

Small Business Regulatory Review Board

MEETING MINUTES September 21, 2023

ZOOM RECORDING

- I. **CALL TO ORDER:** Chair Albitz called the meeting to order at 10:00 a.m., with a quorum present.

MEMBERS PRESENT:

- Mary Albitz, Chair
- Jonathan Shick, 2nd Vice Chair
- Garth Yamanaka
- Sanford Morioka
- Tessa Gomes
- Mark Ritchie

ABSENT MEMBERS:

- Robert Cundiff, Vice Chair
- Dr. Nancy Atmospera-Walch
- William Lydgate
- James (Kimo) Lee

STAFF: DBEDT

Dori Palcovich
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL OF August 17, 2023 MINUTES**

Mr. Ritchie motioned to accept the August 17, 2023 meeting minutes, as amended. Second Vice Chair Shick seconded the motion and the Board unanimously agreed.

III. **NEW BUSINESS**

- A. Discussion and Action on Proposed Amendments to HAR Title 13 Chapter 109, Rules for Establishing Forest Stewardship, promulgated by Department of Land and Natural Resources (DLNR)

Ms. Tanya Rubenstein, Cooperative Management Forester, from DLNR's Division of Forestry and Wildlife (DFW), presented an overview of the division's program. The presentation encompassed explaining what the forest stewardship program is, who participates in the program, objectives of the management plan along with incentives and examples of its practices, the purpose of participating in the program, and the types of forest stewardship projects.

Also discussed was the forest stewardship advisory committee and its role, the internal procedures for landowners, and the purpose and reasons for the proposed amendments. The Board of Land and Natural Resources approved DFW to proceed with the rule proposal in August. It was confirmed that this voluntary program, which has not been amended since 1999, will have a positive small business impact, which will help the state's ecological-tourism

companies. The proposed amendments are also intended to be more streamlined and user-friendly for landowners.

Regarding an inquiry into the cost of the program, it was noted that the implementation of new projects has been nil due to the pandemic; as such, the state legislature will be approached in 2024 to request needed funds for the forestry budget. There is also a possibility of receiving federal grant funds. As to the question about taking out invasive species, Ms. Rubenstein acknowledged that there is a management practice called “weed control” which is used prior to planting plants to assist with controlling invasive species.

Second Vice Chair Shick motioned to move the proposed amended rules to public hearing. Chair Albitz seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed Amendments to HAR Title 4 Chapter 71, Plant and Non-Domestic Animal Quarantine Non-Domestic Animal Import Rules, promulgated by Department of Agriculture (DoAg)

Mr. Christopher Kishimoto, Entomologist from DoAg, explained that the proposed amendment is to assist DLNR's Division of Aquatic Resources, which is the primary agency responsible for putting the northern large-mouth bass on the list of restricted animals. The purpose of this request is for a one-time import to perform testing to determine whether the bass can be safely released into Wahiawa public fishing area to help add diversity to the existing population already in existence.

Second Vice Chair Shick motioned to move the proposed amended rules to public hearing. Mr. Morioka seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Proposed New HAR Title 19 Subtitle 5 Chapter 152, State Highway Enforcement Program, promulgated by Department of Transportation (DOT)

Ms. Laura Manuel, DOT's Highway Safety Specialist, explained that the purpose of this new rule is to establish the state's highway enforcement program, which adds a surcharge to illegal parking to existing penalties for violations of the state traffic code. This involves stopping, standing, and parking on state highways.

Fifty percent of the state's highway surcharge will be deposited into the state's highway fund with the remaining balance distributed to the respective police departments of the county from which the surcharge was collected. The funds will be used to enforce laws and ordinances pertaining to illegal parking on state highways.

Although there was no apparent impact on small business, one potential impact may be, for example, if a landscaping company performing work on the highway is parked on the side of the highway and receives a violation for doing so. Ms. Manuel added that the new rule was prompted by alleged problems on the Island of Kauai where cars were illegally parked along state highways, specifically at state parks.

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

D. Discussion and Action on Proposed Amendments to HAR Chapter 15 Chapter 23, Makai Area Rules, promulgated by Department of Business, Economic Development and Tourism (DBEDT)

Mr. Craig Nakamoto, Executive Director of DBEDT's Hawaii Community Development Authority (HCDA) presented the members with an overview of the rule amendments. The presentation explained HCDA's history, which began in 1976, and its original purpose which was to redevelop Kakaako Community Development Center; since that time, other districts have been added.

The objectives of the proposed rules are to: 1) reflect the 2006 Act 317 ban on residential development; 2) incorporate the community-lead Kakaako Makai Conceptual Master Plan from 2011, and 3) streamline permitting and increase consistency with the latest processes in Kakaako Mauka, which was last updated in 1995.

Overall, the rule amendments are intended to bring consistency with definitions and remove obsolete language, update window requirements, simplify land use categories, remove outdated references, and bring processes in line with current laws and rules that are more user-friendly.

Stakeholders at the public hearing would likely include both private and public landowners, particularly those from the Makai area, Office of Hawaiian Affairs, Bishop Estates as well as the general community having an interest in keeping the Makai area more open. Second Vice Chair Shick noted that there does not appear to be a negative impact on small businesses; the biggest impact is the flat fee of \$200, which will offset staff time.

Mr. Ritchie motioned to move the proposed rules onto the public hearing. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

IV. LEGISLATIVE MATTERS

A. Review of final proposed Administrative Bill, "Relating to the Small Business Regulatory Review Board"

The proposed bill clarifies that this Board has the authority to review legislation affecting small businesses in response to a request from small business owners.

Ms. Palcovich noted that the Governor's legislative team reviewed the proposal and had no concerns or questions. As such, the bill will be included in the Governor's 2024 Administrative Package.

V. ADMINISTRATIVE MATTERS

B. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)

1. Hawaii Small Business Fair at Leeward Community College

Mr. Ritchie stated that the fair went well this year. There were 32 exhibitors, with 25 to 26 classes offered. It was well attended with about 200 plus attendees. Mr. Ritchie also mentioned that there is an attempt to have similar fairs on neighbor islands. DBEDT staff member, Ms. Ariola, did a great job at marketing this Board at the fair.

2. Presentations to Industry Associations

The members discussed having a YouTube video created specifically for this Board to discuss what its purview is; it would be linked to the Board's website. The YouTube video, which would be approximately five minutes long, would also be sent to various business organizations for outreach purposes. DBEDT staff will research this idea further with DBEDT's contracted public relations firm, Becker Communications.

3. Staff's Small Business Outreach

Follow-up letters to the trade and industry associations were sent out this week. Second Vice Chair Shick will attempt to see if a presentation can be made to the Hawaii Chamber of Commerce.

Ms. Gomes mentioned that there will be an annual industry meeting on Tuesday, October 17th where approximately 160 small businesses will attend. This would be a good opportunity to discuss what this Board does and to distribute the Board's newly printed brochures.

VI. NEXT MEETING - Thursday, October 19, 2023 at 10:00 a.m., in conference room 405 at Leiopapa A Kamehameha Building – State Office Tower – 235 S. Beretania Street, Honolulu, HI 96813.

VII. ADJOURNMENT – The meeting adjourned at 11:06 a.m.