



STATE ENVIRONMENTAL COUNCIL

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

Chairperson
Puananionaona Thoene

Vice Chair
Mary Begier

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

May 7, 2019, Meeting Minutes
Approved on July 2, 2019

Meeting held on
Tuesday, May 7, 2019, 1:00 PM-3:30 PM
No. 1 Capitol District Building
Executive Office on Aging Conference Room 410
250 S. Hotel Street, Honolulu, Hawai'i 96813

Members Present (12):

Puananionaona Thoene, Chairperson; Mary Begier, Vice Chairperson; Roy Abe; Stephanie Dunbar-Co; Scott Glenn (Director, OEQC, ex officio); Maka'ala Ka'umoana; Teresita Kinnaman; Robin Kaye; Robert Parsons; Charles Prentiss; Michael Tulang; Mahina Tuteur

Members Absent: Paulette Ka'anohi Kaleikini; Ronald Terry

Staff Present: Bill Cooper, Deputy Attorney General (AG); Leslie Segundo, OEQC

Public Present: Emily Gaskin (UH Law School); Katy Ersbak (DLNR-DOFAW)

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

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

With a quorum of twelve members present (Onaona Thoene; Mary Begier; Roy Abe; Scott Glenn; Mahina Tuteur; Teresita Kinnaman; Stephanie Dunbar Co; Robin Kay; Robert Parsons; Charles Prentiss; Makaala Ka'umoana), Chairperson Thoene called the meeting to order at 1:05 PM. Also present were: Emily Gaskin, Katy Ersbak, Deputy Attorney General Bill Cooper, and Leslie Segundo. All present introduced themselves.

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

Chairperson Thoene announced that because OEQC is currently editing draft minutes, no minutes are available for review.

3. **OEQC Director's Report**

Director Glenn reported that bill review is underway since the Legislature adjourned.

• **Rules Update**

Director Glenn informed the Council that the Governor plans to sign the Chapter 11-200.1, Hawaii Administrative Rules (HAR) into law on July 30, 2019, for an effective date of August 9, 2019, initiating statewide implementation. He noted that the reason for choosing the effective date was that the new rules required that agencies submit exemption declarations to the OEQC for publication in the periodic bulletin (The Environmental Notice or TEN) on the 8th of each month, with the September 8, 2019, issue of the periodic bulletin initiating the new process. He also noted that draft environmental assessments published under the old rules (Chapter 11-200, HAR) would

be subject to the old rules. A press release is expected soon. The Governor informed Director Glenn that his office is receiving positive feedback about the rules.

Director Glenn informed the Council that OEQC is currently working on updating the guidance document and the SharePoint site in anticipation of the changes. In response to requests from other agencies (e.g., Department of Land and Natural Resources, Department of Planning and Permitting, etc.) OEQC plans to set up a schedule of statewide training.

In response to a query from Member Kaye on Council involvement in the press release and the gubernatorial signing event, Director Glenn noted that July 30, 2019, would likely be that date of the rules signing. Director Glenn plans to work with the Council to see if everyone can be present for the signing. Member Kinnaman inquired as to whether it would be possible to move the August 6, 2019, Council meeting to July 30, 2019, to allow for all members to be at the rules signing.

OEQC elicited comments from the Council as to a possible name change from the current periodic bulletin, *The Environmental Notice*. A brief discussion ensued where Member Kaye inquired if the Director would be open to changing the format of the periodic bulletin. Director Glenn responded in the affirmative.

Director Glenn apologized for the lack of organization at the April 2, 2019, meeting of the Council. He outlined to the Council the various corrective measures that the Office would undertake to prevent similar future situations. One measure involved having the 23rd of each month as the date for the OEQC to send emails reminding the Chairperson and Committee Chairs to submit agendas and draft minutes in preparation for the next Council meeting. The agendas need to be submitted to OEQC within a week of the meeting to allow the Deputy Attorney General to review the agenda before the required Sunshine Law deadline of six-days before the meeting date. Director Glenn also noted that Sunshine Law requires that boards and commissions post their meeting minutes within thirty-days of a meeting. Chairperson Thoene requested that committee chairs work closely with OEQC in the preparation of their committee minutes. Director Glenn noted the following and welcomed feedback on the same:

- A day before the Council meeting, Director Glenn would meet with the Secretary and the Environmental Health Specialist (EHS) to ensure that all steps are in place before the meeting. This would include printing materials for the agenda.
- On the day of the meeting, the EHS would take notes and prepare draft minutes. The EHS would then compile a list of all action items proffered during the meeting. In all instances, Director Glenn advised members to always copy oeqchawaii@doh.hawaii.gov when sending emails to a staff person. This would ensure that the office is aware of the communication if the staff person is out.
- A day after the meeting, the Director, Secretary, and EHS would meet to debrief and work with the Chairperson on action items and timely production of other deliverables. Director Glenn also noted that in addition to the Sunshine Law requirements, OEQC would post the agendas and minutes to the SharePoint site in a more timely way. Pending Council approval, final approved minutes as amended will also be posted to the SharePoint site.

Director Glenn also distributed a draft memorandum from OEQC regarding travel procedures (Attachment 1). A brief discussion ensued on the Transportation Security Administration (TSA) process, reimbursement of ground transportation expenses (not including tips) and known traveler numbers. Member Ka'aumoana informed the Council of travel problems for the present meeting, even though she has a known traveler number. Director Glenn noted he is still looking into this. He also noted that tips are non-reimbursable, but ground transportation is reimbursable.

Director Glenn noted that ethics filings are due by May 31, 2019.

Noting that the Council has one vacancy and several impending ones, Member Prentiss' last meeting is the next meeting (June 2, 2019). Deputy AG Cooper agreed to research on whether Mr. Prentiss can continue as a holdover member. Director Glenn encouraged members to let others know to apply with the Office of the Governor. The Council requested members that have some cultural impact or agency expertise.

- **Hawai'i Congress of Planning Officials (HCPO), Maui, September 11-13, 2019, panel selection for presentation on Council rulemaking**

Director Glenn reported that the OEQC plans to do training on the new EIS rules at the HCPO by having a booth to field questions and provide answers. Director Glenn also noted that the OEQC would like to convene a panel of Council members (not more than a quorum) to serve on a panel to discuss the rulemaking process, lessons learned, insights, etc. It was suggested that Member Terry should attend the HCPO. It was unclear if he would be able to attend.

MOTION: Member Kaye moved that the Council approve the attendance of Members Begier, Thoene, and Glenn to serve on a panel. Member Dunbar-Co requested that the motion be amended to add Member Parsons to the list of panelists. The motion as amended was seconded by Member Dunbar-Co. Hearing no further discussion, Chairperson Thoene called for the question. The Council unanimously approved the motion as amended (12-0-0). Follow-up discussion noted that travel expenses for the attendees would be covered by the OEQC.

4. Exemption Committee Report

Committee Chair Prentiss allowed Ms. Katie Ersbak of the DLNR – Division of Forestry and Wildlife (DOFAW) to speak regarding exemption lists and the new rules. Ms. Ersbak proffered two questions to the Council.

- The first concerned when DLNR would need to update its exemption list. Director Glenn informed Ms. Ersbak that exemption lists are good for seven years from the effective date of the new rules. OEQC is preparing a guidance document. Director Glenn noted that a list is just the framework to guide the agency to issue exemption declarations.
- The second question from Ms. Ersbak concerned the level of analysis in consultation for exemptions. She noted that DLNR typically sends out a letter opining on what exemptions they believe to be applicable, along with a request for concurrence or comments. Director Glenn sometimes responded letters are not needed; some agencies have phone conversations that are documented. He noted that it would be wise to call those that who might express the most concern. He also noted that the level of analysis should be commensurate with the potential

impacts (direct, indirect, and cumulative).

Committee Chair Prentiss noted that, with the assistance of Ms. Gaskin, a guidance document on exemptions is being prepared. Director Glenn noted that the emphasis would be on part 1 (*de minimis* provisions) since that would not be given to OEQC for publication. It is a good question for the Council to advise on the use of an old list in terms of notifying OEQC of *de minimis* exemptions or whether such use requires the submittal of everything to OEQC for publication. Director Glenn noted that he expects that the Exemptions Committee will review drafts and discuss any edits at the June meeting.

Committee Chair Prentiss also discussed an updated Worksheet to assist the OEQC and Council in keeping track of what lists agencies have. He noted that the previous worksheet was prepared for the State agencies and the City and County of Honolulu. The new Worksheet includes all neighbor island counties. He noted that with new rules, guidance would inform the process of exemption list updates.

5. Annual Report Committee Update

Committee Chair Parsons reported that there was no official meeting due to errors in the agenda.

6. Information & Outreach Committee

- **Participation in Hawaii Conservation Conference (July 9-11, 2019)**

Committee Chair Abe noted that the cost of Environmental Council participation in the conference would be \$125.00 plus \$40.00 for each additional person that sits at the table (not-for-profit cost). Chair Abe indicated that he would research if a fee waiver would be available to a State board/commission.

Director Glenn would contact Emma Anders concerning a possible fee waiver; he indicated, however, that he is comfortable with paying the fee of \$125.00.

Concerning handouts if the Council were to have a table, Chair Abe encouraged participation to go paperless. If WiFi were available, a video playing on a laptop would be an option.

Member Ka'aumoana noted that Emily DeVille would present on Emergency Proclamation exemptions. She also would be at the next meeting of the Hawai'i Conservation Conference (HCC). She also noted that eight law students would be present. Member Dunbar-Co volunteered to attend on behalf of the Council. Director Glenn noted participation in the Conference would be a good training opportunity for the OEQC.

Member Begier suggested that perhaps it would be premature for EC to go to the HCC this year if they have insufficient bandwidth. She suggested going next year instead. Member Ka'aumoana opined that the impending rule promulgation is important to raise to the conference. Waiting a year may be too late. Member Dunbar-Co opined that she believes it to be timely as an appropriate forum. She noted that Council participation would be most appreciated by her colleagues.

- **Potential new topics and issues for I&O Committee**

Member Parsons suggested landfill diversion and solid waste management since the ten-year review of solid waste management plans have begun or will begin in some counties, providing a rare opportunity for citizen input.

Chairperson Thoene noted that the Administrative Rules and Information and Outreach Committees would meet at 10:00 AM, while the Annual Report and Exemption Committees would meet at 11:00 AM. She also noted that there would be no Legislative Committee meeting.

Members Dunbar-Co and Prentiss left the meeting at 2:50 PM.

7. Legislative Committee

- **Update on current legislation**

Committee Chair Kaye reported that House Concurrent Resolution 55 passed; it will be transmitted to the Governor for him to convene a working group on a Department of the Environment.

HB 1403 dealing with a sixty-day waiting period exempting rental housing revolving fund from EIS law and the automatic approval of affordable housing was not heard by its last committee.

Chair Kaye expressed his appreciation to the Senate and House Environmental Committees for their assistance in ensuring that Chapter 343, HRS, issues did not affect the rulemaking process. Chair Kaye expects that HRS 343 bills will be considered next year, the second year of the legislative biennium.

Chairperson Thoene reported Senator Thielen had commended Director Glenn for his efforts in guiding the Environmental Council's rulemaking process to completion.

A brief discussion ensued on the Civil Beat article on Climate Change bills. There were many carbon tax bills. Director Glenn noted that the Energy office would get funding to study carbon tax. Measures held in committees are alive for another round next year. A lot of consensus building would be needed for the second part of the biennium.

8. Next meeting

The Council has tentatively scheduled its next meeting for Tuesday, June 4, 2019, at 1:00 PM. Member Kaye informed the Council that he would not be at the next meeting Member Prentiss asked to put exemption guidance on the June agenda.

9. Public Forum

None

10. Adjournment

Chairperson Thoene adjourned the Council meeting at 3:08 PM.