



# STATE ENVIRONMENTAL COUNCIL

DEPARTMENT OF HEALTH, STATE OF HAWAII  
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David Y. Ige  
Governor

February 12, 2019 Meeting Minutes  
Approved on March 12, 2019

Chairperson  
Puananionaona Thoene

Vice Chair  
Mary Begier

Meeting held on  
Tuesday, February 12, 2019, 1:00 PM - 3:30 PM  
Capitol #1 Building  
Room 410, Executive Office of Aging  
250 South Hotel Street, Honolulu, Hawai'i 96813

Members  
Roy Abe  
Stephanie Dunbar-Co  
Scott Glenn (*Ex Officio*)  
Maka'ala Ka'auomoana  
P. Ka'anohi Kaleikini  
I. Robin Kaye  
Theresita Kinnaman  
Robert Parsons  
Charles Prentiss  
Ron Terry  
Michael Tulang  
N. Mahina Tuteur

## Members Present (10)

Puananionaona Thoene (Chair), Mary Begier (Vice Chair), Roy Abe, Scott Glenn (*ex officio*), Maka'ala Ka'auomoana, Robin Kaye, Tessie Kinnaman, Rob Parsons, Charles Prentiss, Ronald Terry

## Members Absent (4)

Stephanie Dunbar-Co, Ka'anohi Kaleikini, Michael Tulang, Mahina Tuteur

Environmental Council Deputy Attorney General (AG)  
Bill Cooper

Office of Environmental Quality Control (OEQC) Staff  
Leslie Segundo, Environmental Health Specialist

Public Present  
None

Note: **Bolded** items indicate text from the agenda.

## 1. **Call to order, roll call and quorum, introductions**

Chair Thoene called the Council to order at 1:06 PM. All present introduced themselves. The Chair noted that no members of the public were present.

## 2. **Review and approval of prior meeting minutes**

Meeting minutes were not ready at this time.

## 3. **OEQC Director's Report**

- Director Glenn reported that the Small Business Regulatory Review Board (SBRRB) met and recommended that the Governor sign the rules into law. The SBRRB expressed support for the Council's approach to comments and responses and its outreach. The SBRRB asked when the rules might become law. The Council believes that it would be reasonable to give some time to the agencies that are not yet ready.
- The OEQC is preparing the submittal package to the Governor. The OEQC still needs the requisite signatures from the Deputy Attorney General on the standard and Ramseyer format versions. The OEQC is also still updating the unofficial Ramseyer versions and Rationale document. The Director noted that he would like to submit the package to the Governor's Office by the end of February.

- The OEQC has been advising agencies to prepare for the new rules by familiarizing themselves with the language and reviewing their procedures. Member Ka'aumoana expressed an interest in helping with guidance if there is a role for the Council. Director Glenn stated that the Council has an integral role in the development of any guidance on the new rules.

#### **4. Annual Report Committee**

##### **▪ Discussion of 2018 Annual Report**

- Committee Chair Parsons informed the Council that the Annual Report was submitted and published on January 30, 2019, one day before the statutory deadline. The process went forward as discussed at the last meeting, including revisions as decided by the Council. He noted that the report's substance was good. Committee Chair Parsons recommended the committee next meet in a few months to discuss the future direction of the annual report.
- Member Ka'aumoana thanked Dr. Josh Atwood, Hawai'i Invasive Species Council Coordinator, Department of Land and Natural Resources, for his contribution to the report.
- Director Glenn said the report was distributed electronically. Council Vice-Chair Begier noted that two copies would be printed and bound for Members Ka'aumoana and Kinnaman.

#### **5. Exemption Committee**

##### **▪ Discussion of exemption guidance document**

- Committee Chair Prentiss noted that he had met with Ms. Emily Gaskin to develop clarification on the differences between *de minimis* items that have negligible impact and exemption items that have minimal or no impact.
- Committee Chair Prentiss noted that Ms. Gaskin prepared a draft that he is reviewing. They asked Director Glenn for input and would also like to get input from the Exemption Committee and the Council on any upcoming guidance. He asked Director Glenn to contact Ms. Gaskin and place this topic (exemption guidance) on the agenda for the Exemption Committee in March.
- The Council engaged in a brief discussion on the use of *de minimis* exclusions in light of the retroactivity clause under Section 31 and the seven-year allowance to retain a list. No decisions were made and the Council requested the OEQC to continue to work on developing guidance. Director Glenn noted that Ms. Gaskin is also reviewing the OEQC's *Citizen's Guide* for what might need updating.
- The Council engaged in a brief discussion on the issuance of emergency proclamations and exemption declarations, especially concerning taking advantage of an emergency that no longer would be considered an emergency. Director Glenn reviewed the language in the new rules.

#### **6. Legislative Committee**

##### **▪ Update on current legislation.**

- Committee Chair Kaye reported that the OEQC has been submitting testimony on bills, with several related to Chapter 343. Most of those that touch on triggers have not been scheduled. Other bills reference Chapter 343 but do not amend it. There are two bills to monitor:

- House Bill (HB) 1403 – Requires counties to review and issue decisions on affordable housing project within 30 days, or deemed approved; any construction, demo, operation, repair etc., related to affordable housing rental housing trust funds is excluded from Chapter 343.
  - This bill was first referred to the Housing Committee, then re-referred to the Energy and Environmental Protection Committee. Rep. Lowen passed the bill with amendments and next it goes to the Finance Committee. The House Draft 2 uses the Council's rules exemption for affordable housing for the permitting section of the bill and sunsets the Chapter 343 language once the Council's rules are adopted into law.
  - Member Terry noted that most of these projects have federal funds and need to comply with the National Environmental Policy Act (NEPA).
  - The companion bill, Senate Bill (SB) 1468, has yet to receive a hearing.
- SB 350 – Requires the Hawai'i Community Development Authority (HCDA) to create its own EIS process for Kaka'ako and makes the OEQC the accepting authority. Directs HCDA to prepare a programmatic EIS for affordable housing.
  - The OEQC submitted testimony stating that the new rules address everything this bill is trying to do.
  - The bill was deferred for now.
- Member Ka'auomoana inquired whether Transit Oriented Development (TOD) has appeared in any bills. Director Glenn replied that he did not know.
- HB 1586 – Creates a Department of Environment that would combine the OEQC and Council with sustainability and climate functions from the Department of Business, Economic Development, and Tourism (DBEDT), including from the Office of Planning. It was amended to remove sustainability, so the current version would be the OEQC, Council, and DBEDT Energy Office into one department. The bill is going to Finance next. The Council will monitor the bill.

## 7. Information & Outreach Committee

- **Discussion of possible invasive species public information forum**
  - Committee Chair Abe reported that the Committee has firmed up an agreement with the William S. Richardson School of Law (WSRSL) for a public forum on invasive species on Saturday, March 23, 2019. The WSRSL has agreed to co-sponsor it and Dr. Josh Atwood has agreed to participate as well.
    - The Committee will provide more information on presentations by the end of February and distribute at the next meeting.
    - The Committee would like to do a press release. Mr. Dan Dennison (DLNR) may be able to help. Last time, the WSRSL handled it. Dr. Atwood could help put the flyer together with the help of law students. The WSRSL also plans to contact 'ŌLELO to provide media coverage.
    - The Committee would like to provide for airfare for Council members and guest speakers to attend. Director Glenn said he would review the OEQC budget. The Committee is also looking into getting donations for lei, food, and gift cards for the students. Deputy AG Cooper agreed to look into whether donations are possible.
    - Dr. Atwood agreed to be the lead on presenters, the order of speakers, and possibly act as the master of ceremonies. Director Glenn agreed to do opening remarks for this half-day forum.

- **Discussion of potential future presentation to the Council on disaster planning**
  - What role does Chapter 343 have during an emergency declaration? Member Ka'auomoana requested a succinct explanation of what happens, noting that on Kaua'i the County asked the State for an emergency declaration from Chapter 343. She noted that followed up on this with a request to the County under the Uniform Information Practices Act (UIPA).
  - The Council requested Director Glenn to host a discussion on this in the future.

## 8. Next Meeting and Council Schedule for 2019

- **March 12, 2019, DBEDT conference room #436, Capitol #1 Building**
  - The Council agreed to meet for the rest of the calendar year on the first Tuesday of the month after March 2019, which will be on the second Tuesday.
  - Members Terry and Ka'auomoana indicated that they would be unable to attend the next meeting (March). Member Ka'auomoana would like to put on the April agenda a discussion of seabird protection with three speakers and brown bag lunches. A brief discussion on preparatory logistics for this event ensued.
  - Director Glenn notified the Council that Mr. Tom Berg has requested to present on pueo and West O'ahu to the Council.
    - Chairperson Thoene disclosed her representation of the University of Hawai'i and recused herself from discussion and decision making on correspondence received from Tom Berg. She left the room.
    - Vice-Chair Begier led the discussion on whether the Council would like to have Mr. Berg present to the Council.

MOTION: Member Terry moved, and Member Ka'auomoana seconded, that the Council provide the public a space on future agendas for speakers to have two minutes to raise issues before the Council. The item is to be agendized as an open forum on environmental issues in Hawai'i.

- The Council approved the motion 8-0-2 (Director Glenn abstained, Chair Thoene recused).

The Council declined to have Mr. Berg present to the Council. Vice-Chair Begier agreed to communicate to Mr. Berg (after consulting with the Deputy Attorney General) that the remedy he seeks does not lie within the jurisdiction of the Council.

## 9. Council Committee Assignments

- Member Parsons expressed value in having an O'ahu-based member serve on the Annual Report committee. Member Abe volunteered.
- Member Abe requested that the Information and Outreach Committee have an odd number of members. Council members suggested perhaps one of the new members to be appointed could serve on the committee.
- The Council considered whether non-Council members can be part of committees. Director Glenn noted that past counsel advice had been that non-members may attend meetings but cannot be members of a committee for purposes of quorum or voting, as the committee is a subset of the Council.
- The Council discussed the role of the Rules Committee now that the rules update is almost finished. The committee can develop guidance and help with interpreting the new rules as questions arise or old ones such as the "use" of state or county lands, noting that there are four appellate decisions from the Hawai'i Supreme Court pertinent to this. Perhaps the Rules Committee could begin to look into this in April.

MOTION: Vice-Chair Begier moved, and Member Ka'aumoana seconded, that the Council approve the following slate of committee members.

<b>Committee</b>	<b>Annual Report</b>	<b>Exemption</b>	<b>Information &amp; Outreach</b>	<b>Legislative</b>	<b>Rules</b>
<i>Chair</i>	<i>Robert Parsons</i>	<i>Charles Prentiss</i>	<i>Roy Abe</i>	<i>Robin Kaye</i>	<i>Scott Glenn</i>
Members	Roy Abe	Scott Glenn	Mary Begier	Mary Begier	Ron Terry
	Mary Begier	Maka'ala Ka'aumoana	Maka'ala Ka'aumoana	Scott Glenn	Onaona Thoene
	Stephanie Dunbar-Co	Ron Terry	Robert Parsons	Michael Tulang	
	Robin Kaye	Onaona Thoene		Mahina Tuteur	
	Tessie Kinnaman				

The Council approved the motion (10-0-0).

- Director Glenn reminded Council members that committee meetings fall under the Sunshine Law and therefore are supposed to have draft meeting minutes available to the public within 30 days of the meeting. Recently, members of the public have asked for committee meeting minutes. Due to staffing limitations, the OEQC is not able to provide staff support to prepare committee meeting minutes, so Director Glenn asked for everyone's understanding in having to prepare their own committee minutes.
- Member Ka'aumoana requested that the OEQC update its format so that the top of the document clearly says "Agenda" and "Minutes".

#### **10. Council Reappointments**

- Several members' terms expire on June 30, 2019 (Thoene, Ka'aumoana, Kaleikini, Prentiss, and Terry). Director Glenn noted that Member Prentiss will complete his second term this June, having served on the Council for eight years. Council members thanked Member Prentiss for his dedication, perspective, and hard work with the Exemption Committee. Director Glenn recommended that members eligible and desiring to be reappointed reapply through the Boards and Commission website.
- The Council expressed a desire the Governor to appoint someone with agency experience and someone with cultural, traditional, and customary rights experience.

#### **11. Adjournment**

Member Kaye moved, and Member Ka'aumoana seconded, that the Council adjourn. The Council adjourned at 3:23 PM.