



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

Via Zoom and in person at

6th floor conference room, 235 S. Beretania Street, Honolulu, HI 96813

Tuesday, March 5, 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
Ian Robin Kaye
Theresita Kinnaman
Michele Lefebvre
Rachel Sprague
Michael Tulang
N. Mahina Tuteur

Members Present

Puananionaona Thoene (Chairperson), Mary Begier (Vice-Chairperson), Dawn Hegger-Nordblom, Robin Kaye, Tessie Kinnaman, Michele Lefebvre, Rachel Sprague

Members Absent

Stephanie Dunbar-Co, Michael Tulang

Staff

Mary Alice Evans (OPSD Interim Director), Tom Eisen (ERP), 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=nP-txB9N1w&t=1183s>

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

With a quorum of 7 members present, Chairperson Thoene called the meeting to order at 1:06 PM.

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

Interim Director Evans reported that she will leave early to meet with Senator Inouye. OPSD continues to follow legislation. OPSD doesn't see some of the problems quoted in the media on exempting affordable housing projects in State urban districts zoned for affordable housing because an exemption for affordable housing is already in the Rules (HB2358). But the language of the bill says any other law to the contrary notwithstanding which means that such an exemption would not have to be publicized in The Environmental Notice. OPSD would like to have those exemptions included in the Notice so the public knows that a project has legitimately received an exemption. OPSD position is supporting the intent but recommending an amendment to the bill.

ERP has two vacant positions to fill. The Planner III position has already been made an offer and accepted. The Environmental Health Specialist III position is being recruited as level II. We received an applicant list and are currently scheduling interviews.

Chairperson Thoene mentioned that the Council also submitted comments to concur with OPSD's

recommendation on the bill.

3. Review and adoption of meeting minutes

▪ February 2024 meeting minutes

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2024-02-06-Environmental-Advisory-Council-Minutes.pdf

Member Kaye moved to approve the minutes as amended. Member Lefebvre seconded the motion. The EAC unanimously approved the motion (7-0-0).

4. Exemption Committee Update

▪ Committee update to EAC regarding review of agency exemption lists

Committee Chair Lefebvre reported that the Committee is almost done completing the review of DHHL's exemption list. Only three committee members remain: Committee Chair Lefebvre, Chairperson Thoene, and Member Tulang. Ms. Makaala Kaaumoana attended as a member of the public. Once the review is completed, DHHL will be invited to next month's meeting and answer questions the Committee may have.

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

▪ Review and discussion of PIG report and recommendations

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2024-02-06-EAC-PIG-report-to-EAC-re-exemptions.pdf

▪ Review and discussion of public comment on PIG report and exemptions

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2024-03-05-EAC-PIG-Exemption-recommendations-RTerry.pdf

Chairperson Thoene commented that at the last meeting Mr. Ron Terry did a good job of presenting the PIG report. There's still work to be done with exemptions overall in providing guidance to agencies, potential for further rulemaking or legislation on how the exemption process works, and clarifying administrative activities that don't belong in Ch. 343.

Member Kaye had two comments. One concern was the expenses for outreach activities such as travel. Chairperson Thoene commented that members on the neighboring islands could be utilized first and ERP staff could travel and team up with EAC members. Or, EAC could come up with a plan and present it to OPSD to see if there's sufficient funds in the budget.

The other concern was changing of the Rules. With the Council losing members, no additional people being appointed, budget constraints, and opening up to rule changes, the process of getting the Rules changed could be overwhelming. Chairperson Thoene commented that under Ch. 91, only one public hearing needs to be held and then can make changes. During the last rule change, ERP and the Council did far more than what was required by law. The process could be truncated and still comply with Ch. 91 requirements.

Chairperson Thoene mentioned that the definition of project or program was discussed at the last meeting. It was suggested that the Council provide guidance and set up processes for the new board and not start the rule making process as members are terming out in the next few months.

Member Lefebvre commented that the Council no longer has the same rulemaking authority. The process would need to be developed and led by ERP, not the EAC. The EAC could support and provide guidance and make recommendations to OPSD.

Chairperson Thoene noted that if OPSD petitions for rulemaking for roles that are not included in the Council's recommendations, a response petition could be filed from any member of the public. The Council does have some level of control in specifying which sections of the Rules are targeted.

Chairperson Thoene received a response from Boards and Commission (B&C), but only stated that they are looking into it. She will send out a list of members with expiration dates to B&C. An agenda item will be added for transitioning from outgoing members to new members to include updated guidance for exemptions, proposed framework for working with OPSD, proposal for targeted rulemaking such as definition of a project or program, new chairperson, any unfinished Committee business, and other suggestions.

Vice-Chairperson Begier mentioned that Mr. Ron Terry did a presentation on Zoning for the Chamber of Commerce – Economic Development Committee that was recorded.

<https://www.youtube.com/watch?v=mkSZ05W9JAK>

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

▪ Discussion of and planning for future forums

Committee Chair Begier has no report at this time. Member Hegger-Nordblom suggested that the EAC present and be on the agenda for HCPO.

7. Legislative Committee

▪ Discussion of and potential action on Selected 2024 legislative matters:

- **SB 3047 - Codifies the exemption from environmental impact statements for affordable housing projects that meet certain criteria [See HB 2358]**
https://www.capitol.hawaii.gov/sessions/session2024/bills/SB3047_SD1_.pdf
- **HB 2358 - Codifies the exemption from environmental impact statements for affordable housing projects that meet certain criteria. [See SB 3047]**
https://www.capitol.hawaii.gov/sessions/session2024/bills/HB2358_HD1_.pdf
- **HB 1629 - Requires contested cases or environmental impact statement cases involving renewable energy, except cases involving incineration, to be appealed from an agency's decision directly to the Hawai'i Supreme Court for final decision. Requires the cases to be prioritized and decided expeditiously**
https://www.capitol.hawaii.gov/sessions/session2024/bills/HB1629_HD1_.pdf
- **HB 2798 - Amends the types of proposed power-generating facilities that trigger an environmental assessment to include new combustion electricity-generating facilities operating commercially after 1/1/2024 that were not previously operational and certain expansions in generating capacity of existing combustion electricity-generating facilities. Effective 7/1/3000. (HD1)**
https://www.capitol.hawaii.gov/sessions/session2024/bills/HB2798_HD1_.pdf

Discussion and potential action on the EAC's positions on other bills relevant to the EAC for the 2024 legislative session

https://files.hawaii.gov/dbedt/erp/EC_Meetings/2024-03-05-EAC-Legislative-Com-2024-Bills-re-environment.pdf

Committee Chair Kaye reported that only HB 2358 is the only that is moving. He suggested the Council provide comments on HB 2358 and HB 2406 (Green fee). Chairperson Thoene stated that EAC's testimony was submitted for HB 2358.

https://www.capitol.hawaii.gov/sessions/session2024/Testimony/HB2358_TESTIMONY_HSG-EEP_02-15-24_.PDF (pages 5 - 7)

For HB 2406, Committee Chair Kaye recommended submitting testimony in general support.

8. Strategic Planning Committee Update

- **One of the Council's statutory roles under HRS §341-6 is to 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[.]” Discussion and/or action on strategies that might be employed by the EAC for fulfilling its role to serve as a liaison between OPSD and the public on matters concerning ecology and environmental quality, including the offering of recommendations to OPSD.**

Interim Director Evans sees a strong benefit to OPSD in hearing from the Council on issues where 343 exemptions in emergency proclamations (EP) come up and figuring out how to ensure that both initial mitigations and when EP expires for new or replacement affordable housing projects will continue with non-conforming uses as in cases with Maui wildfires.

Housing is needed, but how to we move forward with exempted projects that didn't have initial 343 review and disclosure and potential mitigations that would address any substantial adverse environmental impacts?

Member Kaye suggested that 1) if there's enough time, an item could be agendaized, discussed, and voted on to make recommendations to OPSD, or 2) OPSD could contact one or two of the members with subject matter expertise for initial feedback.

Interim Director Evans commented that she was impressed with Member Hegger-Nordblom's presentation on Kahana Sunset.

Member Hegger-Nordblom sent in the chat link to MACZAC meeting:

https://us06web.zoom.us/rec/play/acsKKYKFzSF_JA10JE9oOOytxNA5_IJ5I3e0QvhkMBNlLpc_2CKXXG6E0ie3UI-kquXW53LtqQuERNQ_Ub0NyeIhbNfg48mX?canPlayFromShare=true&from=share_recording_detail&continueMode=true&componentName=rec-play&originRequestUrl=https%3A%2F%2Fus06web.zoom.us%2Frec%2Fshare%2FsdZkQtgDQXOXWC-32r1tYHTNEISHNi8CcwJFpDtkX4sBV9yR9Ba3aR1zc3tYkKR_.4MoPCwHc1FamTrt-

Member Hegger-Nordblom sent in the chat link to handout:

[https://files.hawaii.gov/dbedt/op/czm/maczac/handouts/kahana_sunset_managed_retreat_plan_\(Maui\).pdf](https://files.hawaii.gov/dbedt/op/czm/maczac/handouts/kahana_sunset_managed_retreat_plan_(Maui).pdf)

9. Next meeting: Tuesday, April 2, 2024 TBD

Agendas from the committee chairs will be requested to be internally submitted on March 22.

10. Reminder: Send all ERP correspondence to dbedt.opsd.erp@hawaii.gov

11. Adjournment

The meeting adjourned at 2:08 PM.