



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 (Draft) for Hybrid Meeting
Tuesday, March 7, 2023, at 1:00 PM
Via Zoom and in person at
Leiopapa A Kamehameha, Room 405
235 S. Beretania St., Honolulu, HI 96813

Josh Green, M.D.
Governor

Chairperson
Puananionaona Thoene

Vice Chair
Mary Begier

Members
Roy Abe
Stephanie Dunbar-Co
Dawn Hegger-Nordblom
Makaala Kaaumoana
Ian Robin Kaye
Theresita Kinnaman
Michele Lefebvre
Gordon Scruton, Jr.
Rachel Sprague
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; Michele Lefebvre; Ronald Terry; Michael Tulang; Mahina Tuteur

MEMBERS ABSENT: Gordon Scruton, Jr.; and Rachel Sprague

STAFF PRESENT: Alison Kato (Deputy Attorney General); Leslie Segundo (Environmental Health Specialist)

PUBLIC PRESENT: None

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

With a quorum of members present (Abe, Begier, Dunbar-Co, Hegger-Nordblom, Kaaumoana, Kaye, Kinnaman, Lefebvre, Terry, Thoene, Tulang, and Tuteur), Chairperson Thoene called the meeting to order at 1:08 PM. A roll call followed and members introduced themselves. There were no members of the public present.

2. Review and adoption of meeting minutes

- January 10, 2023 meeting minutes
https://files.hawaii.gov/dbedt/erp/EC_Meetings/2023-01-10-Environmental-Advisory-Council-Minutes-Draft.pdf

MOTION: Member Terry moved, and Member Tulang seconded that the Environmental Advisory Council (EAC) approve the minutes. Member Kaye pointed out a typographical error on page 4, paragraph 3, the first sentence. The word "says" should be deleted and replaced with the word "State" so that the first sentence reads as follows: "Director Glenn acknowledged Member Kaye's comments and said that the current State administration is pushing for stronger communications through public information officers." Hearing no further discussion, Chairperson Thoene call for a vote. The Council unanimously approved the motion (12-0-0).

- February 7, 2023 meeting minutes
https://files.hawaii.gov/dbedt/erp/EC_Meetings/2023-02-07-Environmental-Advisory-Council-Minutes-Draft.pdf

MOTION: Member Terry moved, and Member Begier seconded that the EAC approve the minutes. There were no changes proposed. Hearing no further discussion, Chairperson Thoene call for a vote. The Council unanimously approved the motion (12-0-0).

The Environmental Health Specialist, announcing that he plans to retire on May 1, 2023 thanked the EAC for being able to serve them.

3. Office of Planning and Sustainable Development (OPSD) Director's Update

- Discussion of 2023 legislation being tracked by OPSD - Defer

4. Annual Report Committee Update

- Discussion of Environmental Advisory Council's (EAC) annual report requirements
- Discussion of content for the 2023 Annual Report and committee recommendation to full EAC
- Action to approve proposed content for 2023 Annual Report

Chair Dunbar-Co reported that the Committee met earlier.

MOTION: At the Committee's recommendation, Chair Dunbar-Co moved (and Member Begier seconded for discussion purposes) that that the 2023 Annual Report should follow the same format as the 2022 Annual Report and that the EAC should approve the content for the 2023 Annual Report. This would include having Standing Committees issue a concise summary of what was accomplished for the year. Member Lefebvre recommended that the report include a concluding statement or sentences as readership is limited.

Member Kaaumoana asked who in state is doing environmental monitoring.

Chairperson Thoene responded that she does not know of anyone doing environmental monitoring. Member Kaaumoana noted that with a new administration, there are new visions and priorities. Does Chapter 341, HRS allow the EAC to evaluate this? Chairperson Thoene responded that in the past the Council has interviewed five agencies that months to prepare a final annual report.

Member Kaye suggested that the EAC not do an Annual Report for 2023 since it was told to put its report in a non-existent report (for OPSD). He suggested that the EAC speak with the Legislature about where this report should be hosted, if at all, for 2024.

Deputy Attorney General Kato opined that the base requirement in the law is for the EAC to provide a report to OPSD.

Chairperson Thoene opined that the EAC should not ignore the annual report requirement; OPSD has indicated that they would accommodate the EAC if they prepare a report for submission. Also, she indicated that it was a good idea to talk to the Legislature. She noted that the EAC over the years has consistently had issues with the content of the Annual Report. Member Lefebvre commented that it is difficult to generate recommendations if they do not come in from the different committees. Member Kaaumoana commented that the Exemption Committee is active in monitoring agency activities. Member Terry suggested that each member opine on the state of the environment in Hawaii. Member Kaye commented that the EAC encountered problems with the Deputy Attorney General when they last did that in the Annual Report. Member Kaye suggested not making member opinions a component of the Annual Report but instead, seek comments from environmental leaders outside of the State such as with the Sierra Club. Member Tulang and Committee Chair Dunbar-Co agreed with Member Kaye.

Committee Chair Dunbar further noted that a reading of the EAC's responsibilities in the statute suggests that EAC will always fall short of meeting the task of monitoring agency progress in meeting environmental goals. She noted Member Kaaumoana's point on who is responsible for monitoring agency progress in meeting the State's environmental goals and suggested if the EAC is responsible for that task then perhaps someone else (who should be responsible) is not. She questioned whether the EAC alone can fulfill that responsibility and she believes that Director Glenn's leadership in OPSD sets well with the EAC for questioning this.

Member Abe noted that while it would be good to put in a summary of committee work in the Annual Report, there would need to be a unifying theme that the EAC can agree on. He mentioned the need for a mechanism or agency to set priorities. In the wastewater field, lawsuits and public opinion is what drives actions; this explains why cesspool removal and injection wells are multibillion dollar programs. Endangered or threatened species languishing in a watershed do not have the same advantage as cesspools in that there is a marked contrast in the number of lawsuits filed for watershed and species protection. He noted that there is a need for a Department of Environment or another mechanism to set priorities. Chairperson Thoene noted that she is favorable to talking with legislators and possibly inserting a paragraph in the law that EAC should not be the entity grading the agency progress in meeting environmental goals making a case for a Department of the Environment. Member Tulang commented that the closest we get to monitoring agency progress is when the EAC evaluates agency exemption lists. Chairperson Thoene responded that exemption list review is very limited in scope and that the Council as a volunteer committee should not be the one grading the environment; such work is proper to the State auditor.

Director Glenn arrived at 1:45 PM.

It was noted that Article 5, Section 6 of the State Constitution limits the number of executive departments to twenty. Currently, because there are nineteen executive departments, there is room for one-more. Chairperson Thoene noted that there is legislation to create a Department of Environment that was introduced by Representative Lowen. Chairperson Thoene expressed to Director Glenn that the EAC has had continued frustrations with the Annual Report and is now proposing to issue one that would include a summary and possibly make a case that fulfilling current statutory requirements is probably more appropriate for a Department of Environment that oversees environmental agencies.

Member Kaaumoana commented that there are many people with fingers in the environmental pie, but no one is examining the whole pie. This leads to a lack of data on the environment. Chair Dunbar-Co noting the above discussions, asked what EAC Committee would be the one to champion a Department of Environment? Member Tulang suggested Exemptions. Other members inquired as to why. Chair Dunbar-Co said she wants to rest assured that the recommendation is properly vetted. Member Terry says that discussion of what Committee is premature. Member Kaye recommended that the EAC first speak with Senator Gabbard and Representative Lowen. Member Kaye expressed concern that expressing our concerns on the Annual Report without first speaking with the Legislature may result in unintended consequences, such as the Legislature tasking OPSD with the responsibility for preparing an Annual Report. Member Abe strongly suggested that

OPSD should be the environmental agency that sets priorities. Director Glenn commented that the Hawaii Environmental Protection Agency Bill, SB 1597, was introduced by Senator McKelvey as a vehicle to consolidate the regulatory functions of the Environmental Health Administration in the Department of Health and the regulatory Pesticide Program functions of the Department of Agriculture. It was not intended to be an environmental policy making department.

Makaala says independent persons, not necessarily the State should audit the environmental programs. For 2023, Member Lefebvre says that we have our disc ready to be transmitted to OPSD. Member Terry recommended that the EAC not tie creation of Annual Report to an environmental agency such as a proposed Hawaii Environmental Protection Agency, although it would help if such an agency engaged in environmental policy making.

Chairperson Thoene asked the Council whether they should defer the motion since the EAC is calling for examining the role of a Department of the Environment. Chair Dunbar-Co and Member Terry responded that the creation of a Department of the Environment is a separate issue from the Motion. Chairperson Thoene then called for the question on the original motion. The EAC voted (9-3-0) to pass the motion. (AYES: Begier; Dunbar-Co; Hegger-Nordblom; Kinnaman; Lefebvre; Terry; Thoene; Tulang; and Tuteur. NAYS: Abe; Kaaumoana, and Kaye).

Member Terry suggested that for future agendas the EAC debate its position on a proposed Department of the Environment and what programs it will contain and the contents for future Annual Reports. Member Kaaumoana commented that the recommendation should be that the statute is impossible for the EAC to comply with. Chair Dunbar-Co commented that Member Kaaumoana's recommendation can be the take-away for the Legislative or Strategic Planning Committee to further work on.

Director's Report (deferred from item 3 above)

Director Glenn reported that his confirmation hearing is tomorrow and that some things he will raise include: integrating the Chapter 343, HRS, Environmental Review into OPSD processes; information technology and websites; working on a Guidebook in possible story-map form; providing data for the public in real-time for EA's and EIS's. He also mentioned that he would bring up the affordable housing exemption. He reported that he asked ERP staff to find projects that used the exemption so that OPSD could discern how many units benefitted from it use. He also reported that it probably is time to revisit HRS 343 and to evaluate how it has been working since the 2019 rules were issued.

5. Information & Outreach Committee Update

- Discussion of and planning for the next forum
- Discussion of updated I&O Committee procedures for forums (see existing procedures linked in Agenda Item 8).

Committee Chair Begier, reported that the Information & Outreach Committee took three pages of procedures to outline specific requirements pertaining to who does what and when. She noted that the United States Fish and Wildlife Service Forum is planned for end of May 2023; the Forum for EIS with Representative Lowen would be in June/July 2023 funding permitting.

Director Glenn says that OPSD supports HB300 and GM1 (Green budget) a one-time use restoring OP operational funds.

6. Legislative Committee Update

- Discussion of legislation related to Hawai'i Revised Statutes, Chapter 341 and Chapter 343 and other legislation tracked by the EAC, including recommendations for submitting testimony on specific bills
https://files.hawaii.gov/dbedt/erp/EC_Meetings/2023-03-07-EAC-Leg-bills-re-environment-VR5-copy.pdf

Chair Kaye complained that he had a problem hearing the conversations taking place during the meeting. He reported that the Legislative Committee members present (Kaye and Tuteur) were unable to meet due to lack of quorum. He reported on four bills (SB 71 dealing with water wells, SB 245 dealing with public hearings, SB 507 dealing with wetlands, and HB 185 dealing with cleaning up the language in Chapter 341, HRS). He also reported that testimony was submitted on GM 506 for Director Glenn's confirmation process. He requested that members contact him with any concerns on the attached version 5 of the listing. After crossover, he noted that he plans to prepare version 6 and he would ask the staff to distribute this to the EAC.

7. Strategic Planning Committee Update

- Discussion on how the EAC can assist in the recruitment of new members and, given upcoming end-of-term situations, how the EAC should prioritize new members and help with their recruitment and transition, including discussion of draft transition procedures in the EAC policies and procedures document (Version 7, linked in Agenda Item 8)
- Continued discussion on the role/contents of the EAC's Annual Report; and also how the EAC should best determine its content.

Chair Kaye thanked the EAC members that submitted information on their categories. The information provided a scan of the categories that the EAC would use to assist in the recruitment process. Council members should consider what role they want to play in recruitment. Chair Kaye asked whether the EAC should send them directly to the Boards and Commission's website or whether EAC should meet with them for vetting purposes. There were multiple conversations happening and Chair Kaye (via Zoom) could not hear what was being said.

Chairperson Thoene commented that there would be at least three positions open since Members Hegger-Nordblom, Kaaumoana and Scruton would term out on June 30, 2023. Chair Kaye noted from the data he has accumulated thus far (from EAC members who turned in their categories) that (1) Media, (2) Construction, (3) Public Health, and (4) Humanities are definite gaps. Chairperson Thoene also added that the EAC has been looking for a native Hawaiian practitioner. Chair Kaye noted that the Council should continue to look for representatives in gap constituencies and determine whether they would be a good addition to the EAC. He noted that he would work on previous comments made by Annual Committee Report Chair Dunbar-Co.

8. Discussion of EAC Policies and Procedures

- Review of draft policies and procedures (Version 7) and further discussion of

adoption of policies and procedures, including what policies and procedures will be included and draft Committee descriptions

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2023-03-07-EAC-DRAFT-Policies-and-Procedures-Version-7_2-28-23.pdf

- Outstanding/revisions draft policies due on March 28, 2023 for discussion at the April 4, 2023 EAC meeting

Chairperson Thoene asked EAC to take time to review Version 7 of the draft policies and procedures. She noted that the version includes new recruitment language drafted by Member Kaye. She also noted that Version 8 will be updated with new Information & Outreach Policies for the next meeting. Member should get proposed changes in to Chairperson Thoene no later than March 28, 2023.

It was clarified that two EAC members can talk about anything except for voting for Sunshine Law purposes.

9. Discussion of EAC Member Terms
10. Next Meeting: Tuesday, April 4, 2023
11. Adjournment

With no further business to discuss, Chairperson Thoene adjourned meeting at 3:08 PM.