Microsoft Teams Audio: + 1 469-848-0234, Conference ID: 967519415#

This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail, or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES
Open Session Minutes of July 16, 2021

PUBLIC TESTIMONY
None

COMMUNICATION
BOE 2021-27 Notice of Publication and Notice of Public Hearing received August 5, 2021 from Council Services regarding Bill No. 2830, A BILL FOR AN ORDINANCE AMENDING CHAPTER 3, KAUA`I COUNTY CODE 1987, AS AMENDED, RELATING TO FINANCIAL DISCLOSURES.

REQUEST FOR AN ADVISORY OPINION
RAO 2021-03 Request for an Advisory Opinion from Felicia Cowden received July 9, 2021 relating providing testimony to County Boards and Commissions and other State and National Governmental Entities.

BUSINESS
BOE 2021-21 Update and discussion on Ethics bill that went before Council on August 4, 2021.
DISCLOSURES

Employees:
1. Judith Hayducsko, Deputy Manager-Engineer, Department of Water
2. Arryl Kaneshiro, Councilmember
3. Cameron Takamura, Deputy County Attorney
4. Felicia Cowden, Councilmember

EXECUTIVE SESSION

ES-012 BOE 2021-22  Pursuant to Hawai‘i Revised Statutes §92-4 and §92-5 (a) and (2) and (4), the purpose of this Executive Session is for the Board to discuss a notarized formal complaint received July 29, 2021, charging that an employee or officer of the County has breached the Code of Ethics as set forth in the Kaua‘i County Charter section 20.02 E, Standards of Conduct.

ES-013 BOE 2021-23  Pursuant to Hawai‘i Revised Statutes §92-4 and §92-5 (a) and (2) and (4), the purpose of this Executive Session is for the Board to discuss a notarized formal complaint received July 29, 2021, charging that an employee or officer of the County has breached the Code of Ethics as set forth in the Kaua‘i County Charter section 20.02 E, Standards of Conduct.

ES-014 BOE 2021-24  Pursuant to Hawai‘i Revised Statutes §92-4 and §92-5 (a) and (2) and (4), the purpose of this Executive Session is for the Board to discuss a notarized formal complaint received July 29, 2021, charging that an employee or officer of the County has breached the Code of Ethics as set forth in the Kaua‘i County Charter section 20.02 E, Standards of Conduct.

ES-015 BOE 2021-25  Pursuant to Hawai‘i Revised Statutes §92-4 and §92-5 (a) and (2) and (4), the purpose of this Executive Session is for the Board to discuss a notarized formal complaint received August 3, 2021, charging that an employee or officer of the County has breached the Code of Ethics as set forth in the Kaua‘i County Charter section 20.02 E, Standards of Conduct.

ES-016 BOE 2021-26  Pursuant to Hawai‘i Revised Statutes §92-4 and §92-5 (a) and (2) and (4), the purpose of this Executive Session is for the Board to discuss a notarized formal complaint received August 3, 2021, charging that an employee or officer of the County has breached the Code of Ethics as set forth in the Kaua‘i County Charter section 20.02 E, Standards of Conduct.
RETURN TO OPEN SESSION
Ratify on Board actions taken in Executive Session.

ANNOUNCEMENTS
Next Meeting: Friday, September 17, 2021 at 1:00 p.m.

ADJOURNMENT

NOTICE OF EXECUTIVE SESSION
Pursuant to Hawaii Revised Statutes §92-7(a), the Board may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). Discussions held in Executive Session are closed to the public.

cc: Aaron Larrimore, Deputy County Attorney

PUBLIC COMMENTS and TESTIMONY

SPEAKER REGISTRATION

Prior to the Day of the Meeting: Persons wishing to testify are requested to register their name, phone number, and agenda item via email at asegreti@kauai.gov; or by calling 808-241-4917.

On the Day of the Meeting: Persons who have not registered to testify by the time the Commission meeting begins will be given the opportunity to speak on an item following oral testimonies of registered speakers.

Each speaker is limited to a three-minute presentation on each item.

WRITTEN TESTIMONY

Prior to the Day of the Meeting: Testimony may be emailed: asegreti@kauai.gov, or mailed: County of Kauai, Office of Boards and Commissions, Board of Ethics, 4444 Rice St., Ste. 300, Lihue, HI 96766.
SPECIAL ASSISTANCE

IF YOU NEED AN AUXILIARY AID/SERVICE OR OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR ASEGRETI@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.
<table>
<thead>
<tr>
<th>Board/Commission:</th>
<th>BOARD OF ETHICS</th>
<th>Meeting Date</th>
<th>July 16, 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Teleconference</td>
<td>Start of Meeting: 1:00 p.m.</td>
<td>End of Meeting: 1:18 p.m.</td>
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<tr>
<td>Present</td>
<td>Chair Susan Burriss, Vice Chair Mia Shiraishi, Secretary John Latkiewicz. Members: Ryan de la Pena, Kelly Gentry, Dean Toyofuku. Also: Deputy County Attorney Aaron Larrimore. Boards &amp; Commissions Office Staff: Administrator Ellen Ching and Administrative Specialist Anela Segreti.</td>
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<td>Excused</td>
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<tr>
<td>Absent</td>
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**SUBJECT** | **DISCUSSION** | **ACTION**
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**Call To Order**<br>Chair Burriss called the meeting to order at 1:00 p.m.<br>Roll call:<br>Member de la Pena: present<br>Member Gentry: present<br>Member Toyofuku: present<br>Secretary Latkiewicz: present<br>Vice Chair Shiraishi: present<br>Chair Burriss: present<br>Six members present, which constituted a quorum.

**Business**<br>BOE 2021-19 Discussion on the recommendations of the Permitted Interaction Group (PIG) on an ordinance defining regulatory employees who are required to submit a disclosure statement.<br>Administrator Ching stated that the Board did not receive any written testimony or comments on this agenda item, including Councilmember Cowden.<br>Chair Burriss entertained a motion to adopt the recommendations of the PIG.<br>Member Toyofuku moved to adopt the recommendations of the PIG. Member de la Pena seconded.<br>Voice Vote: 6 ayes, 0 nays. Motion carried 6:0
Deputy County Attorney Larrimore recommended that the Board work with the Administrator or directly with the Mayor’s office to present the recommendation and ask for their recommendations on the next steps. The draft of the ordinance would need to go before Council and passed for it to be a part of the County Code. So it will need to be transmitted to Council.

Ms. Ching stated that she has spoken to Council Services regarding the protocol. Board will transmit to the Chair and the Chair will decide how they will move it forward to be placed on the Council agenda. She explained that anything transmitted to Council goes to the Mayor’s office first and then they transmit it to Council.

Ms. Ching clarified with Mr. Larrimore whether a motion needs to be made to transmit to Council. Mr. Larrimore stated that it would be understood and not required.

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<td>Deputy County Attorney Larrimore recommended that the Board work with the Administrator or directly with the Mayor’s office to present the recommendation and ask for their recommendations on the next steps. The draft of the ordinance would need to go before Council and passed for it to be a part of the County Code. So it will need to be transmitted to Council. Ms. Ching stated that she has spoken to Council Services regarding the protocol. Board will transmit to the Chair and the Chair will decide how they will move it forward to be placed on the Council agenda. She explained that anything transmitted to Council goes to the Mayor’s office first and then they transmit it to Council. Ms. Ching clarified with Mr. Larrimore whether a motion needs to be made to transmit to Council. Mr. Larrimore stated that it would be understood and not required.</td>
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<td>BOE 2021-20 Election of two members to represent the Board of Ethics regarding the proposed ordinance defining regulatory employees required to submit a disclosure statement and other related matters.</td>
<td>Chair Burriss clarified that the persons elected would represent the Board if and when the draft ordinance gets on the Council agenda. Ms. Ching confirmed that yes, they would appear before Council and recommended that the former Chair, Mia Shiraishi, and Vice Chair, Dean Toyofuku, be elected as they attended the first State Ethics Conference, and they agreed. She also suggested that if any other member would like to volunteer to please do so. Chair Burriss entertained a motion to elect Mia Shiraishi and Dean Toyofuku. Ms. Ching congratulated the Board on their progress over the past two years to strengthen the Ethics Code and to inform employees regarding the Ethics Code, including attendance at the first Ethics Conference and bringing back information and ideas. Vice Chair Shiraishi thanked the PIG members. Ms. Ching thanked Mr. Larrimore for putting together the ordinance.</td>
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<td>Member de la Pena moved to elect Vice Chair Shiraishi and Member Toyofuku to represent the Board of Ethics regarding proposed ordinance defining regulatory employees required to submit a disclosure statement. Secretary Latkiewicz seconded. Voice Vote: 6 ayes, 0 nays. Motion carried 6:0</td>
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<td>SUBJECT</td>
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<td>ACTION</td>
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<tr>
<td>Approval of Minutes</td>
<td>Open Session Minutes of June 18, 2021</td>
<td>Hearing no objections Chair Burriss accepted the minutes as presented.</td>
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<td>Chair Burriss brought attention to typos on page one.</td>
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<tr>
<td>Public Testimony</td>
<td>None</td>
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<tr>
<td>Communication</td>
<td>None</td>
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<tr>
<td>Request for Advisory Opinion</td>
<td>None</td>
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<tr>
<td>Disclosures</td>
<td>Employees:</td>
<td>Secretary Latkiewicz moved to approve disclosures #1 thru #5. Member Gentry seconded.</td>
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<td>1. Boyd Gayagas, Deputy County Engineer</td>
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<td>2. Hugo Cabrera, Deputy County Attorney</td>
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<td>Volunteers:</td>
<td>Voice Vote: 6 ayes, 0 nays. Motion carried 6:0</td>
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<td>3. Catherine Adams, Police Commission</td>
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<td>4. Tess Shimabukuro, Liquor Control Commission</td>
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<td>5. V. Pamai Cano, Civil Service Commission</td>
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<td>Chair Burriss entertained a motion to approve #1 thru #5.</td>
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<td>Executive Session</td>
<td>ES-010 Pursuant to Hawai‘i Revised Statutes §92-4, §92-5(a)(4), §92-9(a)(1-4) and (b), the purpose of this Executive Session is for the Board to approve or amend the Executive Session Minutes of June 18, 2021, and to consult with its attorney on issues pertaining to the Board’s powers, duties, privileges, immunities, and/or liabilities as they may relate to this item.</td>
<td>Chair Burriss asked if the Board needed to go into executive session to approve the minutes of the June meeting which was solely to approve the minutes of the May</td>
</tr>
</tbody>
</table>
**SUBJECT** | **DISCUSSION** | **ACTION**
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meeting. | Mr. Larrimore stated that for this meeting that if the Board wants to just accept the Executive Session Minutes without discussion there is no need to go into executive session. He clarified that the Office of the County Attorney will be looking at this more closely. | Member de la Pena moved to approve the Executive Session Minutes of June 18, 2021. Member Toyofuku seconded. Voice Vote: 6 ayes, 0 nays. Motion carried 6:0 |
Chair Burriss asked the Board if they was anyone with any comment, question or amendment regarding the Executive Session Minutes of June 18, 2021. | | |
Ms. Ching clarified that if there are any amendments the Board would need to go into executive session. | Hearing no amendments to be discussed. Chair Burriss entertained a motion to approve the Executive Session Minutes of June 18, 2021. | |
Hearing no amendments to be discussed. Chair Burriss entertained a motion to approve the Executive Session Minutes of June 18, 2021. | | |
Return to Open Session | None. | Hearing no objections Chair Burriss adjourned the meeting at 1:18 p.m. |
Announcements | Next Meeting: Friday, July 16, 2021 at 1:00pm | |
Ms. Segreti corrected the date of the next meeting to August 13, 2021 at 1:00pm, and explained that it will not be the third Friday of the month as that is a holiday. | |
Adjournment | | |

Submitted by: Anela Segreti, Administrative Specialist Reviewed and Approved by: Susan Burriss, Chair

( ) Approved as circulated.  
( ) Approved with amendments. See minutes of__________
NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua‘i will hold a public hearing on Wednesday, September 1, 2021, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Līhu‘e, on the following:

Bill No. 2830
A BILL FOR AN ORDINANCE AMENDING CHAPTER 3, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO FINANCIAL DISCLOSURES

The purpose of this Bill is to amend Chapter 3, Sections 3-1.3 and 3-1.9(a), Kaua‘i County Code 1987, as amended, to conform to the County Charter Amendment adopted in November 2020 that broadened the classes of employees required to file financial disclosures with the Board of Ethics to include the Managing Director, the heads of agencies and divisions, and regulatory employees; and to define the regulatory employees required to file financial disclosures with the Board of Ethics.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Written testimony can be submitted to the Office of the County Clerk, Council Services Division by mail, facsimile, or via E-mail to counciltestimony@kauai.gov. Copies of this Bill are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at their subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk’s Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2830 was passed on first reading and ordered to print by the Council of the County of Kaua‘i at its meeting held on August 4, 2021, by the following vote:

AYES: Carvalho, Chock, Cowden, DeCosta, Eveslin, Kualii‘i, Kaneshiro
NOES: None
EXCUSED & NOT VOTING: None
RECUSED & NOT VOTING: None

TOTAL – 7, TOTAL – 0, TOTAL – 0, TOTAL – 0.

Līhu‘e, Hawai‘i /s/ Jade K. Fountain-Tanigawa
August 4, 2021 County Clerk, County of Kaua‘i

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAIGOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – August 12, 2021)
BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and purpose. The Council finds that a range of important government operations are conducted by employees working underneath the Mayor and department heads and deputies. These employees are engaged in sensitive matters involving the administration of County business and the determination of compliance with County law and rules. These employees historically have not been required to file financial disclosures with the Board of Ethics under Chapter 3, Section 3-1.9(a), Kauai County Code 1987, as amended.

The Council finds that a Charter Amendment was duly adopted on November 3, 2020, that broadened the classes of employees required to file financial disclosures with the Board of Ethics to include the Managing Director, the heads of agencies and divisions, and regulatory employees.

The Council finds that Chapter 3, Kauai County Code 1987, as amended, must be amended in order to conform to the Charter Amendment adopted in November 2020. Furthermore, the Council finds that the term "regulatory employees" should be defined in the Kauai County Code 1987, as amended, to provide clarity and certainty on which employees shall be required to file financial disclosures.

The purpose of this Ordinance is to amend Chapter 3, Sections 3-1.3 and 3-1.9(a), Kauai County Code 1987, as amended, to conform to the County Charter and to define the regulatory employees required to file financial disclosures with the Board of Ethics.

SECTION 2. Chapter 3, Section 3-1.3, Kauai County Code 1987, as amended, is hereby amended by inserting, alphabetically, a definition for the following term:

"Regulatory Employee" means

(1) Supervisors of inspectors employed by the Department of Public Works;
(2) Inspectors employed by the Department of Public Works;
(3) Supervisors of liquor control investigators;
(4) Liquor control investigators;
(5) Buyers and purchasing agents;
(6) Supervisors of real property tax appraisers;
(7) Real property tax appraisers;
(8) Supervisors of planners or inspectors employed by the Planning Department;
(9) Planners employed by the Planning Department;
(10) Inspectors employed by the Planning Department;
(11) Supervisors of fire prevention inspectors;
(12) Fire prevention inspectors;
(13) Supervisors of housing quality standards inspectors;
(14) Housing quality standards inspectors;
(15) Supervisors of motor vehicle inspectors;
(16) Motor vehicle inspectors;
(17) Supervisors of inspectors employed by the Department of Water;
(18) Inspectors employed by the Department of Water;
(19) The County Auditor;
(20) Auditors employed by the County Auditor; and
(21) Analysts employed by the County Auditor.

SECTION 3. Chapter 3, Section 3-1.9(a), Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

“(a) The Mayor, Councilpersons, [all department heads and deputies,] Managing Director, heads and deputies of all departments, agencies, and divisions, members of boards and commissions [and], the purchasing administrator, and [any employee delegated or authorized to act on behalf of the Director of Finance and the Deputy Director of Finance in their absence] regulatory employees shall, within thirty (30) days of assuming office, file with the Board of Ethics a list of all real property within the County in which he or she has any right, title or interest; a list of all business firms which contract for County business in which he or she has interest; all places of employment, including part-time employment; and all sources and amounts of income, business ownership, officer and director positions, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies. Amendments to the list, including additions, deletions or changes in title, interest in property or of employment, shall be made within thirty (30) days of the occurrence of the amendment. The list shall be a matter of public record[.]; provided that the lists of regulatory employees shall not be open to public inspection.”
SECTION 4. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 5. Material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua‘i County Code 1987, as amended, the brackets, bracketed material, and underscoring need not be included.

SECTION 6. This Ordinance shall take upon its approval.

Introduced by:

ARRYL KANESHIRO
(By Request)

DATE OF INTRODUCTION:

August 4, 2021

Līhu‘e, Kaua‘i, Hawai‘i

V:\BILLS\2020-2022 TERM\Financial Disclosures - Regulatory Employees CT_jy.docx
CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2830, which was passed on first reading and ordered to print by the Council of the County of Kaua‘i at its meeting held on August 4, 2021, by the following vote:

FOR PASSAGE: Carvalho, Chock, Cowden, DeCosta, Evslin, Kuali‘i, Kaneshiro TOTAL – 7,
AGAINST PASSAGE: None TOTAL – 0,
EXCUSED & NOT VOTING: None TOTAL – 0,
RECUSED & NOT VOTING: None TOTAL – 0.

Līhu‘e, Hawai‘i
August 4, 2021

Jade K. Fountain-Tanigawa
County Clerk, County of Kaua‘i
July 9, 2021

Susan Burriss, Chair
and Members of the Board of Ethics
c/o Office of Boards and Commissions
Via E-mail only: asegregi@kauai.gov

Dear Chair Burriss and Board Members:

RE: REQUEST FOR ADVISORY OPINION REGARDING PROVIDING TESTIMONY IN MY OFFICIAL CAPACITY AS A COUNCILMEMBER TO COUNTY BOARDS AND COMMISSIONS AND OTHER STATE AND NATIONAL GOVERNMENTAL ENTITIES

I have recently been cautioned on the manner in which I submit written testimony as an individual Councilmember to the Planning Commission, i.e., am I able to submit it using Council letterhead, or do I submit it on plain stationery?

My recent experience involved submitting written testimony requesting the Planning Commission to consider separating elements of a particular proposal initiated by Council colleagues (Council Bill No. 2822) as my preference is to address the Open Zone and Agriculture Zone through separate bills. This is my professional opinion as a Councilmember. Sometimes I testify as an individual when that is appropriate. I sought advice from the County Attorney and was able to subsequently submit written testimony using Council letterhead.

This situation continues to concern me because:

- I have been routinely writing letters since I took office, as I am asked for support in one direction or another by constituents, etc.
- For decades I have observed councilmembers testify in their official capacity before the commission on various topics, including the pre-covid present.
- In speaking with Director Hull regarding my concerns with Bill No. 2822, I understood him to be saying I can/should present my case to the commission.
- How do I do my job if I cannot speak officially as a Councilmember when addressing other layers of government?
I would like to request that County Attorney Matthew Bracken and County Clerk Jade K. Fountain-Tanigawa also be present at the meeting scheduled to discuss this matter.

I am available and look forward to discussing this matter further with you and getting clarification on fulfilling my duties as a Councilmember. I may be reached at the Office of the County Clerk, Council Services Division, at 241-4188 or via E-mail to cokcouncil@kauai.gov.

Sincerely,

FELICIA COWDEN
Councilmember, Kaua‘i County Council

AMK:dmc