

**COUNTY COUNCIL**

Bill "Kaipo" Asing, Chair  
Jay Furfaro, Vice Chair  
Tim Bynum  
Dickie Chang  
Daryl W. Kaneshiro  
Lani T. Kawahara  
Derek S. K. Kawakami



**OFFICE OF THE COUNTY CLERK**


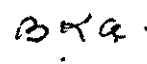
Peter A. Nakamura, County Clerk  
Eduardo Topenio, Jr., Deputy County Clerk

Telephone (808) 241-4188  
Fax (808) 241-6349  
Email [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov)

**Council Services Division**  
3371-A Wilcox Road  
Lihu'e, Kaua'i, Hawai'i 96766

**MEMORANDUM**

July 21, 2010

TO: Alfred B. Castillo, Jr., County Attorney  
FROM: Tim Bynum, Councilmember   
VIA: Bill "Kaipo" Asing, Council Chair   
RE: Request for Legal Opinion Regarding Resolution 2010-39

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At the July 14, 2010 Council Meeting, the Council deferred Resolution 2010-39 (attached), which is a resolution to establish a policy for facilitating open governance and internet access to public documents, until after the review and assessment of the County's furlough plan in December. The Council further requested that the Office of the County Clerk work with the Office of the County Attorney and Finance Department-Information Technology Division to ascertain whether legal issues are involved and to discuss implementation issues.

This is to request a legal opinion on whether there is anything in the content of the resolution that in any way could violate the Sunshine Law. Specifically, if the Council posted online the public documents (listed below) specified in the resolution online is there any violation of the Sunshine Law and could the posting of these documents be considered a serial communication in any way?

These documents include:

- Council and Committee Meeting agendas with related attachments.
- Committee reports.
- The full text of introduced bills and resolutions.
- Draft bills and resolutions' subsequent to amendment.
- Final versions of bills and resolutions adopted by the Council.
- The minutes of Council and Committee Meetings.

Please provide a response in a form that is non-confidential and can be made available to the public.

Thank you for your attention and response.

Attachment

YS:sg  
D:2010-610

COUNTY COUNCIL

COUNTY OF KAUA'I

**Resolution** No. 2010-

RESOLUTION TO ESTABLISH A POLICY FOR FACILITATING OPEN  
GOVERNANCE AND INTERNET ACCESS TO PUBLIC DOCUMENTS

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WHEREAS, in a democracy, the people are vested with the ultimate decision-making power and an informed, aware and engaged electorate is an important component of good governance; and

WHEREAS, the Hawai'i State Legislature, when it passed the Sunshine Law, expressly declared "it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and action of government agencies - shall be conducted as openly as possible"; and

WHEREAS, the Hawai'i State Legislature also enacted the Uniform Information Practices Act mandating that all government records be open to public inspection unless access is specifically restricted or closed by law; and

WHEREAS, the Council of the County of Kaua'i (hereinafter "the County") recognizes the value of partnership and collaboration with an informed public; and

WHEREAS, the internet has become the most reasonable, customary, and efficient method to access information; and

WHEREAS, the County has invested in a web portal that facilitates easy public access to public information; and

WHEREAS, the County has entered into a third party contract to produce live streaming video and an archive of government meetings, including an interface that facilitates easy access to public meetings and important records online, creating an unprecedented level of openness and improved access for persons with disabilities; and

WHEREAS, implementing the tools now available to the County will boost staff efficiency and control costs; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII, that it is our policy to provide an exemplary level of openness, public participation in government, and internet access to public documents.

BE IT FURTHER RESOLVED, that the Council will fully implement the capabilities made available by the investment in the technologies and tools which has been made by the citizens of Kaua'i.

BE IT FURTHER RESOLVED, that key Council documents shall be posted on the Council website and be searchable by text. Documents shall include, but not be limited to: Council and Committee Meeting agendas with related attachments, committee reports, the full text of introduced bills and resolutions, draft bills and resolutions subsequent to amendment, final version of bills and resolutions adopted by the Council, and minutes of Council and Committee meetings.

BE IT FINALLY RESOLVED, that a copy of this resolution be forwarded to the Mayor, the Director of Finance, the County's Information Technology Manager and the County Clerk.

Introduced by:

TIM BYNUM

	Aye	Nay	Exc	Recused
Coing				
Bynum				
Chang				
Furfero				
Kaneshiro				
Kawahara				
Kawakami				
Total				

### Certificate Of Adoption

We hereby certify that Resolution No. \_\_\_\_\_ was adopted by the Council of the County of Kauai, State of Hawaii, Lihue, Kauai, Hawaii, on

\_\_\_\_\_  
*Dated* County Clerk Chairman & Presiding Officer