

From: [OIP](#)
To: alice.lee@mauicounty.us
Bcc: [Shimizu, Robert H](#)
Subject: Re: Posting of Meeting Minutes
Date: Monday, February 13, 2023 8:45:00 AM

Dear Chair Lee:

The Office of Information Practices (OIP) received a complaint from a member of the public alleging that the Maui County Council (the Council) has not posted the minutes for its meetings since before December and has only had draft minutes available for meetings starting from June 21, 2022. Under section 92-9, Hawaii Revised Statutes, boards are required to make minutes available to the public by posting on the board's website within forty days after the meeting.

The Council's meeting on November 18, 2022 appears to be the most recent meeting that has its draft minutes posted. The Council's meetings on December 2, 2022, December 16, 2022 and January 2, 2023 do not have minutes posted. As it has been more than forty days since those meetings, please post the minutes for those meetings on the Council's website.

OIP notes that, in line with section 92-3.7(b)(6), HRS, the Council has posted recordings of its remote meetings on its website. However, in order to serve as minutes under section 92-9(b), HRS, a recording of a meeting must be accompanied by a written summary that includes the following:

- (1) The date, time and place of the meeting;
- (2) The members of the board recorded as either present or absent, and the times when individual members entered or left the meeting;
- (3) A record, by individual member, of motions and votes made by the board; and
- (4) A time stamp or other reference indicating when in the recording the board began discussion of each agenda item and when motions and votes were made by the board.

Please note that the Sunshine Law does not require board approval of meeting minutes. Although many boards choose to approve their minutes at a subsequent meeting, the Sunshine Law still requires that minutes be made available within forty days after a meeting, even if the board has not yet approved the minutes. If the minutes have not been finalized, the board should provide a record of the meeting in whatever form it then exists, even if it is in draft form or in the form of notes. The board can stamp the minutes as a "DRAFT" and let the public know that a final version will be forthcoming later, but if forty or more days have elapsed since a meeting the board must make the minutes of the meeting available. Please see OIP's [Quick Review: Sunshine Law Requirements for Public Meeting Minutes](#) for more information.

Because the Sunshine Law does not require board approval of meeting minutes, it would likely not be a violation of the Sunshine Law to continue using draft minutes so long as the draft minutes give a "true reflection" of the matters discussed at the meetings and the views of the participants. However, if the minutes have subsequently been approved, then to avoid confusion and complaints from the public, it may be better to replace the draft minutes posted on the website with the approved minutes.

Thank you.
Robert Shimizu
Staff Attorney

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