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CHERYL KAKAZU PARK  
DIRECTOR

June 2, 2021

VIA EMAIL

Councilmember Michael J. Molina, Chair  
Government Relations, Ethics, and Transparency Committee  
Maui County Council

Re: Amendments to the Rules of the Council (Adding a Consent Calendar)  
(GREAT-6(2)) (CORR # 2021-0528-03)

Dear Chair Molina:

The Office of Information Practices (OIP) received your email dated May 28, 2021, attaching your letter dated May 27, 2021, in which you asked whether the Council Chair or the Council may move an item from the consent calendar to another section of the meeting agenda—or from another section to the meeting agenda to the consent calendar—prior to accepting public testimony on the item.

The Sunshine Law requires a board to file written public notice of any meeting at least six calendar days before the meeting. Haw. Rev. Stat. § 92-7(a), (b). The notice must include an agenda that “lists all of the items to be considered” at that meeting. Haw. Rev. Stat. § 92-7(a). However, there is no requirement that an agenda state when during the meeting an item will be heard. Thus, as long as an item’s subject matter appears on the agenda in reasonable detail, the board may discuss the item at a different point in the meeting from where it appears on the written agenda. Whenever the item is considered during the meeting, the public will still have had notice that the board intended to consider that topic, and the opportunity to testify on it.

I notice that your recent letters to OIP your inquiries have been fairly straightforward questions for which you have requested a response within a few working days of when OIP receives the letter. Please be aware that OIP’s attorneys take turns acting as Attorney of the Day to respond to email, phone, and walk-in requests for general advice and similar inquiries, with the expectation that the inquiry will be responded to usually the same day or the next working day. However, when OIP receives a letter containing a request for general advice or any other question that is not an appeal or similar request for assistance, it typically gets assigned to an attorney as a correspondence file rather than simply going to the attorney of the day. Turnaround times for assigned files are slower than for attorney of the day responses, even for relatively straightforward correspondence files, which are not tracked with the expectation that they will be completed within a few days. In other words, when you are seeking quick general advice from OIP, sending your inquiry in the form of a letter may not always produce a response within your desired timeframe. For questions such as the ones raised in

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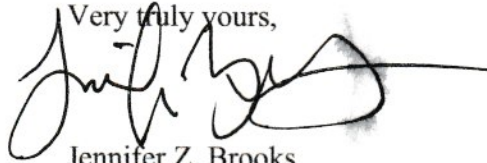
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your recent inquiries, seeking general advice with a fast desired turnaround time, an email asking for an answer from the attorney of the day likely would better suit your needs.

Please don't hesitate to contact OIP with any further questions about the potential Sunshine Law implications of the Council's new Consent Calendar process or the Sunshine Law in general. This letter also serves as notice that OIP is not representing anyone in this matter. OIP's role herein is as a neutral third party.

If you have further questions concerning this matter, do not hesitate to contact OIP.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jennifer Z. Brooks", with a long horizontal flourish extending to the right.

Jennifer Z. Brooks  
Staff Attorney

JZB:rt

cc: James Forrest, Esq.