



STATE ENVIRONMENTAL ADVISORY COUNCIL

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM,
OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT, STATE OF HAWAII
235 SOUTH BERETANIA STREET, SUITE 702, HONOLULU, HI 96813

Phone: (808) 586-4185
Email: dbedt.opsd.erp@hawaii.gov

MINUTES

State of Hawai'i Environmental Council
Tuesday, January 5, 2021, 1:30 PM– 3:30 PM
Online Zoom Meeting

David Y. Ige
Governor

Chairperson
Puananionaona Thoene

Vice Chair
Mary Begier

Members
Roy Abe
Stephanie Dunbar-Co
Dawn Hegger-Nordblom
Makaala Kaaumoana
Ian Robin Kaye
Theresita Kinnaman
Ron Terry
Michael Tulang
N. Mahina Tuteur

Members Present

Puananionaona Thoene (Chairperson), Mary Begier (Vice-Chairperson), Roy Abe, Stephanie Dunbar-Co, Dawn Hegger-Nordblom, Makaala Kaaumoana, Keith Kawaoka (Acting Director), Robin Kaye, Theresita Kinnaman, Ron Terry, Michael Tulang, Mahina Tuteur

Members Absent

Robert Parsons

Staff

Leslie Segundo (Environmental Health Specialist), Kathy Ho (Deputy Attorney General for the Environmental Council)

Public

Nicholas Ing, Neil Fujii, Lenora O. (Commission of Water Resource Management), Alan Simeon (Hawaii County Department of Public Works)

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

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

With quorum of 11 members present, Chairperson Thoene called the meeting to order at 1:35 PM.

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

None available.

3. **OEQC Director's Report**

Acting Director Kawaoka announced that there are several retirements from the Attorney General's Office including Ted Bohlen and Bill Cooper. Acting Director Kawaoka mentioned that AG Ho is taking over for AG Cooper. AG Ho mentioned that the two other Environmental lawyers are Dale Sakada (AG for Water issues) and Wade Hargrove (AG for Hazardous Waste, Food Services, Vector Control, and Deposit Beverage). Acting Director Kawaoka went over COVID priority vaccination updates. The next legislative session starts in two weeks and will be all virtual.

4. **Exemption Committee Update**

Committee Chair Terry mentioned that the committee held a meeting.

- a. **Review of and action to concur with the County of Hawai'i Department of Public Works exemption list (http://oeqc2.doh.hawaii.gov/Agency_Exemption_Lists/Hawaii-Department-of-Public-Works-Exemption-List-Draft-2020-11-10.pdf)**

Committee Chair Terry commented that the list was initially reviewed in Oct and approved for public released on Nov 23, with 15-day comment period plus additional time. list and passed unanimously by the Committee.

MOTION: Committee Chair Terry moved to concur with the County of Hawaii Department of Public Works exemption list. Member Kaye seconded. Chairperson Thoene called for question. The Environmental Council unanimously approved the motion (11-0-0).

b. Review of and action to concur with the State of Hawai'i, Commission on Water Resource Management exemption list (http://oegc2.doh.hawaii.gov/Agency_Exemption_Lists/State-Commission-on-Water-Resource-Management-Exemption-List-Draft-2020-11-10.pdf)

Committee Chair Terry commented that there were no public comments on this exemption list and passed unanimously by the Committee.

MOTION: Committee Chair Terry moved to concur with the State of Hawaii Commission on Water Resource Management exemption list. Member Kaye seconded the motion. Chairperson Thoene called for question. The Environmental Council unanimously approved the motion (11-0-0).

Both lists will be finalized and published on the ERP website.

c. Discussion of County-wide exemption lists

Committee Chair Terry commented that the discussion was deferred because no responses were received from agencies asking about their experience with County-wide exemption lists.

d. Query on whether exemption lists must go through rulemaking

Committee Chair Terry commented that an attorney reached out wondering if exemption lists must go through rulemaking as part of Chapter 91. Exemption Committee will be reaching out to the attorney as not enough information was given to answer the question. This will be addressed at the next meeting. Chairperson Thoene explained that under HRS Sec.343-6, Sub.A2, "establish procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an environmental assessment" so types of exemption actions are addressed under the Rules. Chairperson Thoene asked the members to review exemptions under HRS and the Rules for discussion at the next meeting.

5. Annual Report Committee Update

No committee meeting was held due to an earlier incident in downtown that prevented OEQC staff to start the Zoom meeting on time.

a. Update on status of agency survey

Member Kaye commented that 49 invitations were sent out to different agencies to complete the Survey Monkey and 46 responses have been received. For the 11 questions with responses, the survey people will be putting the analysis, context, and data together. Annual Report looks to be on schedule to be completed in time for the deadline. Chairperson Thoene tabled the discussion on finalizing the report for next meeting when Member Dunbar-Co is present.

b. Discussion of projected timeline, action items, and logistics for completion of the 2020 Annual Report

Committee Member Dunbar-Co commented the Survey Monkey people will get back to the Committee with an analysis. A brief writeup will be included in the PowerPoint report with an introduction and information on why the Survey Monkey was chosen along with the analyzed data. Members discussed that it is possible that this will not reach the deadline in time since there was no Annual Report Committee meeting this week and the EC cannot move to approve the final draft before January 31.

Member Kaye suggested that the Annual Report be dated for the January 31st deadline and be voted at the February 2 EC meeting. The report will be sent out to the EC when it arrives from the Survey Monkey people.

6. Legislative Committee Update

a. Update on legislative communications

Committee Chair Kaye mentioned that he would like to defer this topic until after the discussion of the PIG and Strategic Planning.

7. Rules Committee Update

Member Tuteur mentioned that the Committee held a meeting.

a. Discussion of potential topics for future Rules Committee review

The Committee discussed the 2019 revised Rules. The Committee agreed that revisiting the procedural rules in light of the contested case last year would be a priority. A more detailed discussion will be put on next month's agenda and make a prioritized list. Chairperson Thoene asked that any topics should be emailed to Les by Sunday, January 24.

Member Dunbar-Co joined the meeting at 2:02 PM.

Member Kinnaman asked about the Rules surrounding the Environmental Court. Chairperson Thoene answered that none of the 1997 Procedural Rules involve the Environmental Court since the Rules were written prior the Court being established. Any changes to the Rules would be done through Council's rulemaking procedures.

8. Information & Outreach Committee Update

Committee Chair Begier mentioned that the Committee held a meeting and that it was Member Hegger-Nordblom first meeting.

a. Discussion of Council's potential participation in future conferences and public forums/events

Committee Chair Begier asked Acting Director Kawaoka about how to move forward with a Saturday forum event with the Law School when a Zoom meeting will be needed, but staff do not work on Saturdays. Member Kawaoka believes it will be ok to share the Zoom password. AG Ho mentioned that forums are part of outreach efforts and not required to be recorded. Member Terry suggested that the forums be recorded and posted.

The Committee is suggesting a three-part forum with the Law School on cultural assessments. Member Tuteur will check with the Law School on their participation and involvement. Next meeting is scheduled for February 2.

b. Discussion of process for I&O to bring subject matter discussions/presentations to the Council

Committee Chair Begier mentioned that future discussion and presentations fit better in Zoom format.

- c. **Discussion on potential new topics & issues for Information & Outreach Committee to explore**
Committee Chair Begier commented that Jonathan under DLNR is working pro bono on avian malaria in birds. Jonathan interested in sharing it with the EC, but not in a public forum. Committee Chair Begier is asking how to decide who speaks with us and wants to make sure that all viewpoints are being shown. AG Ho commented that the EC is able bring anyone from the public they wish.

One other topic the I&O is interested in is solid waste management county by county. Committee Chair Begier is open to suggestions that members are interested in.

9. Strategic Planning Permitted Interaction Group Update

- a. **Discussion of Permitted Interaction Group (PIG) recommendations regarding potential strategic planning for the Council (http://oeqc2.doh.hawaii.gov/EC_Meetings/2021-01-05-EC-Permitted-Interaction-Group-Strategic-Planning-Meeting-One.pdf)**

Committee Chair Kaye commented that the Committee wanted to add external members to the PIG ie. non-profits, environmental leaders, and State agencies. One idea to get people involved is to pose the question: What role should the EC play in Hawaii's environment?

AG Ho left the meeting around 3PM.

Member Abe said he looked through old annual reports and commented on how comprehensive they were. He mentioned that back in the 1970s and 1980s, stakeholders were more involved working together and took a holistic view. Currently, no State agency that oversees all environmental issues or topics.

EC members were asked to look over the mentioned document and provide their feedback.

- b. **Report on discussion with selected legislators regarding issues that may call for revisions to HRS Chapter 343**

Committee Chair Kaye commented Senator Gabbard and Representative Lowen were open of the EC going through the existing process on the moving appeals to the Environmental Court. He mentioned that Chairperson Thoene agreed to give Senator Gabbard and Representative Lowen a list of why EC appeals are very challenging and draft potential language for the statute. Senator Gabbard and Representative Lowen commented their current environmental priorities are energy and transportation, not specifically any environmental issues. Bills on cultural assessments and EIS hub won't be introduced this year.

Committee Chair Kaye encouraged everyone to look at Act 045 (HB2486 on setting up the Sustainability branch). Currently, there's no funding for this branch. Committee Chair Kaye commented that one possible place for OEQC and EC to go would go, as opposed to staying in the Department of Health, could be the Sustainability branch. Three items for the EC to consider for removal from statutory requirements : 1) eliminate the appeals process in the EC, 2) eliminate the Annual Report, and 3) eliminate any mention of the Environmental Center at UH since it's been defunded.

- c. **Action to approve delegation of authority to Chair and PIG member to recommend and draft legislation consistent with the PIG's recommendations**

Chairperson Thoene opened the discussion to members. Chairperson Thoene mentioned that appeals of non-acceptance is considered a contested case under Chapter 91. Member Kaaumoana expressed concerns in a broader context about taking the community out of the appeals and annual report processes. Member Abe commented that relying on a judge without technical background could be bad, that the Annual Report can be simple, concise, and informative, and that the Environmental Center was strong in the 70s and 80s and made good comments on EISs. Member Terry supported deleting the appeals process, keeping the Annual Report, and eliminating the Environmental Center. Member Kaye clarified that the removal of statute requirement of producing the Annual Report by January 31, doesn't mean the EC can't produce a report. Member Dunbar-Co suggested that the Annual Report be discussed at the Strategic Planning process.

MOTION: Committee Chair Kaye moved, and Vice-Chairperson Begier seconded to approve delegation of authority to Member Kaye and Chairperson Thoene to recommend and draft legislation to eliminate appeals to the Council under HRS Chapter 343. Chairperson Thoene called for the question. The motion passes 10 - Yes (Thoene, Abe, Begier, Dunbar-Co, Hegger-Nordblom, Kaye, Kinnaman, Terry, Tulang, Tuteur), 1 - No (Kaaumoana), 0 - Abstained.

MOTION: Committee Chair Kaye moved, and Vice-Chairperson Begier seconded to approve delegation of authority Member Kaye and Chairperson Thoene to recommend and draft legislation to remove the requirement from HRS Chapter 341 to produce the Annual Report by January 31st of each year. Chairperson Thoene called for the question. The motion passes 8 – Yes (Thoene, Begier, Dunbar-Co, Hegger-Nordblom, Kaye, Kinnaman, Tulang, Tuteur), 3 – No (Kaaumoana), 0 – Abstained.

MOTION: Committee Chair Kaye moved, and Vice-Chairperson Begier seconded to approve delegation of authority to Kaye and Thoene to recommend and draft legislation to delete the Environmental Center from HRS Chapter 341 and 343. Chairperson Thoene called for the question. The motion approved unanimously (11-0-0).

10. Next meeting: Tuesday, February 2, 2021, 1:30 – 3:30 pm

11. Public Forum

Member Kaye will circulate proposed meeting times for the PIG.

12. Adjournment

The meeting adjourned at 3:56 PM.