

ENVIRONMENTAL COUNCIL MEETING MINUTES
December 15, 2010, 2:00pm – 4:00pm
AAFES Building, 919 Ala Moana Boulevard, Honolulu, HI
3040 Umi Street, Lihue, Kaua'i – Video Conference Center
1582 Kamehameha Ave, Hilo, Hawai'i – Video Conference Center

Present: Alvin Char, Herman Tuiolosega, David Atkins, Pete Cooper, Ian Sandison, Susan Matsushima, Ted Bohlen, Gill Berger, Robert Inouye (Kauai), John Richards (Hilo), Alice Domingo (OEQC staff), and Mary Steiner

Guests/Others: Genevieve Salmonson (Department of Health), Rick McQuain (Hu Honua Bioenergy), Kevin Killeen, Denise Antolini (UH William S. Richardson Law School), and Scott Glenn (UH study team)

I. 2:01 p.m. – Meeting called to order by Chairperson, Mary Steiner

II. Minutes discussion was put aside for later

III. Chair's Report – Mary Steiner

- A space was available for the Environmental Council to meet at an earlier date but the neighbor islands did not have an available video-conference site. Efforts are still active in securing a regular meeting space for the Council.
- There has not been any contact with the new administration
- The issue of conflict of interest was discussed, with respect to the participation of Council members in the discussion of certain projects before the Council
 - Ted Bohlen advised members to contact the State Ethics Committee at 587-0460 for questions

IV. Minutes discussion continued

- Item #2 of the October 20, 2010 minutes should read, "Pepe'ekeo Community Association wanted to present their case before the Council." The rest of the sentence should be deleted.
 - Ian Sandison mentioned that he declined an offer by Hu Honua Bioenergy for legal representation due to conflict of interest. He will check with the State Ethics Committee
- Item #5 should indicate that James Sullivan agreed to be the Chair of the Legislative Subcommittee
- **The minutes of the October 20, 2010 Environmental Council meeting were approved as amended**

V. OEQC Director's Report – Acting Administrator, Herman Tuiolosega

- The lack of support to the Environmental Council is one of the unresolved issues identified on a transitional memo prepared for the new administration (by the acting administrator)
- The acting administrator has assigned Mr. Leslie Segundo, of OEQC, to provide professional support and Ms. Alice Domingo, of OEQC, to provide clerical support to the Council. They alone and the director/acting administrator of

OEQC will work with the Council until the matter of support for the Environmental Council is resolved with the Department of Health. The Environmental Council was reminded that it is administratively attached to the Department of Health.

- Ms. Rebecca Alakai is assigned to work on developing a user-friendly data-base for OEQC, in addition to other assigned duties.
- Scott Glenn (guest) asked if OEQC had adequate staff; response is no.
- Denise Antolini (guest) asked if OEQC was meeting it's workload with respect to impact analysis; response is no. Tuiolosega explained that he has seen the OEQC organizational chart which shows an Impact Analysis Unit on paper, but it doesn't exist at the actual OEQC setting. OEQC has been informally relying on the Environmental Center, University of Hawaii for their impact analysis.
- Tuiolosega provided a brief description of his background upon request by the Chair

VI. Standing Committee Reports

- David Atkin, the Exemption Subcommittee chair, reported on their meeting earlier in the day
- The committee met with the Hawaii Agribusiness Development Corporation and discussed modifications to its proposed exemption list. The committee recommends the list be published in The Environmental Notice and discussed at the next Environmental Council meeting.
- The Exemption Subcommittee also met with the Department of Accounting and General Services to review its list. The list was published in the May 23, 2007 issue of The Environmental Notice and no public comments were received. There was a recommendation for Council concurrence of the list.
- Council Chair Mary Steiner suggested allowing time for the Environmental Council to review the proposed changes and to vote for concurrence to the changes at the next scheduled meeting.
- David Atkin said that the next Exemption Subcommittee discussions would be held with the Department of Transportation Services (City and County of Honolulu) and the Department of Transportation-Kaua'i

- Ian Sandison, chair of the Rules Subcommittee had no report
- He reminded Council members that the proposed rules amendments were submitted to the last administration but there was no response.
- Discussion
 - Is it good to move forward or wait until after the 2011 Legislative Session?
 - It would be better to build upon the old rules
 - The Superferry decision makes the proposed amendments obsolete
 - Wait until after the amendments to Chapter 343, Hawaii Revised Statutes
 - Maybe ask advise from people working with Chapter 343
 - What if there is no change?
 - Rules should follow the statute
 - Maybe the subcommittee can work with Denise Antolini, Ted Bohlen and the UH students on the rules

- Rules are an administration function, not a legislative function
- The rules will only address certain parts of the statute
- Pete Cooper, chair of the Annual Report Subcommittee, said that although they had no committee meeting, he plans to collect relevant data by email – this was after discussion about whether this was allowed

VII. University of Hawaii Study Final Report – Denise Antolini

- Professor Denise Antolini presented the Final Report on Hawai'i's Environmental Review System 2010
- Reviewed each recommendation with a brief explanation of the reasoning and how the Working Group arrived at the position.
- Provided a chronological account of the study and Chapter 341, HRS, as discussed on a March 24, 2010 letter to Senator Mike Gabbard from the “SB2818 Working Group” on a 2010 bill to amend Chapters 341, HRS.
 - Professor Antolini reviewed each specific recommendation with a brief explanation of the reasoning and how the Working Group arrived at the position
 - Discussed a filing fee arrangement for applicant and agency environmental studies
 - The SB2818 Working Group presented a draft version of the bill in testimony at its last hearing but the committee held the bill, thereby killing the measure.
- In response to a proposal by the UH study, **Ian Sandison made a motion to keep the rule-making function under the Environmental Council rather than under the director of OEQC as proposed in the study; motion was seconded and approved** – The position of the Environmental Council will be to maintain responsibility for rule-making with respect to Chapter 343, HRS
- **Ian Sandison made a motion that Gil Berger seconded to form an Investigatory Committee (IC) to review the UH report with intentions of making recommendations to the Environmental Council**
- The IC members are Ian Sandison, Mary Steiner, and John Richards. Scott Glenn (member of the UH study group) indicated that he would like to participate. **The motion carried**
- The Investigatory Committee has the authority to provide input to legislation in the event that the Environmental Council doesn't meet in January, providing the IC clarify that it is the committee's position only and NOT the EC. The IC also is allowed to testify on its own behalf for the interest of the Environmental Council, if necessary.
- Scott Glenn, a member of the UH study team, continued the presentation, answering questions regarding the letter
 - Presented the proposals recommended by the study
 - Elaborated on proposed amendments

VIII. Public Testimony

- Genevieve Salmonson commented about the fees proposed by the UH study final report
- Mr. Rick McQuain stated that he was present in case any Environmental Council member had questions regarding the Hu Honua Bioenergy facility on the Big Island – There were no questions

IX. New Business

- Pete Cooper asked about what the Environmental Council will do with the Hu Honua Report – Mary Steiner responded that the matter depends on what the community and/or Hu Honua wants – Both sides have to be heard and the EC must receive a request in order for it to go onto the agenda

X. Schedule Next Meeting

- The Environmental Council Chair and OEQC will coordinate the location, date and time for the next council meeting in January 2011.
- The Chair wished everyone Happy Holidays and adjourned the meeting at 4:00 p.m.