



# STATE ENVIRONMENTAL ADVISORY COUNCIL

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM,  
OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT, STATE OF HAWAII  
235 SOUTH BERETANIA STREET, SUITE 702, HONOLULU, HI 96813

Phone: (808) 586-4185  
Email: dbedt.opsd.erp@hawaii.gov

## MINUTES

State of Hawai'i Environmental Advisory Council

Via Zoom and in person at

6<sup>th</sup> floor conference room, 235 S. Beretania Street, Honolulu, HI 96813

Tuesday, February 6, 2024, 1:00 PM – 3:30 PM

*Governor*

Josh B. Green, M.D.

*Lt. Governor*

Sylvia Luke

*OPSD Interim Director*

Mary Alice Evans

*Chairperson*

Puananionaona Thoene

*Vice Chair*

Mary Begier

*Members*

Stephanie Dunbar-Co  
Dawn Hegger-Nordblom  
Makaala Kaaumoana  
Ian Robin Kaye  
Theresita Kinnaman  
Michele Lefebvre  
Rachel Sprague  
Ron Terry  
Michael Tulang  
N. Mahina Tuteur

### **Members Present**

Puananionaona Thoene (Chairperson), Mary Begier (Vice-Chairperson), Stephanie Dunbar-Co, Dawn Hegger-Nordblom, Robin Kaye, Tessie Kinnaman, Michele Lefebvre, Rachel Sprague, Ron Terry, Michael Tulang

### **Members Absent**

Makaala Kaaumoana, Mahina Tuteur

### **Staff**

Mary Alice Evans (OPSD Interim Director), Tom Eisen (ERP), Kim Ishimoto (OPSD), Alison Kato (Deputy Attorney General)

### **Public Present**

None

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

Materials for this agenda and minutes of this meeting will be available at specific links indicated below or at:

<https://planning.hawaii.gov/erp/ec-meetings/>. Meeting recording may be viewed at:

<https://www.youtube.com/watch?v=mjrfJpJWC6c>

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

With a quorum of 8 members present, Chairperson Thoene called the meeting to order at 1:03 PM.

#### **2. Office of Planning and Sustainable Development (OPSD) Interim Director's Update**

Interim Director Evans reported that she will leave early to attend Director Tokioka's confirmation hearing. She suggested that the Council re-visit the wildfire emergency proclamation (EP) that waives Chapter 343 requirements. The status is still in the emergency response phase where in the first six months, HI EMA, FEMA, and County of Maui manage the initial actions for replacement housing and disaster case management through DHS. FEMA has done a NEPA EA and was published in the TEN. The challenge is the long-term recovery support functions where the initial EP will come to an end and still trying to get housing built before FEMA's 18 month with possible extensions of six-month support for survivors who lost housing but are in FEMA paid direct lease or other rental assistance. For those under rental assistance who were found eligible on receiving payments, they now must submit the rental agreements. The other challenge is when hotel contracts end this month. Rental assistance payments are sent all over the country due to people leaving Maui to find housing and work. Housing subject to Chapter 343 will need to be expedited.

Members Tulang and Hegger-Norblom joined at 1:11 PM.

OPSD has over 200 bills that are being monitored and Interim Director Evans will see if a list can be sorted related to ERP only.

Housing EP no longer exempts Chapter 343 or 6E or Land Use Commission's proceedings. The two currently outstanding are the Maui Mayor's EP for temporary structures and Governor's EP for wildfires.

Member Hegger-Nordblom commented that the FEMA program has some unintended consequences in that it affects people's ability to live and the job market as well. Some people are getting displaced and kicked out because landlords are getting four times as much for rent and some can't find any housing and quit their jobs.

### 3. Review and adoption of meeting minutes

#### ▪ January 2024 meeting minutes

[https://files.hawaii.gov/dbedt/erp/EC\\_Meetings/2024-01-09-Environmental-Advisory-Council-Minutes-draft.pdf](https://files.hawaii.gov/dbedt/erp/EC_Meetings/2024-01-09-Environmental-Advisory-Council-Minutes-draft.pdf)

Member Dunbar-Co commented that under Public Present and #4, name and organization be corrected to "Nahelani Parsons" and "CAN Coalition."

MOTION: Member Kaye moved to approve the minutes as amended. Member Sprague seconded the motion. The EAC unanimously approved the motion (10-0-0).

### 4. Exemption Committee Update

#### ▪ Committee update to EAC regarding review of Department of Hawaiian Homelands Exemption List

[Redline strikeout version](#) shows changes from 2021 list

[Clean version](#) shows all edits accepted

Chairperson Thoene mentioned that the Committee will continue the internal review in March and Committee Chair Lefebvre will reach out to DHHL staff and invite them in a follow-up meeting before bringing it to the full Council for a vote to put it out for public comment.

### 5. Report of the Permitted Interaction Group (PIG) on exemptions to the EAC

#### ▪ Presentation of findings and recommendations

[https://files.hawaii.gov/dbedt/erp/EC\\_Meetings/2024-02-06-EAC-PIG-report-to-EAC-re-exemptions.pdf](https://files.hawaii.gov/dbedt/erp/EC_Meetings/2024-02-06-EAC-PIG-report-to-EAC-re-exemptions.pdf)

Committee Chair Terry reported that the PIG was formed to help make the exemption process work better. Exemptions are the base of the pyramid for environmental analysis, then EAs, then a few EISs that prepared for different projects. They are important because agencies decide if more investigations are needed so improper investigations can lead to issues with the public. The Committee wants to help agencies make the process easy and identified four problems (see page 4 of the report):

1. Agencies that do not choose to update (or develop) an exemption list.
2. Agencies that do not properly conduct the exemption process for Part 2 exemptions: consult, prepare notice, and make public aware
3. The question of whether agencies should be required to have an updated list, or even any list at all, to take advantage of Part 1 (de minimis) exemptions.
4. The question of the breadth of meaning for the terms *action*, *program* and *project*.

*Project* and *program* are not defined in 1996 rules. They were defined in 2011 in response to 2017 Umberger Supreme Court case. Perhaps the solution is to delete some actions that are de minimis and change *project* and *program* to not include de minimis activities such as continuing administrative tasks, personnel actions, and purchasing of supplies.

To address issues #1 and #2, Committee Chair Terry would like to have one or two Council members and ERP staff to meet one-on-one, in-person with County agencies to talk about Exemptions.

Member Hegger-Nordblom suggested having the PIG report in The Environmental Notice with a list of agencies that have submitted exemption notices and meeting with agencies may not be a good use of time.

Interim Director Evans left at 1:43 PM.

Deputy Attorney General Kato sent in the chat 00:51:49: Specifically: "After the PIG makes its report to the board at the second meeting, the PIG is automatically dissolved and should not continue working. The board cannot discuss, deliberate, or make any decisions regarding the PIG's report until a THIRD meeting held separately and after the meeting at which the findings and recommendations of the investigation were presented by the PIG."

Chairperson Thoene commented that definitions can be changed through legislative actions and could further defined through rulemaking. Member Terry last meeting is today and can join as a member of the public.

## **6. Information & Outreach (I&O) Committee Update**

### **▪ Discussion of and planning for future forums**

Committee Chair Begier reported that no committee meeting was held. She did some preliminary research on the reservoir situation on the Big Island in gathering data and preparing for the meeting.

## **7. Discussion of and action to approve creation of Permitted Interaction Group (PIG) to discuss and determine how the EAC can fulfill its role in advising OPSD on key environmental issues, such as, but not limited to, those listed below, including discussion of creating a consultation process between the EAC and OPSD:**

- Cesspools: an issue of expected focus for the upcoming legislative session**
- Green Fee: an issue of expected focus for the upcoming legislative session**
- Department of Environment: creation of a Department of Environment is expected to be raised in the upcoming legislative session**
- Emergency Proclamations Environmental Permitting**
- OPSD re Housing: OPSD has asked the EAC for its input on housing-related issues, rapid environmental assessments, etc.**

Chairperson Thoene commented that in the past few meetings, there were discussions about how the EAC can support OPSD. At the last meeting, a suggestion was to create a PIG to allow more in-depth and candid conversations.

MOTION: Vice-chairperson Begier moved for the creation of a PIG. Member Tulang seconded the motion.

Chairperson Thoene proposed that the PIG includes all topics that are listed. Member Dunbar-Co questioned if OPSD wants EAC's help and what it entails and supports continuing conversation with OPSD. Member Kaye expressed some doubts for this PIG as discussions are restricted and subject to Sunshine Laws. Member Terry commented that some items are legislative actions and time-sensitive so PIG wouldn't be the best vehicle for that. Member Sprague questioned if a PIG can be held with a Deputy AG in attendance or have an ad-hoc committee.

Deputy Attorney General Kato sent in the chat 01:09:59: [OIP options to deal with legislature: Quick Review Sunshine Law Options to Address State Legislative Issues and Measures \(hawaii.gov\)](#)

Chairperson Thoene commented that any open discussions need to be agendized to comply with Sunshine Laws.

The EAC voted (2-7-1) to deny the motion. (Yes: Kinnaman, Terry; No: Begier, Hegger-Nordblom, Lefebvre, Kaye, Sprague, Thoene, Tulang; Abstain: Dunbar-Co)

## 8. Legislative Committee

### ▪ Discussion of Selected 2024 Legislative Bills

- **HB 1702 (adds provision to HRS Chapter 343 regarding exemption for certain affordable housing projects)**  
[https://www.capitol.hawaii.gov/session/measure\\_indiv.aspx?billtype=HB&billnumber=1702&year=2024](https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=1702&year=2024)
- **SB 2002 (Exempts certain housing projects reserved for certain students, faculty, and staff of public educational institutions from environmental assessment requirement)**  
[https://www.capitol.hawaii.gov/session/measure\\_indiv.aspx?billtype=SB&billnumber=2002&year=2024](https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=2002&year=2024)

Chairperson Thoene reported that no committee meeting was held. The two bills were forwarded to the EAC by ERP. Committee Chair Kaye reported that no actions were taken on these bills. He asked that members look at SB3047 and HB1629 (renewable energy).

Member Hegger-Nordblom sent in the chat 01:25:58: link to SB 3047

[https://www.capitol.hawaii.gov/session/measure\\_indiv.aspx?billtype=SB&billnumber=3047&year=2024](https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=3047&year=2024)

Chairperson Thoene mentioned that she tried to contact Board and Commission (B&C) to get EAC positions filled and there are two or three applicants that are waiting. She asks OPSD to also contact B&C. Member Kaye will draft a letter to Representative Lowen and Senator Gabbard. Member Terry was thanked for his years for service on the Council.

## 9. Next meeting: Tuesday, March 5, 2024 TBD

Agendas from the committee chairs will be requested to be internally submitted on February 23.

## 10. Reminder: Send all ERP correspondence to [dbedt.opsd.erp@hawaii.gov](mailto:dbedt.opsd.erp@hawaii.gov)

## 11. Adjournment

The meeting adjourned at 2:36 PM.