

# Draft Minutes of the Environmental Justice Council

May 24, 2023

## Virtual ZOOM Platform

Due to limited staff capacity, Environmental Justice Council (Council) staff are working to streamline the Council meeting notes. The notes now include only very high-level points and the final decisions made along with voting records. The full meeting recordings can be found on the Council's website: [Environmental Justice Council Meetings | WaPortal.org](https://www.wa.gov/EnvironmentalJusticeCouncilMeetings). However, it is important that meeting notes are useful to the Council Members and the public. Please share feedback with Council staff on how we can make these notes most useful to you by emailing [envjustice@ejc.wa.gov](mailto:envjustice@ejc.wa.gov) or by calling 360-584-4398.

### Council Members present:

- Council Member Maria Batayola
- Council Member Maria Blancas
- The Honorable Jarred-Michael Erickson
- Council Member Running-Grass
- Council Member Rosalinda Guillen (joined: 4:10)
- Council Member Aurora Martin
- Council Member Esther Min
- Council Member Todd Mitchell
- AJ Dotzauer on behalf of the Honorable Misty Napeahi
- Council Member Nirae Petty
- The Honorable Annette Bryan on behalf of the Honorable Sylvia Miller
- Council Member Faaluaina Pritchard
- Council Member Raeshawna Ware

### Council Members absent:

- Council Member Nichole Banegas
- Council Member David Mendoza

### Agency Ex Officio Members present:

- Laura Blackmore, Puget Sound Partnership
- Eliseo (EJ) Juárez, Department of Natural Resources
- Kerri Woehler on behalf of Ahmer Nizam, Department of Transportation

- Jennifer Grove on behalf of Michael Furze, Department of Commerce
- Nicole Johnson, Department of Agriculture
- Millie Piazza, Department of Ecology
- Lauren Jenks, Department of Health

#### Council staff:

- Jonathan Chen
- Angie Ellis
- Rowena Pineda
- Sauncha Romey
- Amina Al-Tarouti
- Sierra Rotakhina

#### Guests and other participants:

- Forrest Watkins, Department of Commerce
- Courtney Cecale, Department of Commerce

### I. Welcome and Roll Call for Quorum

Council Co-Chair Maria Batayola called the meeting to order at 4:00pm.

### II. Approval of Agenda by Council

Councilmember Esther Min called for an adoption of the agenda.

Motion: The Council adopts the agenda.

Motion: Member Min

The motion passed.

### III. Approval of March 22, 2023 Meeting Notes by Council

Councilmember Esther Min called for an adoption of the March 22, 2023 meeting notes.

Motion: The Council adopts the March 22, 2023 meeting notes.

Motion: Member Min

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The motion passed.

#### IV. Election of Executive Committee Tribal Representative and Election of Interim Co-Chair

Members present in the March meeting supported the Honorable Jarred-Michael Erickson in stepping into the Executive Committee Tribal Representative and the vacant Co-Chair position on an interim basis until the Governor has filled the vacant Tribal Representative seat on the Council. At the March meeting, the Council did not pass a motion about this because they wanted the Tribal Representatives not present to have a chance to weigh-in first.

The Council discussed and adopted the following motion:

**Motion:** The Environmental Justice Council appoints the Honorable Jarred-Michael Erickson as the interim Executive Committee Tribal Representative and the interim Co-Chair to serve in these roles until the Governor has appointed the fourth Tribal Representative to the Council, at which time full elections will be held. The Council also directs the Governance Committee to explore if the bylaws need any additions in anticipation of vacancies in leadership positions or other similar scenarios in the future.

A: Yes, I approve.

B: Yes, with reservations.

C: Not voting until we have further discussions.

D: I don't approve, but I won't block.

E: I block, have serious concerns.

F: I stand aside, recuse myself.

Nichole Banegas	Absent
Co-Chair Maria Batayola	A
Maria Blancas	A
The Honorable Jarred-Michael Erickson	F

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Running-Grass	A
Rosalinda Guillen	A
Aurora Martin	A
David Mendoza	absent
Esther Min	A
Todd Mitchell	A
AJ Dotzauer on behalf of The Honorable Misty Napeahi	A
Nirae Petty	A
Faaluaina Pritchard	A
Honorable Annette Bryan on behalf of the Honorable Sylvia Millier	absent
Raeshawna Ware	A

## V. Executive Committee Update

Co-Chair Batayola shared the link to a [draft Council 2023 workplan](#) in the chat for council Discussion. Co-Chair Batayola brought up scheduling a retreat and inviting Senator Saldaña and Senator Nguyen come to discuss the original vision for HEAL, what did not get in HEAL Act, and information about the 2024 legislative session budget process and timeline to inform the Council's process.

Ex Officio Member Millie Piazza, Ecology, noted that the draft 2023 workplan combines “overburdened communities' guidance” with “air quality monitoring” and these should be two separate projects.

Ex Officio Member Laura Blackmore, Puget Sound Partnership, noted a need for more time to talk about HEAL deliverables due in July. Councilmember Min suggested holding June meeting in response.

The Council discussed the best time to have a retreat as well as the possible need for a June meeting. Councilmember Maria Blancas noted that the Council Members are busy and all on different committees and that she would prioritize a retreat over another meeting so we can come together.

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Jonathan Chen, Council Staff, shared that a written update memo on Horse Heaven project is included on page 24 of the meeting packet. Council Member Aurora Martin noted that she wants to have a discussion about EFSEC and other agencies not subject to HEAL but voluntarily being involved. Jonathan noted that the public comment period for the wind farm ended in February. He is in discussion with Amy Moon, EFSEC, to see what kind of feedback/guidance the Council can provide after a public comment period ends.

## VI. Public Comment

Public comment was opened by Council Member Rosalinda Guillen sharing a few words of thanks to the public and community.

John Lovie, Whidbey Island Water Systems Association, and would like to highlight rural Washington's lack of access to safe drinking water as an environmental health disparity and an environmental justice concern. 13% of Americans (a greater proportion in Washington) served by private wells or Group B water systems are not protected by the Safe Drinking Water Act. John Lovie noted that PFAS contamination of wells is a problem. The groundwater is excluded from the Clean Water Act and CAFOs are regulated by the Department of Agriculture. Many rural Washingtonian private well owners can't afford treatment systems that are in urban areas so forced to drink water not meeting safe standards or to buy bottled water.

Brandi Hyatt shared public comment noting that AFFF fire suppressant PFAS chemical foam has traveled off base and into communities ground water. For years they have been unknowingly consuming PFAS chemical linked to serious health issues. The lack of support and resources to live in our homes and communities is vast and they need further testing to understand extend of impacted ground water, free well testing, whole home safe water (not just bottled water or point of use filtration system), safe water for gardening and agriculture, safe water for our pets and livestock, blood testing, spaces to allow the community to take part in the conversation (example: restoration advisory board), qualified doctors who can guide us through PFAS exposures, qualified veterinarians, and transparency with army and agencies making decisions about our health and

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safety. This isn't a full list, however even these items are yet to be addressed. If EJ is your business, there can't be a better space than East Selah and our PFAS nightmare for you to take action.

Brock Howell, Executive Director of Snohomish County Transportation Coalition, which advocates for connecting people and communities with safe and equitable transportation. The 2023-2025 biennium is critical to success of HEAL Act. How agencies allocate funds will set a precedent for future biennium. CCA funds are required to go directly to vulnerable populations within overburdened communities. Brock Howell read from and summarized portions of the Climate Commitment Act outlining the required investments into overburdened communities and noted that WSDOT is applying the 35% requirement at the agency level, not at the program or grant level. Noted agencies don't seem invested in ensuring that their investments are having needed benefits for overburdened communities and vulnerable populations. The EJ Council plays a role in making it clear how agencies meet the CCA requirements, and I encourage you to do so.

## VII. Input and Feedback on Draft HEAL Agency Environmental Justice (EJ) Assessment Process

Forrest Watkins, Department of Commerce, presented slides regarding the draft EJ Assessment process.

Councilmember Running-Grass noted that the template is lacking without the companion guidance document. Forrest noted that the agency subcommittee met yesterday to start the process of building the guidance document out. Next steps in the coming weeks are to build a version that will be useable by agencies. Councilmember Running-Grass asked, given that this process revolves around trust, what is it the agencies want communities to know about assessment process? When is first time the public is informed that a significant action is being considered or in queue to be performed?

Councilmember Martin shared some questions in chat:

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A. Was thinking that an additional option of "do not proceed" would be included, so was wondering where that option or caution be?

B. I was unable to participate as much as I would like to, so just worry that the community engagement or input in the early design is necessary beyond the few EJC reps on it, so were there other steps for community engagement in this initial phase?

Councilmember Blancas wants to make sure we make room to have discussion regarding EJ Assessments. Council Member Martin noted the public comments previously heard means it's a far more complex situation. There needs to be serious investment and ambassadors beyond the EJ Council. Forrest noted they appreciate the comments. Ex Officio Member Piazza, in chat, noted the need to have some clarity on how we can expand these conversations - to hear the rest of Council Members questions and discuss those questions? Also curious about a larger conversation about how this could align with federal EJ work.

The Council moved to a conversation about a proposed motion related specifically to an EJ assessment for Cap and Invest program linkage to other jurisdictions' programs. Jonathan provided some background information noting that the Climate Commitment Act (CCA) Committee of the Council wants to put forward motion asking the Department of Ecology to do an EJ assessment on if and when to link markets:

Draft Motion: RCW 70A.65.060(3) requires the Department of Ecology to conduct an environmental justice (EJ) assessment on the decision to link carbon markets with Quebec and California to inform its decision if and when to implement the linkage. Given that the law is unclear on when in the process Ecology needs to conduct that assessment, I move that the Environmental Justice Council (EJC) request that the Department of Ecology 1) conduct an EJ assessment prior to making a decision on if and when to link markets with other jurisdictions, 2) open public comment after the EJ assessment is finalized and made publicly available, and 3) present the results of items 1 and 2 to the EJC for review and development of its policy recommendation on linkage. The EJC requests Ecology to respond in writing to this motion providing an estimated timeline to complete

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the actions in this motion and describing any barriers in meeting these requests the agency may face.

The Council began discussing potential amendments to the motion, including adding reference to a “cumulative impact analysis.” Several Councilmembers noted that they needed more time to process and discuss this before they would be ready to entertain a vote on this proposed motion.

### VIII. Identifying Questions on Vulnerable Populations and Overburdened Communities from the EJ Council, HEAL Agencies, and Legislators

Councilmember Martin provided some background and passed it to Rowena Pineda and Sierra Rotakhina, Council Staff, to facilitate a discussion.

Rowena asked the Council to discuss this question: What are contexts where a process to identify overburdened communities may be best suited and when may a list of overburdened communities may be best suited?

Councilmember Min's concern is with engaging community without coordination is there could be a lot of fatigue. We also want to make sure we don't leave any communities out by creating one list. Councilmember Ware states that by doing an evaluation on how they are measuring can help identify communities that do not need to be on the list. Chair-Batayola wants us to remember to also look at impacts downstream and not just immediately impacted community. Chair Erickson states from a tribal perspective this is data driven work and a lot of tribes don't share their data so how do we do accurate analysis? Councilmember Martin shared in chat: When using the [Environmental Health Disparities] EHD Map, Front and Centered believes that agencies should use communities ranked as 7 and above on the EHD Map as a starting point. There is no definitive threshold that has been standardized for defining an overburdened community using the EHD Map. Instead, the only directives related to overburdened communities and the EHD Map include utilizing the definition of “highly impacted communities” as defined through CETA. The Department of Health [DOH] has provided guidance to use a threshold of 9 for the purposes of CETA.

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Nevertheless, overburdened communities is a more expansive definition and is not limited to DOH guidance, and so the threshold utilized should reflect the desire to include more communities than solely “highly impacted.” And of course, I defer to Tribes on their additional perspective and believe that Tribal lands should also be included as overburdened communities, as is required by the HEAL Act, other state law, and federal orders.

## IX. Legislative and Budget Updates and Limited Discussion on HEAL Agency Budgeting and Funding HEAL Requirements

The Council did not have time for this update. Council staff will record their presentation and post it on the Council website.

## X. Public Comment

Arvia Morris, volunteer with Climate Rail Alliance, shared a statement from Climate Rail Alliance and Physicians for Social Responsibility: Disappointed the legislature appropriated \$50 Million of CCA funds to ultra-high speed rail projects in the transportation budget with anticipated ongoing appropriations through 2029. In contrast, there are no appropriations beyond 2023 for existing passenger rail program (Amtrak Cascades) or development Amtrak east/west. We believe long timeline for ultra-high speed rail (2050 before functioning system) makes it an inappropriate use of CCA funds that are meant to help meet 2030, 2040, and 2050 emissions reduction goals.

Now speaking for myself and my partner, we are concerned that Ecology is moving rapidly to the link WA cap and invest program with the programs in California and Quebec. This linkage would greatly reduce funds available from auctions which would reduce available funding for greenhouse gas emissions goals and EJ outcomes. Linkage is required by statute to meet EJ criteria, and we hope you will be able to review linkage program and give input before any linkage decisions are made.

John Worthington, shared they have commented on local comprehensive plans across the state and noted that everyone is using the wrong emissions pie chart from the Department of Ecology

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and that nobody wants to use shipping emissions. People are worried about recreational driving, and nobody is looking at shipping emissions to bring us our stuff.

Brock Howell, Snohomish County Transportation Commission, spoke to the last agenda item and recommended that the agencies start with the statutory construction of the HEAL Act and the CCA which makes clear that is a yes and proposition (overburdened communities is the geography vulnerable populations are the people). Three basic categories that are supposed to be looked at (those who meet a 9 or a 10 on the EHD map, Indian Country as well as hunting and gathering and fishing grounds, and any other geographic area where vulnerable populations face combined multiple environmental harms and health impacts. This allows you on a project by project basis to be more considerate of what is happening locally. On the vulnerable populations side there are four main populations outlined in statute.

## XI. Appreciations and Adjournment

Co-Chair Batayola wrapped up and the Council adjourned the meeting at 6:47pm