



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, June 7, 2022, 1:00 PM - 3:30 PM

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

David Y. Ige
Governor

Chairperson
Puananionaona Thoene

Vice Chair
Mary Begier

Members
Roy Abe
Moanaio Bjur
Stephanie Dunbar-Co
Dawn Hegger-Nordblom
Makaala Kaaumoana
Ian Robin Kaye
Theresita Kinnaman
Michele Lefebvre
Gordon Scrunton, Jr.
Rachel Sprague
Ron Terry
Michael Tulang
N. Mahina Tuteur

Members Present

Puananionaona Thoene (Chairperson), Mary Begier (Vice-Chairperson), Roy Abe, Stephanie Dunbar-Co, Robin Kaye, Makaala Kaaumoana, Tessie Kinnaman, Gordon Scrunton, Jr., Rachel Sprague, Ron Terry, Mahina Tuteur

Members Absent

Moanaio Bjur, Dawn Hegger-Nordblom, Michele Lefebvre, Michael Tulang

Staff

Mary Alice Evans (Director, Office of Planning and Sustainable Development), Delanie Prescott-Tate (Deputy Attorney General), Leslie Segundo (Environmental Review Program)

Public

Laura Meisinger (Senior Economist, DBEDT- Research and Economic Division), Angeliann Recinto (Office Assistant, Office of Planning- Coastal Zone Management Program), Cara Kimura (Project Manager, HCDA), Carah Kadota (Planner, SSFM), Pane Meatoga III (HOEISF), Alex Leonard (Chief Project Officer, Natural Energy Lab Kona)

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 1:08 PM.

2. **Office of Planning and Sustainable Development (OPSD) Director's Report**

Chairperson Thoene deferred this agenda point.

3. **Exemption Committee Update**

Committee Chair Terry reports that the Exemption Committee did not meet and will have a meeting next month to discuss the Kauai Department of Water list.

4. **Rules Committee Update**

Committee Chair Tuteur stated that no committee meeting was held.

- **Discussion of and action to approve proposal to repeal Hawai'i Administrative Rules (HAR) Title 11, Chapter 201**

Chairperson Thoene discusses the possible options for action for the Council. The first option is to repeal the current procedural rules (HAR 11, Chapter 201) and only do policies and/or procedures. The second option is to repeal and re-promulgate new procedural rules.

AG Prescott-Tate reports that the process to repeal and re-promulgate is the same process. The first step is to repeal the Rules, then have OPSD adopt the Rules.

Member Kaye inquired if there would need to be public or any other approval aside from administrative in the process. AG Prescott-Tate responded to the inquiry stating that if the Council proceeds with the bylaw or internal policy and procedure route then the public would be invited to join the board meetings. If the administrative rule route is taken, there will be public hearings.

MOTION: Member Kaye moved to repeal the existing rules in HAR Title 11, Chapter 201 and adopt a set of bylaws to guide the Council's procedures. Member Terry seconded the motion. Member Kaaumoana suggests that the Council also explain the reason for the repeal. Member Tuteur provided support for the motion. There was no public testimony. The Council unanimously approved the motion (10-0-0).

- **Discussion of process to amend HAR Title 11, Chapter 200.1 and/or re-promulgate under OPSD**
The Council discussed substantive edits to HAR Title 11, Chapter 200.1. The process to amend and/or re-promulgate is the like that of HAR 11, Chapter 201 (as discussed in the above agenda point).

Member Terry suggests that OPSD re-word the rules, but the Council can start the process.

- **Executive Session on the process to repeal and/or amend HAR Title 11, Chapter 200 and the process to amend HAR Title 11, Chapter 200.1 pursuant to Section 92-5 (a), Hawai'i revised Statutes**
AG Prescott-Tate states that they do not see a need to go into an Executive Session. She states that the Council can document the policies and procedures as a by-law.
- **Further discussion of adoption of policies and procedures, including what policies and procedures will be included**
Chairperson Thoene opened for discussion regarding the types of procedures that the council can use.

Member Terry suggested that there are some procedures for the Exemption Committee that he would like to see added because they are currently informal.

Member Kaaumoana inquired to Director Evans on whether there is potential to continue video conferencing. She states that the continuation of video conferencing will help with participation. Director Evans reports that there is currently no discussion of removing video conferencing as an option for virtual meetings.

Chairperson Thoene suggested that the Rules Committee work on the drafting of the new policies and procedures.

- **General discussion of potential HAR Title 11, Chapter 200.1 amendments, EAC process for amendment, and timing**

Member Kaye inquired as to whether the Council will have to follow the same procedure for amending the rules, like what the Council did in 2019. He also inquired as to what the administrative issues behind the process would be. Chairperson Thoene reported that the Council would have to follow the same procedure to amend. The Council would need to complete one draft and provide one public hearing to be in compliance with the Statute.

Chairperson Thoene inquired to AG Prescott-Tate as to whether the Council can hold the rulemaking hearings by video conference. AG Prescott-Tate will find out more about this inquiry. The Council will decide the scope of any proposed amendments to HAR Title 11, Chapter 200.1 and how they will capture all the comments.

Vice-Chairperson Begier joined the meeting at 2:30 PM. The Council has a quorum of 11 members.

An action item will be included in the next meeting's agenda to include the creation of a Permitted Interaction Group.

5. Legislative Update

- **Discussion of House Resolution No. 82**

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2022-06-07-EAC-Transmittal-2022-03-31-Chief-House-Clerk-to-Puananionaona-Thoene-House-Resolution-No-82.pdf

There was no legislative committee update.

Chairperson Thoene reported on House Resolution 82. HR 82 directs OPSD and ERP to update the ERP website, specifically the EA/EIS library. It further directs OPSD and ERP to create a task force to recommend user-friendly improvements to the website.

Director Evans reports that HR 82 is a single house resolution, not a concurrent resolution, so the Council and OPSD is not required to respond to it and make a report back to the Legislature. Director Evans suggests that if the Council would like to address the resolution, that they invite two members from the Council and from OPSD, to ask for assistance from the Chief Information Officer. She further reports that groups created by resolutions are not subject to Sunshine Laws.

Member Abe left the meeting at 2:45 PM. The Council has a quorum of 10 members.

Chairperson Thoene volunteered for the task force. Member Lefebvre was nominated by Member Terry.

- **Request for volunteers for House Resolution No. 82 task force**

6. EAC Strategic Planning Forum

- **Summary and Report of the Strategic Planning Forum**

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2022-06-07-SP-Forum-Notes-and-Report-for-EAC_1.pdf

Committee Chair Kaye summarized and reported on the Strategic Planning Forum. The report addresses next steps, one-year priorities, and long-term priorities.

7. Discussion of form of future EAC meetings (via Zoom, hybrid, in person, etc.) and potential action to approve future form

Chairperson Thoene reports that the current status of the EAC meetings is currently conducted through hybrid meetings.

Director Evans reports that the Department of Budget and Finance recommends a restriction on general funds to the Governor, and it proceeds as an Executive Memorandum on budget execution policies. It can range from five to ten percent of the general fund but will never restrict expenditures of federal funds. Director Evans states that the Council will need travel funds to have one or two meetings a year to meet in person.

Member Dunbar-Co left the meeting at 2:55 PM. The Council has a quorum of 9 members.

Many of the members expressed the need to have in-person meetings, but understand that due to the lack of budget, two meetings will be enough. The rest of the monthly meetings can be held through Zoom. They also suggest that one of the in-person meetings be early in the year to correspond with the legislative session.

8. Review of Standing Committee Assignments; Assignments of new EAC members to Standing Committees

The current EAC committees: Annual Report, Information and Outreach, Exemption, Rules, Legislative, and Strategic Planning.

Committee assignments:

Annual Report- Abe, Dunbar-Co, Kinnaman

Information and Outreach- Begier, Abe, Tuteur, Hegger-Nordblom, Scranton, Jr.

Exemption- Terry, Kaaumoana, Thoene, Lefebvre

Rules- Tuteur, Thoene, Terry, Hegger-Nordblom, Sprague

Legislative- Kaye, Tuteur, Begier, Tulang

Strategic Planning- Kaye, Terry, Kaaumoana, Abe, Scranton, Jr., Sprague

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

10. Public Forum

None.

11. Adjournment

The meeting adjourned at 3:15 PM.