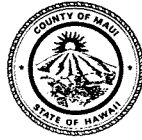


KATHY L. KAOHU  
County Clerk



JAMES G.M. KRUEGER  
Deputy County Clerk

**OFFICE OF THE COUNTY CLERK**

COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/county/clerk](http://www.mauicounty.gov/county/clerk)

May 17, 2021

Honorable Michael J. Molina, Chair  
Government Relations, Ethics and Transparency Committee  
Maui County Council  
County of Maui  
Wailuku, Hawai'i 96793

2021 MAY 17 PM 8:24  
OFFICE OF THE  
COUNTY CLERK

RECEIVED

Dear Chair Molina,

**SUBJECT: AMENDMENTS TO THE RULES OF THE COUNCIL  
(ADDING A CONSENT CALENDAR) (GREAT-6 (2))**

Thank you for your May 11, 2021 request for review and comment on a proposed resolution entitled, "AMENDING THE RULES OF THE COUNCIL TO ADD A CONSENT CALENDAR".

In conversation with Clerks' staff, the primary procedural concern has to do with the required consultation with Committee Chairs. The proposal is unclear as to when that needs to happen and who is conducting the consultations.

Currently the deadline to receive items for posting is **twelve noon, seven days prior to the meeting**, with final posting completed by the end of the day. There could be some crunch time to conduct both a consultation procedure with up to eight members and completing the posting.

The Office of the County Clerk recommends the consideration of removing the consultation procedure completely. With the Council's current process, the Chair determines how items are posted on the agenda without input from the members. The Council Chair could be designated to also determine the items for placement on the consent calendar without further input by members.

If the Chair conducts the final review of the consent calendar items, then there will be very little to no impact on the timing of the agenda posting. In addition, our office has not had the opportunity to run pre-meeting member consultations by the Office of Information Practices for any Sunshine Law concerns. Removing the consultation requirement also removes any Sunshine Law concern.

Following is clarifying language and considerations recommended for inclusion within Rule 12 of the Rules of the Council as it relates to a consent calendar agenda item:

- ~ Make clear that the Chair provides the ultimate determination as to what items move onto the consent calendar. Any member recommendations to the Chair should be made in a timely manner, so not to hold up agenda posting.

- ~ The deadline for submitting items for posting should be moved back to allow the clerks the ability to post by the end of the day, seven days prior to the meeting, and the setting of a deadline for when the Clerks Office would receive Councilmember recommendations if allowed.

A consideration for this would be to **move the item submission deadline to twelve noon, eight days prior to the meeting**, and setting the Chair's deadline for recommendations to twelve noon, seven days prior to the meeting.

- ~ If allowing for member recommendations, the language needs to be clear about who is collecting the recommendations – the Clerks Office, the Chair's Office, or the Office of Council Services. Regardless of who conducts the input process, the Rules should be clear about how to conduct this procedure to avoid violating or the appearance of violating the Sunshine Law.

- ~ Include an effective date or trial period within the resolution, so it is clear when the consent calendar will go “live” in the meeting agenda.

- ~ The Office of the Clerks strongly recommends that a consent calendar be limited to referrals and filings only, and maintain that

Chair Michael J. Molina  
Government Relations, Ethics, and Transparency Committee  
May 17, 2021  
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legislation be kept separate on the agenda, as this is cleaner in tracking administratively.

At this time, it is unclear whether there are any legal issues with the body acting on legislation via consent calendar. In addition, our office has not had the opportunity to converse with Corporation Counsel regarding any of our recommendations.

Thank you for the opportunity to provide comments on adding a consent calendar to the Rules of the Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Kaohu", written in a cursive style.

Kathy Kaohu, Clerk  
Office of the County Clerk