



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, January 4, 2022, 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); Roy Abe; Dawn Hegger-Nordblom; Makaala Kaaumoana; Robin Kaye; Tessie Kinnaman; Ronald Terry; Mahina Tuteur.

MEMBERS ABSENT: Mary Begier (Vice-Chair); Stephanie Dunbar-Co; Michael Tulang

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

PUBLIC PRESENT: Raymond Severn (HDOT Airports Division); Greg Tsugawa (City and County of Transportation Services); Daniel Orodenker (Land Use Commission)

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

With a quorum of members present (Thoene, Abe, Hegger-Nordblom, Kaaumoana, Kaye, Kinnaman, Terry, and Tuteur), Chairperson Thoene called the meeting to order at 1:05 PM. A roll call and an introduction followed. Absent was Begier, Dunbar-Co, and Tulang. 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 Raymond Severn (HDOT Airports Division), Greg Tsugawa (City and County of Transportation Services), and Daniel Orodenker (Land Use Commission).

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- Presentation on the Land Use Commission by Mr. Daniel Orodenker, Executive Director, Land Use Commission

Director Evans reports that Mr. Daniel Orodenker was not currently available for this agenda point but will arrive later for the presentation (see below). She also reports that the OPSD has several legislative budget briefings coming up within the week. One of the briefings will include the request for funding for the Planner 5 in the Environmental Review Program's staffing component.

Chairperson Thoene inquired about the appointments for additional board members per the last council meeting (December 2021). Director Evans reports that there are no updates and has not heard from Sharon Ibarra since the last council meeting.

Mr. Daniel Orodenker provided a presentation on the Land Use Commission. He provided background on the Land Use Commission and what their authority is, especially in regard to their jurisdiction under Chapter 205. He reports that the Land Use Commission is related to the Environmental Advisory Council due to the review of Environmental Impact Statements or Environmental Assessments for a district boundary amendment submitted to the Land Use Commission. This can also be related other projects

that fall under the jurisdiction of the Land Use Commission. He also reported that there is a new provision in their rules that require an assessment of sustainability and climate change impacts.

Member Terry had a concern specific to the bodies that make decisions on Chapter 343 documents. He inquired as to who is the decider on whether the EIS is adequate or not. Mr. Orodener responded that the commission is responsible for this action.

Member Abe inquired what is to happen if there is a very technical issue for an EIS or EA and there are no experts available within the commissioners. Mr. Orodener responded that they rely on OPSD to provide experts for testimony if the commissioners do not have expertise.

Chairperson Thoene inquired if there were any other new provisions for the Land Use Commissions. Mr. Orodener responded that the sustainability and climate change provisions are the newest and were developed in response to the 2050 plan.

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 15-day public comment period**

http://oecq2.doh.hawaii.gov/EC_Meetings/2022-01-04-EAC-Exemption-Com-BWS-Exemption-List-Update-ANNOT-October.pdf http://oecq2.doh.hawaii.gov/EC_Meetings/2022-01-04-EAC-Exemption-Com-Transmittal-of-BWS-Proposed-Exemption-List-November-12-2021.pdf

This agenda point was deferred by Committee Chair Terry.

- **Discussion of and action to concur with the City & County of Honolulu, Department of Transportation Services exemption list**

[http://oecq2.doh.hawaii.gov/Agency_Exemption_Lists/Honolulu-Department-of-Transportation-Services-Exemption-List-2021-11-03-\(Draft\).pdf](http://oecq2.doh.hawaii.gov/Agency_Exemption_Lists/Honolulu-Department-of-Transportation-Services-Exemption-List-2021-11-03-(Draft).pdf)

Mr. Greg Tsugawa reported that the draft proposed comprehensive exemption list for the Department of Transportation Services has been submitted.

Committee Chair Terry reports that an action item was provided for the Department of Transportation Services. The list was approved for public release and was published in the Environmental Notice on November 23, 2021. It had a comment period from November 23, 2021 to January 1, 2022. There were no comments from the public. The committee approved unanimously a recommendation for Department of Transportation Services to the Environmental Council to concur with the list.

MOTION: Committee Chair Terry moved to concur with the Department of Transportation Services' exemption list. There was no discussion or public testimony. Chairperson Thoene called the question. The EAC unanimously approved the motion (8-0-0).

- **Discussion of action to concur with the State of Hawai'i, Department of Transportation exemption list**

http://oecq2.doh.hawaii.gov/EC_Meetings/2021-12-01-EAC-Exemption-Com-Comment_of-Ron-Terry-on-DOT-proposed-exemption-list.pdf
[http://oecq2.doh.hawaii.gov/Agency_Exemption_Lists/State-Department-of-Transportation-Exemption-List-2021-11-10-\(Draft\).pdf](http://oecq2.doh.hawaii.gov/Agency_Exemption_Lists/State-Department-of-Transportation-Exemption-List-2021-11-10-(Draft).pdf)

Committee Chair Terry reports that there was a published written comment to the Department of Transportation through the portal's comment. DOT attended the Exemption Committee meeting

but did not respond to the comment. The Exemption Committee agreed with the comment made and has provided enhancements for the comment. They suggest that there is potential to include language about dealing with invasive species at airports and including it as an exempt item. They also had questions about sea walls and other coastal structures, including repair and maintenance of those structures. There was concern that any type of new seawall or revetment structure was listed as exempt. The representative from the Department of Transportation at the Exemption Committee meeting clarified that not every project would be exempt and recognized that projects that are in sensitive areas would not be exempt.

Member Hegger-Nordblom inquired as to whether the Department of Transportation provided any statistics or any specific areas where the exemption might occur. Committee Chair Terry responded that it was an overall request that applied to highways, harbors, and airports.

Member Kaaumoana suggested a clarification of language that the exemption did not exclude freshwater or estuarine areas.

Committee Chair Terry suggested that that when comments are received from the public as a part of the draft list publication, the agency should prepare a response. Chairperson Thoene suggested to Committee Chair Terry that it be a request, otherwise rule making would be required. They do not have the authority to not concur because the agency did not provide a response.

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

No other status was provided.

5. Information & Outreach Committee Update

- **Discussion of status of forums planning**

Member Hegger-Nordblom reports that they are waiting for the Transportation forum and availability. Some members were not available due to having meetings with the governor.

6. 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/2022-01-04-EAC-Whats-New-Gov-Emergency-Proclamation-11-29-2021.pdf

Chairperson Thoene reports that this agenda point is the same as the last meeting but included it since Act 220 is now in effect. She opened for discussion regarding any questions or concerns to Act 220.

No discussions or questions were provided.

7. Continued discussion of HRS Chapter 92 constraints and possible legislative amendments

Discussion of this agenda point was combined with the Legislative Committee Updates agenda point (see below).

8. Legislative Committee Updates

- **Discussion of the EAC's 2022 legislative priorities, including potential amendments to HRS Chapter 92, and EAC Strategic Planning**

Committee Chair Kaye reported the Legislative Committee did not meet because they did not meet quorum.

Committee Chair Kaye provided a report of the notes he had taken on Senator Gabbard,

Representative Tarnas, and Representative Lowen's presentations from the Climate Change Conversations zoom meeting. The zoom meeting discussed the priorities of the three legislators for the 2022 session. Senator Gabbard wants to re-examine SB502 (Green Amendment), SB493 (Carbon Positive Incentive), SB666 (Visitor Green Fee). Representative Lowen wanted to prioritize decarbonization; carbon pricing; social cost of carbon (particularly with airlines); geothermal power; EV (particularly with buses); green fees for tourism; wastewater; cesspools; and Red Hill. Representative Tarnas wanted to prioritize the state sustainability plan; herbivore management plan; green fee; wildfire issues; overabundance of goats on Hawai'i island; Act 90 working group (transfer of Department of Land and Natural Resource land to the Department of Agriculture); HB498 (preservation of aquatic habitat mitigation); HB46 (habitat conservation plans to establish an emergency facility for native wildlife); increasing penalties for aquatic resource violations; and focusing on mosquitoes and avian malaria.

Committee Chair Kaye and Chairperson Thoene will meet with Senator Gabbard and Representative Lowen on January 11, 2022, 2PM. Committee Chair Kaye inquired as to whether the council had any specific requests that the Legislative Committee could discuss with Senator Gabbard and Representative Lowen.

Member Kaaumoana brought up a point regarding the lack of water storage facilities that she would like discussed in the meeting with Senator Gabbard and Representative Lowen. She brought up concerns that there could be a possible emergency that would require the need for the water storage. She also supports the priorities regarding geothermal and herbivore management.

Member Terry provided a comment about the herbivore management plan. He is a member of the Nahelehele Dryland Forest Restoration Group which seeks to preserve and enhance the dry forest throughout the state of Hawai'i. He discussed a management plan that collected the goats and was distributed to the community. He suggested that this is a possible option.

Member Hegger-Nordblom provided support for the green fee for tourism.

Member Abe commented that input should be provided by scientists and engineers when having the discussion.

Committee Chair Kaye inquired if there are any suggestions to addressing the issues with Chapter 92. Member Hegger-Nordblom suggest that the rules be changed to allow for more meetings to simply discuss the administrative or housekeeping issues. Member Kaaumoana commented that she appreciates the ability to have more public members present in the meetings as it provides the opportunity for more engagement. Deputy Attorney General Yi clarified that purely administrative matters do not have to be required by a Sunshine meeting, unless it is a board decision.

9. Next meeting: Tuesday, February 1, 2022, 1:00-3:30pm

10. Public Forum

No public forum was provided.

11. Adjournment

Hearing no objections, Chairperson Thoene adjourned the meeting at 2:37PM.