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September 5, 2002

**MEMO TO:** Michael J. Molina, Chair  
Public Works and Transportation Committee

**FROM:** Gregory J. Garneau, Deputy Corporation Counsel *BJG*

**SUBJECT:** CONSIDERATION OF TRAFFIC LIGHT REQUEST FOR THE  
INTERSECTION OF PI`IKEA STREET AND LILOA STREET IN  
KIHEI (PWT-12)

The County Council has the authority to designate stop signs at intersections and has done so in the county code (see, generally, MCC Chapter 10.44, Special Stops.) The Council may act to make a stop sign permanent by amending Chapter 10.44. Pursuant to MCC §10.44.070, the county engineer is required to erect stop signs at intersections designated by the Council. The Council's authority over the placement of any traffic control device is set forth in the definition section of the traffic code, Chapter 10.04.<sup>1</sup> Signs placed by the county engineer must meet certain specifications<sup>2</sup> and, once placed, are deemed official signs

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<sup>1</sup>10.04.540 Traffic-Control Devices, official.

"Official traffic-control devices" means all signs, signals, pavement markings and devices not inconsistent with this title, placed or erected by authority of the board of supervisors or officials having jurisdiction, for the purposes of regulating, warning or guiding traffic. (Ord. 413 §10-2.1(47), 1965).

<sup>2</sup>10.28.010 Specifications.

All traffic signs and signals shall be in accord with the specifications set forth in the "Manual on Uniform Traffic Control Devices" published by the American Association of State Highway officials, and they and all traffic-control devices, traffic lines, parking lines, markers and buttons shall be placed and maintained by and under the direction and supervision of the county engineer or the Maui District Engineer of the Department of Transportation of the state. (Ord. 413 §10-3.1, 1965)

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authorized by the County Council.<sup>3</sup>

In 1999, in order to provide for a procedure to evaluate traffic-control devices on a temporary basis, the County Council gave the Director of Public Works the authority to place devices for a period of up to eight weeks, without Council approval.<sup>4</sup> At the time, eight weeks was viewed as sufficient time to evaluate the use of the device and to report to the Council. Under the Maui County Code, the Department of Public Works and Waste Management's authority to place traffic control devices on a temporary or trial basis beyond this designed eight-week period requires Council approval. Given that the Council has the authority over the placement of traffic-control devices, regardless of whether the devices are erected on a permanent or a temporary basis, it is legally permissible for the Council to act by resolution to request, approve and authorize the Director of Public Works and Waste Management to extend the trial period for the placement of temporary traffic-control devices for an additional eight weeks or other defined period. See, HRS §291C-1, definition of "Official traffic-control devices", and HRS §291C-31(c). However, if the Council intends to install a "temporary" device on an indefinite basis, then we view this as a permanent installation which should be accomplished through adoption of an ordinance.

With regards to liability, the County is responsible for roadways under its jurisdiction including the placement of traffic-control devices on the roadways. The central issue in assessing

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<sup>3</sup>10.28.030B Enforcement.

All signs, signals, pavement markings or other traffic-control devices placed or erected on streets, and highways shall be deemed official, i.e. authorized by the board of supervisors or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic. (Ord. 413 § 10-6.2, 1965)

<sup>4</sup>10.28.130 Temporary traffic control devices.

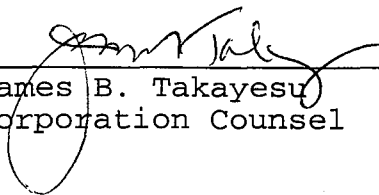
The director of public works and waste management may authorize any approved traffic control device to be placed on any highway under the jurisdiction of the County without the approval of the council provided the placement of the traffic control device is limited to eight weeks or less. During that period, the department of public works and waste management shall monitor the traffic control device and submit a report to the council for further action. (Ord. 413.295 § 1, 2000)

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liability is not the time period that a particular device is to be erected, but rather that the device conforms to good engineering practices and adequately addresses the traffic safety concerns of the particular situation.

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Approved for transmittal:

  
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Corporation Counsel