



STATE ENVIRONMENTAL ADVISORY COUNCIL

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM, OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT, STATE OF HAWAII
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State of Hawai'i Environmental Advisory Council
Minutes for Hybrid Meeting
Tuesday, December 7, 2021, 1:00 PM - 3:30 PM

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; Robin Kaye; Tessie Kinnaman; Ronald Terry; Michael Tulang; Mahina Tuteur.

MEMBERS ABSENT: None

STAFF PRESENT: Mary Alice Evans (Director, Office of Planning and Sustainable Development); Jodi Yi (Deputy Attorney General); Leslie Segundo (Environmental Review Program)

PUBLIC PRESENT: Marissa Bowens (Student, Brigham Young University-Hawaii); Ed Martinez

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

With a quorum of members present (Thoene, Abe, Dunbar-Co, Hegger-Nordblom, Kaaumoana, Kaye, Kinnaman, Terry, Tulang, and Tuteur), Chairperson Thoene called the meeting to order at 1:06 PM. A roll call and introductions followed. Absent was Begier (arrived later; see below). Staff present included Mary Alice Evans (Director, Office of Planning and Sustainable Development), Jodi Yi (Deputy Attorney General), and Leslie Segundo (Environmental Review Program). Public present included Marissa Bowens (student of Brigham Young University- Hawaii) and Ed Martinez.

2. Review and approval of prior meeting minutes

No meeting minutes were available to report for this meeting.

3. Office of Planning Director's Report

Director Evans presented the report.

No report from the Land Use Commission staff on how their program will support the environmental goals of the Environmental Advisory Council.

Environmental Assessment requested from County of Hawaii's Department of Planning in connection to the repowering of the Puna Geothermal Power Plant. Ordered by the Public Utilities Commission.

4. Exemption Committee Update

- **Discussion of and action to approve publication of City & County of Honolulu, Board of Water Supply exemption list in *The Environmental Notice* for public comment**
http://oeqc2.doh.hawaii.gov/EC_Meetings/2021-12-07-EAC-Exemption-Com-Transmittal-of-BWS-Proposed-Exemption-List-November-12-2021.pdf
http://oeqc2.doh.hawaii.gov/EC_Meetings/2021-12-07-EAC-Exemption-Com-BWS-Exemption-List-Update-ANNOT-Oct.pdf

- **Status of exemption lists in active review by the Exemption Committee**

Committee Chair Terry reported that in addition to the Board of Water Supply exemption list, the State Department of Transportation and the City and County of Honolulu's Department of Transportation Services will have comments available by the next Exemption Committee meeting.

No questions or testimony were provided for the Exemption Committee update.

5. Information & Outreach Committee Update

- **Discussion of status of forums planning**

Chairperson Thoene deferred this item until Vice-Chairperson Begier arrived.

6. Action to Create Permitted Interaction Group pursuant to HRS § 92-2.5 for the purpose of planning the Environmental Advisory Council strategic planning forum

Committee Chair Kaye presented that an agenda and a process would be developed for the strategic planning forum. He expects that it will be available by March or April. He notes that there was a breakdown in communication with a potential facilitator.

Member Hegger-Nordblom was able to contact the potential facilitator and has notified Committee Chair Kaye.

MOTION: Committee Chair Kaye moved that the Permitted Interaction Group be created. Member Tulang seconded the motion. There was no discussion or public testimony. Chairperson Thoene called the question. The EAC unanimously approved the motion (10-0-0).

Committee Chair Kaye will lead the Permitted Interaction Group. Chairperson Thoene and Member Abe will be a part of the staff.

The Permitted Interaction Group will give the final report to the newly created Strategic Planning Committee and to the Council in January.

7. Action to create Strategic Planning Committee

The Strategic Planning Committee will be a standing committee that will be subject to Sunshine Laws.

At 1:39 PM, Vice-Chairperson Mary Begier joined the meeting.

MOTION: Committee Chair Kaye moved to create a Strategic Planning Committee as a standing committee. Committee Chair Kinnaman seconded the motion. Member Dunbar-Co brought up concern regarding the creation of a new committee with the lack of members. Members Abe, Kaaumoana, Kaye, and Terry have volunteered to staff the Strategic Planning Committee. There was no public testimony. Chairperson Thoene called the question. The EAC unanimously approved the motion (11-0-0).

Director Evans clarified that the annual report is a recounting and not a strategic planning document.

8. Ratification of Environmental Advisory Council's November 6, 2021 letter to Boards and Commissions regarding lack of quorum and need for appointment of additional council members

http://oeqc2.doh.hawaii.gov/EC_Meetings/2012-12-07-EAC-2021-11-06-EAC-Letter-to-Boards-and-Commissions.pdf

- **Discussion of Boards and Commission's response to EAC's letter dated November 6, 2021**

Chairperson Thoene drafted a letter to Boards and Commission regarding the applicants

who have applied to become a part of the Environmental Council. The letter is in response to the lack of action by the Board of Commission or the governor to review the applications. The letter discusses the difficulty of making quorum for previous meetings and that additional appointments be made up to the 15-member board.

MOTION: Chairperson Thoene entertained a motion for the approval to ratify the sending of the letter that was submitted to Boards and Commissions. Member Kaye motioned and Member Kaaumoana seconded the motion. There was no discussion or public testimony. Chairperson Thoene called the question. The EAC unanimously approved the motion (11-0-0)

▪ **Discussion of and action to approve further response to Boards and Commissions**

Chairperson Thoene reported that the response from Boards and Commissions in response to the letter stated that members of the council are ex-officio members and that there was not a need to appoint up to 15-members for the board. Chairperson Thoene did not feel that a formal letter was necessary but will call the Boards and Commissions to discuss the need for additional appointment of council members.

Director Evans reported that a staff member from Boards and Commission did contact her to discuss the applications that were pending. The application review process is delayed due to limited staffing at the Boards and Commission and the large influx of applicants from other boards. Evans notes that appointments will be made, and permanent appointments, rather than interim appointments, will likely be made when the legislative session starts.

Following the discussion, Chairperson Thoene will not submit a formal letter, but will contact Boards and Commission to clarify the response by Boards and Commissions and to reiterate the need to have appointments be made to the 15-member board.

Member Abe inquired how many existing members have terms ending soon. Chairperson Thoene provided information on who's terms expire in 2022.

9. Discussion of EAC Annual Report requirements from OPSD

Chairperson Thoene reports that due to the legislative efforts of House Bill 1318, the EAC no longer has their own individual annual report requirements, but an annual report will be provided to OP which they will include in their own annual report.

▪ **Review and approval of draft language for EAC section of Annual Report**

http://oeqc2.doh.hawaii.gov/EC_Meetings/2021-12-07-EAC-DRAFT-EAC-Annual-Report-Language.pdf

Chairperson Thoene opened for discussion regarding the draft language for the EAC section of the Annual Report.

Member Kaye inquired whether the PowerPoint that was prepared for the committee members as the annual report could be included. Director Evans responded that links could be included due to the electronic sending of the report, unless two-printed copies needed to be sent to the state libraries.

Director Evans also announced that the governor has approved the restoring of the Planner 5 funding in the supplemental budget request. Legislature will be urged to approve the request so that a Planner 5 may be filled and a staff of four rather than three be approved.

Member Kaye retracted his statement for the inclusion of the PowerPoint links in the report. Member Kaaumoana states that she supports the inclusion of the PowerPoint links even if they were a part of the 2020 report. Member Kaaumoana also suggested that they consider a possible I&O forum about what the council is and does.

Member Dunbar-Co suggested that the report be used a basis or foundation from which the Strategic Planning Committee can operate. They also thanked Chairperson Thoene for their drafting of the language for the annual report. Committee Chair Dunbar-Co inquired whether a clarification could be made, in line with the inquiry made by Committee Chair Kaaumoana, as to the inclusion of the role of the OEQC.

Member Abe also suggested that links be included in the report to the forums. Chairperson Thoene suggests the inclusion of links be deferred due to the lack of reliable links following discussion.

Director Evans offered for OP to reformat the annual report.

At 2:13 PM, Ed Martinez, a member of the public, joined the meeting.

MOTION: Chairperson Thoene motioned to approve the draft annual report, subject to reformatting and literary license by OPSD. Member Kaye seconded the motion. There was no further discussion or public testimony. Chairperson Thoene called the question. The vote was not unanimous, and a roll call was taken (10-0-1). The draft annual report was approved and will be amended via formatting.

- **OP's 2020 Annual Report is attached for reference**

http://oeqc2.doh.hawaii.gov/EC_Meetings/2021-12-07-EAC-OP-Annual-Report- FY20.pdf

10. Discussion of Act 220, effective January 1, 2022

https://www.capitol.hawaii.gov/session2021/bills/SB1034_CD1_.PDF

<https://oip.hawaii.gov/wp-content/uploads/2021/11/SL-unofficial-version-with-Act-220-am-posted-11.10.2021.pdf>

http://oeqc2.doh.hawaii.gov/EC_Meetings/2021-12-07-EAC-Whats-New-Gov- Emergency-Proclamation-11-29-2021.pdf

Deputy Attorney General Yi reported that Sunshine Laws have been changed. There are three ways to conduct meetings: all in person at one location; two locations that are linked; virtual, but one spot needs to be available for public to attend in person with audio and video capability. Each board member also must state if anyone is present at their location. The agenda must also inform the public on how to view the audio. Board members must be audible and viewable during the meeting. At the start of the meeting, the presiding officer must announce the names of the participating members through roll call attendance. If a vote is not unanimous, a roll call must be conducted. When made practicable, the meeting must be recorded, and the recording has to be made electronically available as soon as practicable.

Director Evans and Leslie Segundo have been working on securing a physical site for members of the public to attend the meetings.

Member Hegger-Nordblom inquired as to whether a physical site for members of the public needs to be included on every island. Director Evans responded that only one site needs to be provided, wherever it is the most convenient. They also clarified that there is no limit to the amount of sites but a board member or staff needs to be present at the site.

Chairperson Thoene inquired as to whether the minutes for meetings needs to be submitted within 30 days in lieu of the recorded video. Deputy Attorney General Yi responded that they will check on the status of this requirement.

Chairperson Thoene reiterated the new rules for the meetings and that they also apply to committee meetings.

Member Kaye questioned whether the new rules would affect the way that the Permitted Interaction Group would operate. Chairperson Thoene stated that the Sunshine requirements would not affect the way the Permitted Interaction Group would operate.

11. Discussion of HRS Chapter 92 constraints and possible legislative amendments

Vice-Chairperson Begier reports that there have been issues with the constraints of HRS Chapter 92.

Chairperson Thoene reports that the agenda item was made at the request of members in the past expressing frustrations with HRS Chapter 92 and constraints of holding the meetings. Legislative amendment is the only way to address the issues with Chapter 92. Thoene suggests that the amendment could be included in the legislative package in 2022.

Member Kaaumoana suggests that there be inquiry into seeing how other groups are addressing the legislation. Chairperson Thoene agreed and inquired if there's an exemption for essentially administrative communication between members for an event, but not substantive to council action that will be on an agenda. Thoene also suggests that if the current exemption is not available in HRS Chapter 92, then it is reasonable enough to suggest an amendment.

Member Hegger-Nordblom clarified that there are problems with the zoom link, flyer, and actual meeting. In the case of the INO forum, there were issues with commitment from members. Member Hegger-Nordblom has issues with the flyer and suggests that Office of Planning and Sustainability help with the context and formatting.

Member Terry suggested that before the council work on legislation, OIP could provide interpretation of the scenario. Member Kaaumoana also agreed that an informal conversation be held with OIP.

Chairperson Thoene will contact OIP and invite them to the January 2022 meeting to further discuss the inquiries made by the council members regarding HRS Chapter 92.

12. Legislative Committee Update

- **Discussion of and action to approve outreach by EAC Chair and Legislative Committee Chair to Senator Gabbard and Representative Lowen regarding EAC's 2022 legislative priorities, including potential amendments to HRS Chapter 92, and EAC strategic planning**

Chairperson Thoene and Member Kaye will present the issues discussed in the previous agenda point regarding HRS Chapter 92 to Senator Gabbard and Representative Lowen. This discussion will be in the event that the discussion with OIP in January results in the need for legislative change.

Chairperson Thoene reports that the legislative committee has not been meeting due to the lack of legislation. Thoene also opened the discussion to other legislative priorities that council members might have aside from HRS Chapter 92. Conversation will be initiated with Senator Gabbard and Representative Lowen to discuss any other issues or legislation.

MOTION: Chairperson Thoene motioned for approval for outreach by the EAC Council Chair and Legislative Committee Chair to Senator Gabbard and Representative Lowen regarding 2022

legislative priorities and concerns with HRS Chapter 92. Member Kaye seconded the motion. There was no discussion or public testimony. The EAC unanimously approved the motion (8-0-0).

13. Next meeting: Tuesday, January 4, 2022, 1:00 – 3:30 pm

14. Public Forum

No public forum was provided.

15. Adjournment

Hearing no objections, Chairperson Thoene adjourned the meeting at 3:12 PM.