetings of the public works commission at the appointed hour by taking the chair and calling the meeting to order;
 - (2) Maintain order and proper decorum;
 - (3) Announce the business before the public works commission;

- (4) Review all matters properly brought before the public works commission, call for votes upon the same, and announce the results;
- (5) Authenticate by signature all acts of the public works commission as may be required by law, unless delegated to the director;
- (6) Do and perform such other duties as may be required by law, or such as may properly pertain to such office;
- (7) Make known all rules of order when so requested, and decide all questions of order subject to an appeal to the public works commission. [Eff 4/4/15] (Auth: §2.98.010.D, MCC; §91-2, HRS) (Imp: §2.98.010.D, MCC; §§91-2, 92-3, HRS)

§15-113-16 Voting. (a) Except as otherwise provided by law, all matters shall be determined by an affirmative vote of a majority of the membership to which the public works commission is entitled.

(b) Whenever the public works commission is ready to vote on any question the chairperson shall state the question, put the question to a vote, and announce the results to the public works commission.

(c) Unless a present member is disqualified from voting pursuant to section 15-113-17 herein, the member's silence or refusal to vote shall be recorded as an affirmative vote. [Eff 4/4/15] (Auth: §2.98.010.D, MCC; §91-2, HRS) (Imp: §2.98.010.D, MCC; §§91-2, 92-15, HRS)

§15-113-17 Disclosure of conflict. Whenever a member has a conflict of interest, the member shall promptly make a full disclosure of the circumstances to the public works commission and refrain from voting. [Eff 4/4/15] (Auth: §2.98.010.D, MCC; §91-2, HRS) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-18 Motions. (a) Motions and amendments by public works commission members may be oral, but shall be reduced to writing if requested by the chairperson.

(b) No motion shall be received and considered by the public works commission until the same has been seconded.

(c) After a motion is stated or read by the chairperson, it shall be deemed in the possession of, and shall be disposed of by vote of, the public works commission. [Eff 4/4/15] (Auth: §2.98.010.D, MCC; §91-2) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-19 Question of order. A question of order may be raised at any stage of the proceedings, except during a calling of the roll when the ayes and noes are called for. The question shall be decided by the chairperson, without debate, subject to an appeal to the public works commission. [Eff 4/4/15] (Auth: §2.98.010.D, MCC; §91-2, HRS) (Imp: §2.98.010.D, MCC; §91-2, HRS)

§15-113-20 Attendance. No member shall be absent from the service of the public works commission, unless the member is sick or otherwise unable to attend. If a member will be absent, the member shall inform the chairperson or the public works commission's secretary before the meeting. [Eff 4/4/15] (Auth: §2.98.010.D, MCC; §91-2, HRS) (Imp: §2.98.010.D, MCC; §91-2, HRS)

SUBCHAPTER 3

RULE MAKING PROCEDURES AND DECLARATORY RULINGS

§15-113-21 Public works commission rules. All rules of the public works commission shall be adopted by the public works commission and approved by the mayor in accordance with Hawaii Revised Statutes; provided, that such procedure shall not apply to regulations concerning only the internal management of the department or the public works commission not affecting the private rights of, or procedures available to, the public, to declaratory rulings, or to intra-agency memoranda. [Eff 4/4/15] (Auth: §2.98.010.D, MCC) (Imp: §2.98.010.D, MCC; §§91-1(4), 91-2, HRS)

§15-113-22 Petition and procedures for adoption, amendment, or repeal of rules by the public works commission.

(a) The public works commission may adopt, amend, or repeal any of its rules by following the procedures outlined herein, except that the public works commission need not formally file a petition and need only submit a draft of the proposed changes.

(b) Public hearing; notice. When the public works commission proposes to adopt, amend, or repeal a rule, it shall schedule a public hearing by giving thirty days notice. Notice shall include a statement of the substance of the proposed rule, and the date, time, and place of the public hearing where interested persons may be heard. Notice shall be published at least once, pursuant to section 1-28.5, Hawaii Revised Statutes, and shall be mailed to all persons who have made a timely, written request of the public works commission for advanced notice of its rulemaking proceedings.

(c) Scope. All interested persons shall be given the opportunity to submit data, views, or written or oral argument. The public works commission shall incorporate in the record and consider all written or oral submissions regarding the proposed rule.

(d) Decision. The public works commission may make its decision at the public hearing or announce then the date it intends to make its decision.

(e) Mayoral approval. The adoption, amendment, or repeal of any rule shall be subject to mayoral approval.

(f) Emergency rules. If the public works commission finds an imminent peril to public health or safety which requires adoption, amendment, or repeal of a rule upon less than thirty days notice of hearing, and states its reasons in writing, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as practicable.

(g) Filing; effect. Upon mayoral approval, certified copies of all rules shall be filed in the office of the county clerk and shall become effective ten days thereafter.

(h) Emergency rules; effect; notice. Emergency rules shall be effective upon filing, but for not longer than one hundred twenty days without renewal. The public works commission shall publish a copy of the emergency rule at least once pursuant to section 1-28.5, Hawaii Revised Statutes, within five days of filing of the rule. [Eff 4/4/15] (Auth: §2.98.010.D, MCC; §91-2, HRS) (Imp: §§1-28.5, 91-3, 91-4, 91-6, HRS)

§15-113-23 Petition for adoption, amendment, or repeal of rules by interested persons. (a) Any interested person may petition the public works commission requesting the adoption, amendment, or repeal of any rule of the rules of the public works commission.

(b) The petition shall be submitted in thirteen copies and shall include:

- (1) A statement of the nature of the petitioner's interest;
- (2) A draft or the substance of the proposed rule or amendment or a designation of the provision sought to be repealed; and
- (3) An explicit statement of the reasons in support of the proposed rule, amendment, or repeal.

(c) The public works commission shall within thirty days after the submission of the

petition either deny the petition in writing, stating its reasons for such denial, or initiate proceedings in accordance with section 15-113-22, for the adoption, amendment, or repeal of the rule as the case may be." [Eff 4/4/15] (Auth: HRS §91-6) (Imp: HRS §2.98.010.D, MCC)

2. Chapter 15-113, Rules of Practice and Procedure for the Public Works Commission, shall take effect ten days after filing with the Office of the County Clerk.

ADOPTED THIS 12th day of March, 2015.

PUBLIC WORKS COMMISSION



Chairperson



Alan M. Arakawa
Mayor, County of Maui

Approved this 23rd day of
March, 2015.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

Received this 30th day of
March, 2015.



DENNIS A. MATEO
County Clerk, County of Maui

CERTIFICATION

I, DAVID C. GOODE, Public Works Director, County of Maui, do hereby certify:

1. That the foregoing is a full, true and correct copy of the rules drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted on the 12th day of March, 2015, following a public hearing that closed on the 12th day of March, 2015, and which were filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing Rules, which notice included the substance of such Rules, was published in The Maui News on February 10, 2015.



DAVID C. GOODE
Director of Public Works