

## Small Business Regulatory Review Board

### MEETING MINUTES

January 19, 2023

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:03 a.m., with a quorum present, which was open to the public.

**MEMBERS PRESENT:**

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Jonathan Shick, 2<sup>nd</sup> Vice Chair
- Garth Yamanaka
- James (Kimo) Lee
- Sanford Morioka
- Mark Ritchie

**ABSENT MEMBERS:**

- Dr. Nancy Atmospera-Walsh
- William Lydgate
- Taryn Rodighiero
- Tessa Gomes

**STAFF:** DBEDT

Dori Palcovich  
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL OF November 17, 2022 MINUTES**

Mr. Ritchie motioned to accept the November 17, 2022 meeting minutes, as presented. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

III. **OLD BUSINESS** – After Public Hearing

- A. Discussion and Action on the Small Business Statement After Public Hearing and the Proposed Amendments to HAR Title 11 Chapter 55, Water Pollution Control, as follows, promulgated by Department of Health (DOH)
- a. Appendix A – Standard General Permit Conditions
  - b. Appendix D – NPDES General Permit Authorizing Discharges of Treated Effluent from Leading Underground Storage Tank Remedial Activities
  - c. Appendix H – NPDES General Permit Authorizing Discharges of Treated Process Wastewater Associated with Petroleum Bulk Stations and Terminals
  - d. Appendix I – NPDES General Permit Authorizing Discharges of Treated Process Wastewater Associated with Well Drilling Activities
  - e. Appendix M – NPDES General Permit Authorizing Point Source Discharges from the Application of Pesticides

Discussion leader Mr. Morioka stated that this Board reviewed the pre-public hearing rules at its August 18, 2022 meeting; the rules are before the Board today after the public hearing. Mr. Darryl Lum, Engineering Section Supervisor at DOH's Clean Water Branch,

explained that the rule changes are for the National Pollutant Discharge Elimination System (NPDES) permits. The rules package also includes Hawaii's proposed re-issuance of five NPDES general permits.

Prior to the virtual public hearing held in November 2022, notices were sent to all permittees covered under the five general permits, as well as governmental accounts that have expressed a need to be notified of changes to the rules. Seven attendees were at the public hearing. Written comments were received from the City and County of Honolulu, the Department of Land and Natural Resources, and Par Hawaii Refining; all testimonies and comments are provided in the Board's agenda packet. Mr. Lum discussed the testimonies, and based on those testimonies, explained what changes were made, or not made, to the rules.

In response to Mr. Yamamoto's inquiry as to what entity is responsible when drainage flows into a drainage canal over a private property/small business that leads to state waters, Mr. Lum explained that the NPDES is responsible for only certain situations regarding storm water. Thus, only the City and County of Honolulu and a portion of the County of Maui is affected by these certain situations. If the County falls within a certain criteria, it needs to request a special permit for all of the drainage structures that discharge state waters. If the County is part of the certain criteria, the County would be held responsible for the discharge.

Chair Cundiff thanked Mr. Lum and the work of the Clean Water Branch for the fantastic outreach conducted to the impacted stakeholders. DOH's summaries to the changes, the responsiveness to the input from those impacted parties, and those changes that were made as a result, are highly commendable.

Mr. Morioka motioned to send the proposed rules to the Governor for adoption. Mr. Lee seconded the motion, and the Board members unanimously agreed.

#### **IV. ADMINISTRATIVE MATTERS**

##### **A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, HRS**

Chair Cundiff mentioned that the terms for board members Mr. Morioka, Ms. Rodighiero and Mr. Yamamoto's expire June 30, 2023. Mr. Morioka is planning to re-register but Ms. Rodighiero has elected not to stay on due to family commitments; Mr. Yamamoto is able to stay on as a "holdover" for another year.

##### **B. Discussion on this Board Fiscal 2023 – 2024 Goals**

The following discussions and motions were made in regard to the Board's goals for the upcoming three to five years.

Vice Chair Albitz noted that the County of Maui is not submitting rules for review. She recently found out that the County's Planning Commission is promulgating rules, and despite the rules impacting small businesses, they have not been brought forth to this Board despite her requests.

Along these lines, Chair Cundiff explained that one of the goals for improved awareness is to meet with State and County agencies and explain what this Board does. Utilizing DBEDT staff, specifically the Board's Office Assistant, Ms. Jet'aime Ariola, would be extremely helpful in this area. Mr. Ritchie added that Ms. Ariola did a great job at the Small Business Fair this past year, and if she is willing, the Board should utilize her outreach skills whenever possible. Chair Cundiff asked that if any of the board members are available to join Ms. Ariola in any of the outreach efforts, to let her know.

Mr. Lee motioned to support the reimbursement of mileage for staff member Ms. Ariola when using her personal vehicle for travel and performing small business outreach for this Board. Mr. Morioka seconded the motion, and the Board members unanimously agreed.

Mr. Yamamoto stated that there is some vagueness and confusion in reading policies and procedures and understanding the difference between a state rule versus a county ordinance. Deputy Attorney General Kato will research the Counties' processes for creating policies and procedures versus ordinances and rules and provide the information to the members.

Chair Cundiff suggested that the letter that was previously drafted to the chambers of commerce and business and trade organizations re-introducing this Board, which is included in the Board's agenda packet, but was never mailed due to the pandemic, would be equally sufficient for outreach efforts if it was also sent to the various divisions of the Counties.

Chair Cundiff believed it was a good idea to resurface this letter and perhaps have the Director of DBEDT also sign it. He asked the Board members to let staff know of any organizations to add to the list. Vice Chair Albitz stated that while the Maui Chamber of Commerce is fully aware of this Board, it would be most beneficial for the County of Maui's departments to also receive the letter; she will approach the Maui Chamber of Commerce for names and addresses. The list of chambers and business organizations will be emailed to the Board members for their review; if there are any additions or other changes, please send to Ms. Ariola.

Mr. Yamamoto motioned to update and adopt the proposed draft letter to the chambers of commerce, business and trade organizations as the Board members see fit. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

Chair Cundiff explained that sending out an "introduction" letter to the State departments, especially now that there is a new administration and new cabinet members in order to set-up meetings with the directors, is a good idea. Board members can either schedule the meeting themselves or work with DBEDT staff to help schedule; a draft letter will be sent out for the members' review.

Second Vice Chair Shick motioned to resurface, update, and send out the Board's introduction letter to the State departments' current Directors with a copy to the respective discussion leaders, which will request a time and date to meet and discuss the Board's mandates. Mr. Lee seconded the motion, and the Board members unanimously agreed.

Chair Cundiff mentioned that budget projections were created to include if and when a meeting is held on a neighbor island; the projections, which are included in the agenda packet, are comparable in cost to having neighbor island board members fly to Oahu. Thus, he suggested that one of the Board's goals would be to conduct a board meeting on a neighbor island; the board members were in concurrence with this suggestion. Mr. Ritchie also suggested we may want to include a partner/organization to help with the venue and advertising of the meeting as well as outreach after the meeting.

Ms. Palcovich mentioned that a number of years ago, members from this Board provided a PowerPoint presentation at a Governor's cabinet meeting to discuss the Board's mandates; this was well-received by the state departments. Ms. Palcovich will look into the logistic of doing another presentation at a cabinet meeting sometime in the future.

Chair Cundiff stated that Ms. Ariola is continuing to do a good job with postings on social media by creating an awareness. Changes made to this Board's website are also a driver to the website; he added that hopefully by doing weekly social media postings, it will take readers to the website. He suggested that DBEDT start tracking "hits" on the website to quantify if the new website has caused more viewings.

Chair Cundiff also stated that maintaining a full capacity board helps with improved awareness and effectiveness. As Ms. Rodighiero will be leaving the Board in June 2023, we will reach out to the Senate president with any new potential board members. Vice Chair Albitz indicated that she knows of someone from Maui who has already started her application on the Governor's Board and Commissions website.

Mr. Lee motioned to adopt this Board's proposed three to five-year goals so DBEDT staff may begin assisting in these efforts. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

**V. NEXT MEETING** - Thursday, February 16, 2023 at 10:00 a.m.

**VI. ADJOURNMENT**

Mr. Morioka motioned to adjourn the meeting and Vice Chair Albitz seconded the motion; the meeting adjourned at 11:22 a.m.