

ENVIRONMENTAL COUNCIL MEETING MINUTES
LEIOPAPA A KAMEHAMEHA, STATE OFFICE TOWER BUILDING, ROOM 203
235 S. BERETANIA STREET, HONOLULU, HAWAI'I 96813
SEPTEMBER 15, 2011, 1400 HOURS UNTIL 1600 HOURS

MEMBERS PRESENT: David Atkin; Alvin Char; Scott Glenn; Gary Hooser (Director of Environmental Quality Control, *ex officio*, voting); Robert Inouye; Shannon Mears; John Richards; Mary Steiner (Chairperson); and, Marjorie Ziegler.

MEMBERS ABSENT: Malia Akutagawa; Peter Cooper; Susan Matsushima; Charles Prentiss; James Sullivan; and, Iris Terashima.

PUBLIC PRESENT/OTHER: Norman Lee (Office of the State Auditor); Danny Vasconcellos (Office of the State Auditor); David Penn (University of Hawai'i, Environmental Center), Edward G. Bohlen, Esq. (Deputy Attorney General); Alice Domingo (Staff); and, Leslie Segundo (Staff).

1. CALL TO ORDER AND INTRODUCTIONS: With a quorum of nine members, Chairperson Steiner called the meeting to order at 1405 hours; all present introduced themselves.
2. APPROVAL OF AUGUST 18, 2011 MEETING MINUTES: Chairperson Steiner gave the members a moment to review the minutes of August 18, 2011. MOTION 1: Mr. Glenn moved, and Mr. Mears seconded that the Environmental Council approve the minutes as submitted. There was a brief discussion after which Chairperson Steiner called for the vote. The Environmental Council approved Motion 1 (8-0-1).
3. CHAIR'S REPORT: Chairperson Steiner reported on the following items:
 - Standing Committee Reports for Annual Report: Chairperson Steiner reminded members that all Standing Committee chairs need to get their reports to Ms. Terashima of the Standing Committee on the Annual Report before the Environmental Council's next meeting. Electronic mails should be sent to Ms. Stacey Chaussoy, Graduate Intern, Office of Environmental Quality Control at oeqpctemp1@doh.hawaii.gov.
 - Declaratory Rulings: Chairperson Steiner noted that since 1989, the Environmental Council has refrained from issuing declaratory rulings under the provisions set forth in Chapter 11-201, Hawai'i Administrative Rules (Rules of Practice and Procedure). A brief discussion ensued between the members on the genesis of the current practice and the past use of declaratory rulings to interpret various provisions of the EIS rules. Deputy Attorney General Bohlen summarized the 1989 advisory opinion of the Attorney General noting that although the Environmental Council is empowered to adopt rules under Chapter 343, Hawaii Revised Statutes, the law vests the agencies (and not the Environmental Council) and the governor/mayors with the responsibility for making various determinations (i.e., exemptions, the need for an EIS, the acceptability of an EIS). Deputy Attorney General Bohlen noted that the 1989 advisory opinion allowed the Council to express its views in ways other than using declaratory rulings, such as letters of opinion, etc.
 - Next Meeting and Future Scheduling: Chairperson Steiner reported that the next meeting will be on October 20, 2011 (3rd Thursday). Mr. Glenn indicated that he would be absent for that meeting. On the agenda for the October meeting will be scheduling the November and December meetings. The Chairs of the Standing Committees agreed to meet on Council meeting days in the future as follows: 1000 hours till 1100 hours, Standing Committee on Legislation; 1100 hours until 1200 hours, Standing Committee on Administrative Rules; 1200 hours until 1300 hours, Standing Committee on the Annual Report; 1300 hours until 1400 hours, Standing Committee on Exemptions; 1400 hours until 1600 hours, meeting of Environmental Council in quorum assembled. Chairperson Steiner also requested that members unable to attend a meeting should inform her as soon as possible.

- Public Meeting File: Chairperson Steiner noted that five public review folders containing documents for discussion by the Environmental Council have been made available for use during the meetings by staff.
4. DIRECTOR OF ENVIRONMENTAL QUALITY CONTROL'S REPORT: Director Hooser reported on the following items:
- Performance Audit Update: Director Hooser and the Environmental Council acknowledged the presence of Messrs. Lee and Vasconcellos from the Office of the State Auditor. Director Hooser made reference to four recommendations made by the Office of the State Auditor:
 1. OEQC should establish a process in which the Environmental Councils notified when the OEQC Director received a request for an opinion or consultation from an agency if a proposed action is exempt and provide the Environmental Council a copy of the resulting opinion and any consultation record;
 2. OEQC should establish a process by which the OEQC Director consults with the Environmental Center of the University of Hawaii before the Director issues an opinion on whether a proposed action has changed;
 3. OEQC should ensure that the documentation of exemption requests and opinions is maintained by the OEQC and also made available for public review; and
 4. OEQC should establish guidelines including a checklist for use by agencies to ensure that the process required by Section 11-200-8 of the Hawaii Administrative Rules, has been properly addressed prior to issuance of an agency's exemption declaration.

Director Hooser stated that he work on establishing a policy to be implemented which he would share with the Environmental Council.
 - Guide to the Implementation and Practice of HEPA: Director Hooser noted that the draft guide (i.e., "guidebook") was routed to Messrs. Glenn and Penn for their review and comment. He noted that the Standing Committee on Exemption's use of a form on exemptions derives from the draft guidebook. Director Hooser reported that he expects that the guidebook should be completed by the October 20, 2011, meeting, for the Environmental Council's comment.
 - Educational Outreach and Training: Director Hooser reported that two process flow charts (for inclusion in the upcoming guidebook) have been used by the Office to educate other agencies and HEPA practitioners on the environmental review process authorized by Chapter 343, Hawai'i Revised Statutes. The Office (Director, staff and Deputy Attorney General) conducted its first outreach and training session on August 23, 2011 at the Kalanimoku Building for the Department of Land and Natural Resources. Future sessions include: two sessions in Honolulu on September 29, 2011; one session on November 29, 2011, for seventy-persons from the Department of Transportation; two sessions on the island of Kaua'i on October 13, 2011; one session in Hilo on November 30, 2011, and one session in Kona on December 01, 2011; and unscheduled sessions on Maui. Director Hooser thanked chief planner, Mr. Tuiolosega for organizing these sessions. Director Hooser invited members of the Environmental Council to attend any of these sessions.
 - Conferral of Commissions and Unexploded Ordnance: Director Hooser reported that the Governor had a commissioning ceremony for appointees to the various State boards and commissions, including several members of the Environmental Council. Director Hooser also noted that the media is currently examining a gubernatorial proclamation regarding unexploded ordnance.
5. STANDING COMMITTEE REPORTS:
- Exemptions: Mr. Atkin reported that the committee has no backlog of exemption lists to review. He noted that the Committee is working closely with the rule committee on sending out one letter that satisfies both committee's needs (i.e., announcing the initiation of the rule

making, informing agencies of the Environmental Council's exemption review process, and requesting agency contact information, preparation of an exemption form).

- Administrative Rules: Mr. Glenn reported that the committee voted to work with the exemption committee to revise the letter previously reported on by Mr. Atkin, above. Mr. Glenn also reported that he met with the Department of Planning and Permitting of the City and County of Honolulu.
 - Annual Report: Noting that Ms. Terashima was absent, Chairperson Steiner reported that Ms. Terashima had advised that all standing committees need to get their information for inclusion in the annual report to OEQC graduate intern Ms. Chaussoy.
 - Legislation: Mr. Mears reported that the committee is working on three bills for the upcoming session, especially SB 699 - funding bill for OEQC that went to conference during the last session. Mr. Mears also reported that he and others met with Senator Gabbard last month to discuss some of the legislation that the council was interested in (such as bypassing the environmental assessment process when an agency knows at the outset that a full EIS will be required for an action. He finally reported that the committee is working on a bill that establishes or identifies an agency to oversee the environmental assessment process.
 - Public Testimony: Mr. Penn reported that the University of Hawai'i Environmental Center through its Water Resources Research Center is conducting high priority reviews on all environmental assessment and impact statements by the University of Hawai'i. Also, he noted that he has been reviewing materials requested by the Water Commission, in addition to the draft OEQC guidebook.
6. CORRESPONDENCE RECEIVED: None
 7. NEW BUSINESS: The Chairperson, along with her Standing Committee Chairs, and the OEQC Director plan to meet with Representative Coffman on September 27, 2011, to introduce him to the Environmental Council and their work, and to discuss legislative issues.
 8. ADJOURNMENT: With no further business to discuss, Chairperson Steiner adjourned the meeting at 1600 hours.