

## Small Business Regulatory Review Board

---

### MEETING MINUTES - HELD THROUGH VIDEO-CONFERENCING

March 18, 2021

- 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
- Garth Yamanaka, 2<sup>nd</sup> Vice Chair
- Harris Nakamoto
- Dr. Nancy Atmospera-Walch
- William Lydgate
- James (Kimo) Lee
- Mark Ritchie

**ABSENT MEMBERS:**

- Jonathan Shick
- Taryn Rodighiero

**STAFF: DBEDT**

Dori Palcovich  
Jet'aime Alcos

**Office of the Attorney General**

Margaret Ahn

II. **APPROVAL OF February 18, 2021 MINUTES**

Mr. Nakamoto made a motion to accept the February 18, 2021 meeting minutes, as amended. Vice Chair Albitz 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 Proposed Amendments to HAR Title 19 Chapter 108 High Occupancy Vehicle Lanes, promulgated Department of Transportation (DOT)

Discussion leader, Mr. Lee, stated that the proposed rule changes do not appear to affect small business. He introduced Ms. Laura Manuel, Highway Safety Specialist at DOT's Highways Division, who indicated that the public hearing occurred on February 9, 2021. No one attended the hearing and one written testimony was received that had no bearing on amending the rules.

Chair Cundiff added that the rule changes include electric vehicles and it was mentioned at this Board's meeting prior to public hearing that there could possibly have been impact to small businesses that had electric vehicles in their fleet.

Mr. Lee motioned to move the proposed amendments to the Governor for adoption. Mr. Nakamoto seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed New HAR Title 10 Chapter 4.1, Management of Water Systems, promulgated by Department of Hawaiian HomeLands (DHHL)

Discussion leader, Mr. Lee, explained that the proposed new rule standardizes the practices of DHHL's water systems, which is a positive initiative. Ms. Hokulei Lindsey, DHHL Administrative Rules Officer explained that this brand-new chapter deals with the management of DHHL's own public water system as well as a hybrid non-portable water system.

The public hearings were held virtually in November 2020. One person attended the hearing and three others submitted testimonies, two from individuals and one from an organization; none of which were identified as owners of small businesses. She noted that all businesses on the Molokai water system listing would have received notice of the public hearing, and that 144 views were made on DHHL's website for the proposed rules. She added that the rules were standardized to "business days," in accordance with the Deputy Attorney General's recommendation.

Mr. Lee motioned to move the proposed new chapter to the Governor for adoption. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

**IV. NEW BUSINESS** – Before Public Hearing

A. Discussion and Action on Proposed New HAR Title 19 Chapter 150, Autonomous Vehicle Regulations, promulgated by Department of Transportation (DOT)

Discussion leader, Mr. Lee, stated that the proposed rules are intended for manufacturers of autonomous vehicles and other entities who seek to test autonomous vehicles in Hawaii. Mr. George Abcede, Highways Administrator at DOT Highways Division, explained that his division has been charged with autonomous vehicle testing where previously vehicle manufacturers were doing such testing. Currently, there are no entities in the state of Hawaii that meet the business definition that may be impacted by the rules.

Ms. DreanaLee (Dre) Kalili from the Department of Transportation Services at the City & County of Honolulu added that these are the first set of rules which reflect the "testing" process, which will likely determine how many entities can apply for a permit. Beyond the testing phase, the next phase will allow DOH to will come back to this Board with additional rules for all other policies required for the successful deployment of the autonomous vehicles.

Chair Cundiff clarified that the rules are specific to manufacturers in order to provide them with the opportunity to test vehicles in Hawaii. Therefore, since there are no manufacturers currently in Hawaii, there is no impact to small business at this stage of the rule-making process. However, once the manufacturing process begins, there will likely be some impact as the businesses will take advantage of autonomous vehicle usage in Hawaii; Ms. Kalili concurred.

Mr. Lee motioned to move the proposed new rules to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

## V. LEGISLATIVE MATTERS

### A. Discussion, Update and/or Action on the following:

#### a. House Bill 1148 HD1 "Relating to Land and Natural Resources"

This measure authorizes the board of land and natural resources to adopt, amend, and repeal administrative fee schedules without regard to Chapter 91, HRS, and establishes a process for the board to adopt, amend and repeal administrative fee schedules, including public notice and meeting requirements.

Chair Cundiff reminded the members that this measure was reviewed at the last board meeting where communication was subsequently sent to stakeholders. The measure died in the Finance Committee and thus will not be moving forward.

#### b. Update on Upcoming Governor's Message Submitting for Consideration for the Gubernatorial Nomination of Harris Nakamoto to the Small Business Regulatory Review Board for a term to expire June 30, 2024

Chair Cundiff noted that, as of this morning, this measure has yet been scheduled for a hearing.

#### c. Update on Upcoming Governor's Message Submitting for Consideration for the Gubernatorial Nomination of James (Kimo) Lee to the Small Business Regulatory Review Board for a term to expire June 30, 2024

Chair Cundiff noted that, as of this morning, this measure has yet been scheduled for a hearing.

Mr. Ritchie added that there has been no scheduling of hearings for the Governor's Messages for boards and commissions.

## VI. 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

#### a. Discussion and Action on the Board's Fiscal Year-to-Date 2021 (Actual) Budget and Projected Fiscal Year 2021 Budget

Chair Cundiff noted that the agenda packets include this Board's actual year-to-date budget and forecasted year-to-date budget. The budget process is still going through the State Legislature and until it becomes final, we will not know where this Board stands. Once it is known, a meeting will be scheduled with DBEDT Director Mike McCartney.

Mr. Lydgate commented that prior to the pandemic, there appeared to be an advantage for this Board to have “live” meetings. He questioned whether virtual meetings through Zoom would continue due to potential budgetary constraints. Since the board meetings have become virtual, there does not appear to be much testimonies submitted during the meetings. He added that “in-person” meetings have multiple benefits for the Board and the public. Chair Cundiff responded that there is current legislation attempting to incorporate virtual meetings into the law.

Kudos to Mr. Lydgate for the recent published article in *Pacific Business News* about Lydgate Farms.

**VII. NEXT MEETING** - Thursday, April 15, 2021 at 10:00 a.m.

**VIII. ADJOURNMENT** – Vice Chair Albitz made a motion to adjourn the meeting and Mr. Ritchie seconded the motion; the meeting adjourned at 10:37 a.m.