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### Council to air open government concerns

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**By Michael Levine - The Garden Island**

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LIHU'E — Two weeks after their attempt to change County Council rules fell flat, Council members Tim Bynum and Lani Kawahara on Tuesday made significant headway in their drive to address issues of open government on Kaua'i.

In a move similar to their unsuccessful challenge to Council Chair Kaipo Asing's power on June 3, Kawahara and Bynum sought to amend the agenda at the meeting's outset. This time around, however, the pair proposed a communication requesting agenda time at a future meeting, sidestepping the Sunshine Law problem that plagued them last time out.

County Attorney Al Castillo said the new communication itself is not of "reasonably major importance" and therefore the Sunshine Law does not apply. When pressed by Asing and Councilman Daryl Kaneshiro for further explanation, Castillo instructed them to look only at the communication and "not the substance of what the proponents want to do in July."

In the communication, Kawahara and Bynum requested agenda time at the July 8 council meeting to discuss four matters: 1) Council members' access to the agenda; 2) The placement of public documents, including meeting minutes, on the county's Web site; 3) Equitable and timely circulation of council service documents; and 4) General access to information by the public and council members.

The two wrote that the request reflects the wording of an online citizen petition, which can be found at [www.ipetitions.com/petition/opengovernmentkauai](http://www.ipetitions.com/petition/opengovernmentkauai) and contained nearly 300 virtual signatures as of press time. The duo has been sending e-mails touting the petition and their Web site, [kauaiinfo.org](http://kauaiinfo.org).

Asing protested the proposed communication, at one point asking incredulously "Why would we want to discuss in-house rules (in front of) the public?" Just minutes after the meeting began and before the matter had been decided, the chair called for a recess that lasted for nearly an hour.

When council members reconvened, Kaneshiro made a rare motion amending the communication, giving Asing the flexibility and discretion to create agenda time at either the July 8 or July 22 meeting. The amended motion passed unanimously.

"I've waited two and a half years, I can wait another month," Bynum said later.

The fact that the communication was never technically acted on after it was added to the agenda Tuesday could be irrelevant; even received or approved communications are non-binding. The issue forcing Asing's hand as he builds July's council agendas will likely not be an issue of legality but the pressure caused by unanimous council support for the communication as well as public outcry.

In a preview of the discussion now due to be heard publicly next month, Bynum on multiple occasions pilloried County Clerk Peter Nakamura for failing to distribute in a timely manner communications addressed to all council members.

Council Vice Chair Jay Furfaro at one point took responsibility for the delays, saying his role as Planning Committee chair authorized him to "manage" legislation, which includes, under his interpretation, deciding which communications are distributed to which committee members and when.

After Bynum pressed the point again at another juncture, Asing announced that during his 26 years on the council, Bynum was the first council member to ever voice unhappiness with council operating procedures.

"I think there's something to be said there," Asing said. "He seems to have all kinds of complaints."

Castillo warned that making "subtle allegations" against county personnel is "basically unfair" and suggested that the body go behind closed doors to discuss employment matters.

No executive session was convened on the matter. How Nakamura's performance and other government transparency issues are addressed in July remains to be seen.

For further coverage of Shoreline Setback legislation and other matters heard at Tuesday's council meeting, see an upcoming edition of The Garden Island.

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