



STATE ENVIRONMENTAL ADVISORY COUNCIL

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM, OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT, STATE OF HAWAII
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MINUTES

State of Hawai'i Environmental Advisory Council

Tuesday, April 5, 2022, 11:00AM – 3:30PM

Scheduled Break from 1:00 – 1:30PM

Hybrid Meeting: 235 S Beretania St #405 Honolulu, HI 96813

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, Dawn Hegger-Nordblom, Makaala Kaaumoana, Robin Kaye, Tessie Kinnaman, Ron Terry, Michael Tulang, Mahina Tuteur

Members Absent

Stephanie Dunbar-Co

Staff

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

Public

Dominic Diaz (Board of Water Supply), Rachel Sprague, Michele Lefebvre, Scott Glenn (Hawaii State Energy Office), Gordon Scruton, Jr.

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

1. **Call to order, Roll Call, Introductions, Quorum**

With quorum of 10 members present, Chairperson Thoene called the meeting to order at 11:09 AM.

2. **Office of Planning Director's Report**

No Office of Planning Director's Report was provided.

3. **Exemption Committee Update**

- **Discussion of, including review of comments received during 15-day public comment period, and action to concur with the City & County of Honolulu, Board of Water Supply exemption list https://files.hawaii.gov/dbedt/erp/EC_Meetings/2022-04-05-EAC-Exemption-Com-Minutes-draft.pdf**

MOTION: Committee Chair Terry moved to concur with the Board of Water Supply's revised exemption list. There was no discussion or public testimony. The EAC unanimously approved the motion (10-0-0).

Mr. Diaz left the meeting. Chairperson Thoene noted that Scott Glenn (former OEQC Director) and four new appointees were invited to today's meeting. Rachel Sprague and Michele Lefebvre introduced themselves and GMs will be heard on Friday.

4. EAC Strategic Planning Forum

▪ Introduction and Purpose of the Forum

Chairperson Thoene reports that the purpose of the Forum evolved from past discussions within the Council about the Annual Reports. In those conversations, the topics of what the Council's statutes are and what the Council is authorized to do are discussed. The change in statutes and what the Council is authorized to do stems from the Act 152, which moved the Council from the Department of Health to the Office of Planning and Sustainable Development.

▪ Five-Year Look Back and EAC Accomplishments

Chairperson Thoene summarized the EAC's accomplishments from the past five years:

- Amendments to Title 11, Chapter 200.1 in 2019.
- First appeal to the Environmental Council that has gone through to a decision in 2021.
- Update exemption lists in line with the new rules.
- Working with legislators to re-evaluate Act 152 to address the appeals to the Council and the annual reporting requirements.
- Legislation to address quorum requirements for the Council.
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Gordon Scruton, Jr. joined the meeting at 11:30 AM.

▪ Findings from Past Annual Reports

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2022-04-05-EAC-Review-of-Past-Annual-Reports.pdf

Member Abe reports on the past annual reports:

- Annual Report of the Environmental Council, 1997: The DOH and OEQC worked together to address and evaluate various environmental issues or indicators within the State.

Member Abe suggests that the future reports will be more useful if it is acted upon and that more people from the public can access it.

▪ Strategic Planning Discussion

• Discussion of results of strategic planning survey

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2022-04-05-EAC-Quotes-from-Survey.pdf

Committee Chair Kaye highlights key points made by constituents, State leaders, and organizations on their expectations:

- To hold agencies and agency decision makers accountable; working with agency staff and community members to suggest or demand improvements in agency function.
- Review and evaluate each EA, EIS, and FONSI as to how well it conforms to HRS 343 and Chapter 11, 200.1. The Council should submit their written findings to the EA or EIS applicant and publish the findings in *The Environmental Notice*.
- The Council should examine EAs and EIS to determine whether promises made in an EA and EIS has been kept; to assess the quality of work of the various environmental consultants who

- prepare EAs and EIS and grapple with the issue of appropriate alternative analysis.
- The Council should be the group that represents the protection of the environment.
- The Council shall help to ensure rules affecting our environment are enforced and that the agency overseeing that environmental feature or rule follows through on enforcement.
- **Discussion of Statutory Requirements, Responsibilities and Priorities, including EAC roles going forward**

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2022-04-05-EAC-HRS_0341-0006.pdf

Committee Chair Kaye breaks down and discusses HRS 341-6 into criteria:

- “The environmental advisory council shall serve as a liaison between the office of planning and sustainable development and the general public by soliciting information, opinions, complaints, recommendations, and advice concerning ecology and environmental quality through public hearings or any other means...”

A discussion of language of the statutory requirement was held by the Council and public. Member Terry mentioned that the Information and Outreach Committee has had the responsibility (discussed above) but could do more or in a different way in the future. Chairperson Thoene also reports that there were members of the public who reached out in the past to the Council and asked to present on different topics.

Committee Chair Kaye inquired to the Council as to what barriers they might face in trying to fulfill this responsibility or what difficulties would the Council face in trying to fulfill it further. Member Terry suggests expanding the Council’s web presence to gather information.

Committee Chair Kaye brings up the issue of the lack of budget for the Council, which makes it difficult to fulfill the statutory requirements.

Member Abe suggests that the Council come up with a list of critical issues to address throughout the forums. Member Hegger-Nordblom suggests that public or educational outreach should be done, so that people can be aware of the issues of the State and what is being done to address it. Vice-Chairperson Begier also suggests that a campaign be done so the public can receive information, through sources like television or social media.

Committee Chair Kaye inquired as to whether the Council can fundraise. Director Evans reports that the Council can accept donations that are designated for a particular purpose. If the department establishes a trust fund, it allows State agencies to accept donations from individuals or foundations. It can only be expended for the purpose that the donor designates.

- “The environmental advisory council may make recommendations concerning ecology and environmental quality to the office of planning and sustainable development and shall meet at the call of council of the council chairperson or the director of the office of planning and sustainable development upon notifying the council chairperson.”

Chairperson Thoene stated that the previous statute, Act 152, gave the Council the authority to make rules regarding the HRS 343 process. Under that statute, the Council was not tasked with the substantive nature of environmental quality.

Member Abe stated that with the previous annual reports, there were indicators of environmental health that were evaluated. He suggests that they could refer or use these indicators to examine environmental quality issues that are presented to them.

- "The environmental advisory council shall monitor the progress of the state, county, and federal agencies in achieving the State's environmental goals and policies and shall submit its report and recommendations for improvements concerning ecology and environmental quality to the office of planning and sustainable development, which shall include the report and recommendation in its annual report to the legislature."

Committee Chair Kaye inquired to the Council as to where they would find the State's environmental goals and policies.

Chairperson Thoene reports that historically, the Council had met with the five agencies and had asked them for their specific environmental goals, as well as, how they are going to achieve it. Chairperson Thoene suggests this could be a possible pathway for the Council to take due to the broad guidelines of what the State wants.

Committee Chair Kaye inquired to Director Evans as to whether OPSD has the responsibility to monitor the progress of the State agencies regarding meeting the State's goals. Director Evans responded that the Office is charged with maintaining the process for a system of planning. If a project is occurring, the Office will conduct studies and recommendations to Legislature. Director Evans reports that the Office is unique in which they deal with multi-jurisdictional, cross-sector topics.

Mr. Glenn discussed the metrics system that they had developed by cross referencing the Aloha+ Challenge, Sustainable Development Goals, and the Governor's Sustainable Hawaii Initiative. He reports that even with the different metrics, there are key components from each that are similar.

Meeting Break: Chairperson Thoene called a break in the meeting at 12:55 PM. Chairperson Thoene resumed the meeting at 1:30 PM.

The discussion on the four criteria of HRS 341-6 continued:

- "All state and county agencies shall cooperate with the council by responding to its requests for information."

Committee Chair Kaye inquired to the Council as to what were the lessons learned from the annual report process, prior to the new version of it.

Chairperson Thoene reflects on the last annual report and states that the report may not have

completely addressed the necessary statutory requirements.

Member Kaaumoana states that it would be a good time to query OP to see what the Council can do to produce a report that is actionable and beneficial to the agencies.

Director Evans stated that OP has a format that they will need to follow, as provided by DBEDT.

Chairperson Thoene reports that previously, the Council had the opportunity to do an annual report. However, the annual report had to meet the requirements and statutory duties. Chairperson Thoene suggests that instead of an annual report, they could possibly follow other pathways such as a publication.

Director Evans states that the timing of when the annual report is published could have an impact on how many people view it.

Committee Chair Kaye asked the Council members to write down the top three priorities for the EAC over the next twelve months.

Member Terry's priority is to accomplish the unfinished rules, or the things people wanted the EAC to accomplish, but was unable to do. He also wants to address supplemental EAs and records of decision.

Vice-Chairperson Begier's priority is to craft an elevator speech on what the EAC and HRS 341 is. Member Tulang's priority is to promote understanding of what the EAC does.

Mr. Scruton, Jr.'s priority is to generate a higher public profile for the EAC or exploring their options for the Olelo programs. He also wants to reach a broader audience.

Member Abe's priority is to see actual results that benefit the environment. He also wants to prioritize the problems. His third priority is to have engineers and scientists more involved and respected in the process.

Member Kinnaman's priority is addressing carrying capacity of the visitors coming to the islands. Member Tuteur's priority is finding the Council's place within OPSD by having a stronger understanding of what the Council is authorized to do. She would also like to revisit discussions about cultural impact assessments and environmental justice issues.

Member Kaaumoana's priority is to use public access more effectively to get information out and include environmental justice. She would like to elicit more information from the public. Ms. Sprague's priority is to identify or prioritize top issues in which the EAC could potentially make a meaningful contribution.

Ms. Lefebvre's priority is to have the EAC be the liaison with the community. She would also like to prioritize ways to make the HRS 343 process more transparent.

Member Hegger-Nordblom's priorities are information, education, and outreach. Chairperson Thoene's priorities are to have the procedural rules updated and continuing with the things the Council said they were going to do.

Director Evans' priority is to have the transfer from Department of Health be positive for the Council and how OPSD can best support the Council with budgeting and personnel.

Committee Chair Kaye inquired as to how the Council would be able to come to a consensus on the priorities outlined earlier by the members. Additionally, he queried what resources the Council would need to undertake these priorities.

Mr. Scruton, Jr. suggests that they should get a better understanding of what the Council can or cannot do. This will allow them to understand the authority that the Council has in addressing the issues they have outlined.

Chairperson Thoene reports that the Rules Committee looked at Act 152 and has been working on procedural rules. The Council no longer has rulemaking authority. Proposed amendments have been drafted to address this. Under Chapter 91, the procedural rules need to follow public notice procedures ie. 30-day public hearings and held on each island.

Director Evans stated that before OPSD can make any revisions to the rules, a consultative process with agencies and the Council needs to be done.

Mr. Glenn mentioned that President Biden announced the Infrastructure Act (Justice 40 Initiative) where 40% of the overall benefits flow to disadvantaged communities. The Act focuses on environmental justice, energy justice, energy equity, climate equity, etc. and identifies covered federal programs. He remarked that this is something the Council might want to explore and provide input. OPSD could pursue federal grants.

Committee Chair Kaye inquired the members as what they want to see as the EAC's results, accomplishments, and impact over the next ten years.

Ms. Lefebvre states that she would like to make the process more transparent and for the public to feel that their participation matters.

Member Tuteur states that she would like to help future generations address climate change, practice the culture, and live healthy lives. The EAC should continue to do more of what they are already doing (ie. discussions with community members and stakeholders, State and counties work more together, and ensure Ch. 343 is being followed) to meet their environmental goals. Member Terry would like EAs to be done well and fairly and EISs impacts be considered. He does not want to burden government agencies with unfair and unrealistic expectations. The EAC be guardians of the rules and statues of the EA/EIS process.

Mr. Scruton, Jr said he would like to see the construction industry be more involved and streamlined with the EA/EIS process.

Member Abe mentioned there should be a Department of the Environment and invasive species should be addressed.

Mr. Glenn states that he would like the EAC to play a meaningful role in helping the State stay on track with their 2030 environmental goals.

Director Evans' would like the Council to help the collaborative progress on finding a sustainable balance on having a healthy economy and affordable housing which involves environmental impacts.

Chairperson Thoene mentioned that with the process of 343 Rules, she would like to see the Council be more of a catalyst between conservation and development and not just focus on ecology and environmental quality as stated in 341.

5. Next meeting: Tuesday, May 3, 2022, 1:00 – 3:30PM

6. Public Forum

None.

7. Adjournment

Chairperson Thoene adjourned the meeting at 3:21 PM.