

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

October 21, 2005

Committee
Report No.

05-144

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

Chair and Members:

Your Committee of the Whole, having met on June 28, 2005, August 2, 2005, and October 4, 2005, makes reference to County Communication No. 05-90, from the Fire Chief, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE ADOPTING THE STATE FIRE CODE, WITH CERTAIN AMENDMENTS THERETO".

The purpose of the proposed bill is to adopt the State Fire Code with modifications.

At its meeting of June 28, 2005, your Committee met with the Fire Chief, the Deputy Fire Chief, a Fire Captain, a Lieutenant from the Department of Fire and Public Safety, and a Deputy Corporation Counsel.

Your Committee received public testimony from three people who expressed concern regarding provisions in the proposed bill that would prohibit the monitoring of security alarms by mainland service providers, and allow for temperature detectors rather than smoke detectors. One person also provided written testimony.

The Fire Chief provided a brief overview of the proposed bill. He stated that the Uniform Fire Code is updated every three years. The State Fire Council recommends to the State Legislature a version of the Uniform Fire Code to be adopted. He acknowledged that there is a period of delay between the publication of the Uniform Fire Code, the adoption of the Fire Code by the State, and subsequent adoption of the Fire Code, with modifications, by the counties.

Your Committee discussed the testifiers' concerns regarding the proposed requirement that restricts the monitoring of security alarms in Maui County to service operators within the State of Hawaii. The Fire Captain explained that approximately six years ago, the response to an alarm sounded on Oahu was delayed because the lines between Hawaii and the mainland company responsible for monitoring the alarm were busy.

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Your Committee discussed the possibility of dedicated service lines for private security alarms.

Your Committee discussed the fire-flow requirements set forth in the proposed bill. The Fire Captain said that these requirements would only apply to properties serviced by private water systems. He noted that the Department of Water Supply is responsible for fire flow calculations for properties serviced by the County's water system.

Your Committee deferred the matter pending further discussion.

At its meeting of August 2, 2005, your Committee met with the Fire Chief, the Deputy Fire Chief, a Fire Captain, a Captain from the Department of Police, and a Deputy Corporation Counsel.

Your Committee received public testimony from five people who requested the opportunity to work with the Department of Fire and Public Safety to resolve the following concerns: restricting the monitoring of security alarms in Maui County to service operators within the State, allowing temperature detectors rather than smoke detectors, likely increases in homeowners' insurance coverage premiums due to the potential elimination of monitored alarm systems, and the possibility of placing some security companies out of business due to requiring call monitoring within the State of Hawaii. One person also provided written testimony.

The Fire Chief provided a brief overview of the proposed bill. He stated that the Department of Fire and Public Safety prefers not to offer amendments to the proposed bill.

The Deputy Corporation Counsel advised that concerns raised by the testifiers were not applicable because the bill's requirement that alarms be monitored by a service operator located in the County of Maui only applies to fire alarm systems that are required by the Fire Chief. The Deputy noted that the testifiers were business owners who were concerned with optional residential fire alarm systems that were not required to be installed by the Fire Chief.

Your Committee discussed fire alarms on Oahu. The Fire Captain indicated that fire alarms on Oahu are required to be monitored by alarm companies on the same island

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due to a situation that occurred a number of years ago when the phone lines between the mainland and Hawaii were busy.

Your Committee discussed the number of false alarms reported per year. The Fire Captain stated that the Department of Fire and Public Safety averages approximately 350 false alarms per year. He indicated that the proposed bill requires heat sensors, manual pull alarms, or automatic sprinkler systems to be used in conjunction with monitored alarm systems. He noted that smoke detector systems have caused many false alarms, to which the Department of Fire and Public Safety has had to respond.

Your Committee noted that the Uniform Fire Code is available for review in public libraries and through the Department of Fire and Public Safety.

Your Committee expressed concern that procurement laws may be violated if a particular vendor is identified in the proposed bill. The Deputy Corporation Counsel indicated that he would research the matter and revise the proposed bill, if necessary.

Your Committee requested that the Department of the Corporation Counsel remove references in the bill relating to the appropriation of the fees collected under the plan review, processing, and inspection revolving fund, and revise all references to fees throughout the bill to be "as set forth in the annual budget".

Your Committee requested that the Department of Fire and Public Safety consider meeting with the Maui Alarm Association to discuss the possibility of addressing the Maui Alarm Association's concerns regarding calls being monitored within the State of Hawaii and false alarms from monitored systems.

Your Committee agreed to defer the matter pending further discussion.

By correspondence dated August 18, 2005, the Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE ADOPTING THE STATE FIRE CODE, WITH CERTAIN AMENDMENTS THERETO" incorporating your Committee's requested revisions.

By correspondence dated August 30, 2005, James Stewart, President, Security Tech, LLC, transmitted the minutes of the August 9, 2005 meeting between the Department of Fire and Public Safety, the Maui Alarm Association, and the alarm company representatives regarding the State Fire Code.

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By correspondence dated October 3, 2005, the Department of the Corporation Counsel transmitted a further revised proposed bill entitled "A BILL FOR AN ORDINANCE ADOPTING THE STATE FIRE CODE, WITH CERTAIN AMENDMENTS THERETO". The proposed bill changes the effective date of the bill to March 31, 2006 to allow the Department of the Corporation Counsel time to draft a bill for a budget amendment to establish the fees in the annual budget.

At its meeting of October 4, 2005, your Committee met with the Fire Chief, a Fire Captain, a Lieutenant from the Department of Fire and Public Safety, and a Deputy Corporation Counsel.

Your Committee received testimony from one person representing the Maui Alarm Association. He reported that the Association had met with the Department of Fire and Public Safety and had come to an agreement on proposed revisions to the bill to delete the requirement for a Hawaii-based call monitoring center and language related to mandatory annual testing and cleaning of monitored alarms to address false alarms.

Your Committee also received written testimony from Smith Development in opposition to the revised proposed bill.

Your Committee discussed whether the provision regarding the establishment of a plan review, processing, and inspection revolving fund should be removed. Your Committee noted that without language regarding the appropriation of the fund for certain uses, the fund could not function as a revolving fund. Revolving funds require that funds be used for specific purposes related to the collection of the fees.

Your Committee discussed the charging of fees for expedited plan review. Your Committee expressed concern that this provision may promote preferential treatment for developers with the financial means to expedite their plan review over those who are unable to pay. The Fire Captain indicated that this provision is used only on rare occasions, after the initial review of a plan has been completed. He stated that the fees are charged to people who must revise their plans, and who do not wish to be placed on the list following those who are waiting for initial plan review.

Your Committee discussed the plan review waiver process. The Lieutenant indicated that only plans with a limited dollar value are allowed to undergo the waiver

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process, and large projects must be reviewed by the Department of Fire and Public Safety.

Your Committee discussed whether the fire-flow capacity for agriculturally-zoned properties should be increased. The Fire Captain indicated that the proposed amount of 500 gallons per minute is consistent with the requirements of the Department of Water Supply. He further indicated that it is a concern to the Department of Fire and Public Safety that this amount may not be sufficient to save a large structure on agriculturally-zoned property and that the Department of Fire and Public Safety would be willing to continue to examine this issue in the future.

Your Committee discussed the roadway width and turning radius requirements in cul-de-sacs. The Lieutenant noted that the turning radius and minimum roadway width requirements in the proposed bill are in conflict with Title 18 of the Maui County Code regarding subdivisions.

Your Committee briefly discussed the importance of the existence of a meaningful appeal process for decisions made by the Fire Chief.

Your Committee discussed whether the effective date of the proposed bill should be further amended to July 1, 2006 to coincide with the County's annual budget process.

Your Committee requested that the Department of Fire and Public Safety, the Department of Public Works and Environmental Management, and the Department of the Corporation Counsel provide written comments on the written testimony submitted by Smith Development.

Your Committee recommended that references in the proposed bill regarding the Fire Chief's ability to expedite plan review, and the plan review, processing, and inspection revolving fund be deleted, and that the effective date of the bill be further revised to July 1, 2006.

Your Committee voted to recommend passage of the revised proposed bill on first reading and filing of the communication.

Your Committee is in receipt of a revised proposed bill incorporating your Committee's requested revisions.

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Your Committee of the Whole RECOMMENDS the following:

1. That Bill No. _____ (2005), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE ADOPTING THE STATE FIRE CODE, WITH CERTAIN AMENDMENTS THERETO" be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication No. 05-90 be FILED.

Adoption of this report is respectfully requested.

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