



News > Kauai News

Council Rule 15(b) ignored

[Print Page](#)

By Michael Levine - The Garden Island

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LIHU'E — With the County Council ending its flirtation with addressing its rules through an ad hoc committee and a proposed amendment, it seemingly disregarded one of the other policies on its books Wednesday.

Rule 15(b) of the Council Rules states: "All communications to be placed on the agenda must be initialed by the council chair and received by the council or the Office of the County Clerk before 4:30 p.m. on the Friday two weeks preceding the day of the regular or committee meeting."

For Wednesday's meeting, that deadline would have been the afternoon of July 24, but three communications on this week's agenda were dated after that cutoff.

When the council moved to approve the agenda at the meeting's outset, community member Rob Abrew testified that his biggest concern is that the county could be opening itself to liability in potential lawsuits if it violated its own rules while moving forward on agenda items.

Abrew asked that the council act "properly, thoroughly and correctly" in deferring the three items for two weeks to bring itself into compliance, but the body voted unanimously to approve the agenda without any discussion.

Abrew later returned to testify as each of the agenda items — a request from the Office of the County Attorney to expend \$90,000 for bond advice from special counsel, a communication from Council Chair Kaipo Asing seeking time to discuss recent changes in the area of transparency and council policy, and a communication from the director of Parks and Recreation seeking approval for a shared-use path property adjustment agreement near Papaloa Road in Wailua — was heard.

"In the spirit of open government," County Attorney Al Castillo told the council that the Council Rules are merely written guidelines and are subservient to the Hawai'i Revised Statutes, specifically Section 92.

Castillo said the council had given proper notice for the agenda and was in compliance with the Sunshine Law, which requires that the agenda be posted six calendar days before each meeting.

Abrew said the Office of Information Practices and the Sunshine Law have nothing to do with the Office of the County Clerk receiving communications properly in compliance with Council Rules.

Westside community leader Bruce Pleas argued the ambiguous relationship between Rule 15(b) and the Sunshine Law is an example of where Council Rules need to be looked at and brought into compliance with Hawai'i Revised Statutes.

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