

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

March 17, 2010

Conference Room 410 - No. 1 Capitol District Building, Honolulu, Hawaii

I. **CALL TO ORDER:** Chair Woods called the meeting to order at 10:34 a.m., with a quorum present.

MEMBERS PRESENT:

- Lynne Woods
- Charles Au
- David De Luz Jr.
- Dorvin Leis
- Sharon Pang
- Peter Yukimura

ABSENT MEMBERS:

- Bruce Bucky
- Donald Dymond
- Richard Schnitzler

STAFF: DBEDT Office of the Attorney General
 Milton Kwock Margaret Ahn

II. APPROVAL OF MARCH 17, 2010 MINUTES

Mr. Au recommended that the February 17, 2010 minutes be approved as circulated. Mr. De Luz Jr seconded the motion and the Board members unanimously affirmed the motion.

III. OLD BUSINESS

- A. Review and discussion of DLNR's audit report focusing on Division of Boating and Ocean Recreation as requested by Board
DLNR Chair Laura Thielen informed the Board that DLNR is in the process of establishing 3 new subaccounts to help match revenue and expenses and provide transparency in reporting. This includes a subaccount for Boating. Chair Thielen also offered to provide the Board with DLNR's annual reports as it does to the Legislature and the BLNR. The Board thanked Chair Thielen for taking the time to provide direct responses to their questions noting that the amended rules had already been signed by the Governor.
- B. Review and discussion of post public hearing statement of Chapter 13-146, HAR, "Hawaii State Parks System" (DLNR)
DLNR Chair Thielen provided information to the Board on the latest efforts by DLNR to charge parking and/or entry fees at Nuuanu Pali. Dale Evans, President of Charley's Taxi & Limousine provided comments to the Board. She stated that taxi drivers are being charged \$6 to drop off fares to Nuuanu Pali while tourists driving to the Pali are assessed \$3 per car. Ms. Evans concern is the inability of taxi drivers to pass on the parking fee to their customers. According to her, City ordinance governing taxis prohibit taxi drivers from passing on the fees. Chair Woods reminded the Board and Ms. Evans that City ordinances are not within the purview of the SBRRB but should be taken up with the City and/or the City Council. Chair Thielen suggested that the taxi drivers could leave the Pali after dropping off their customers and return to the Pali after a mutually agreed upon time. Ms. Evans responded that the turnaround area is too far for the taxi drivers to travel and that it might pose a safety hazard to have taxi drivers looping around Pali Highway to avoid having to pay the parking fee.

A motion was made by Mr. De Luz Jr. to send a memo to DLNR to request that the department and the taxi industry work together to address the issue of parking fees at the Nuuanu Pali. The motion also directed the Board to invite the City & County of Honolulu to a future meeting to discuss the city ordinance

that prohibits taxi drivers from passing additional fees on to their customers. Ms. Pang seconded the motion and the Board unanimously agreed to the motion.

C. Review and discussion of post public hearing statement of Chapter 16-185, HAR, “Annual Audited Financial Reporting” (DCCA)

Chair Woods noted that Chapter 16-185, HAR, “Annual Audited Financial Reporting” was used as a frame of reference as to government reporting and the amendments were already approved and signed by the Governor. No motion required.

D. Review and discussion of post public hearing statement of Chapter 16-71, HAR, “Relating to Certified Public Accountants and Public Accountants” (DCCA)

John Roberts, State President of the Hawaii Association of Public Accountants (HAPA) and Marilyn Niwao, co-chair of HAPA’s legislative committee explained that Chapter 16-71, HAR, would have the greatest impact on small and medium sized CPA firms statewide. The process to pass rule amendments have taken 3-5 years and Ms. Niwao, representing HAPA, helped to draft the proposed rules. The rules that were passed were not the same rules that were proposed by the committee. The suggested changes that were not adopted were passed off by the Board of Accountancy as nonsubstantive.

Mr. Au commented that rule changes were needed and the amendments that address rules of reciprocity would bring Hawaii closer to the vast majority of other states.

Chair Woods recommended that the Board send a memo to the Director of DCCA noting that this issue was brought to the Board’s attention. Chair Woods also mentioned that HAPA may have an added avenue of appeal through the “Small Business Bill of Rights.” HAPA would need to identify issues and small business impacts. No motion required.

E. Review and discussion of proposed amendments to Chapter 18-231, HAR, “Administration of Taxes” (DoTAX)

Mr. Joseph Tichy, DoTAX Rules Specialist, notified the Board that DoTAX is withdrawing its proposed amendments to Chapter 18-231, HAR, to work on revisions suggested by the Board. DoTAX will come back to the Board with revisions at a later date.

F. Request from the business community for Board review of Chapter 19-44, HAR, “Rules Relating to Services and Procedures, Charges, Tolls and Fees” (DOT)

Ms. Dale Evans, President of Charley’s Taxi & Limousine, notified the Board that the Department of Transportation was working with the taxi industry and withdrew their request for Board review.

G. Update on departments reporting in response to Governor’s Administrative Directive 09-01

Update deferred as DBEDT staff was unable to compile information for the Board in time for the March meeting.

IV. NEW BUSINESS

A. Review and discussion of proposal to adopt two new rules, Chapter 3-160, HAR, “Election Contributions and Expenditures” and Chapter 3-161, “Administrative Practice and Procedure Before the Campaign Spending Commission” (DAGS)

Ms. Barbara Wong, Executive Director of the State Campaign Spending Commission, explained to the Board that the two new rules would clarify and simplify the recodification of the HRS. Ms. Wong stated that the new rules would not specifically impact small business but would bring State laws closer to Federal statutes.

Mr. Au offered a motion to support the adoption of the two new rules. Mr. Yukimura seconded the motion and the Board unanimously agreed to the motion. After the rules have gone through public hearing, no need for the State Campaign Spending Commission to return to the Board.

B. Review and discussion of proposed new Chapter 17-1709.2, HAR, “State Funded Hawaii Premium Plus” (DHS)

A motion was made by Ms. Pang to send a memo to the Governor in support of the proposed new Chapter 17-1709.2, HAR. Mr. Au seconded the motion and the Board unanimously agreed to the motion.

C. Nomination of David S.Y. Chang to fill vacant Board position

Nomination was forwarded by the Governor's Office. After reviewing Mr. Chang's resume, Chair Woods offered to speak to Mr. Chang and conduct further due diligence.

D. Election of new chairperson

Motion was made by Mr. Yukimura to place the election of a new SBRRB Chairperson on April's agenda. Any Board member interested in running for the presidency should notify Chair Woods or offer their name as a candidate at the April meeting. DBEDT will prepare a simple ballot. Mr. Au seconded the motion and the Board unanimously agreed to the motion.

V. REPORT FROM CHAIR - None

VI. REPORT FROM BOARD MEMBERS

A motion was made by Ms. Pang requesting that the issue of managed care and "Certificate of Need" be added to the April agenda. Ms. Pang will identify department, programs and individuals to be invited. Mr. Leis seconded the motion and the Board unanimously agreed to the motion.

VII. ANNOUNCEMENTS – None

VIII. Report from Volunteer Legislative Coordinator

A. Update of SB2145, "Relating to the Small Business Regulatory Review Board"

SB2145 SD1 crossed over to the House of Representatives and Representative Herkes believes that the Board belongs in DBEDT. Rep. Herkes introduced HCR 296, "Urging the Governor to Properly Fund the Small Business Regulatory Review Board Under the Department of Business, Economic Development & Tourism to Support Hawaii's Small Businesses"

A motion was made by Mr. De Luz Jr. to support HCR 296. Mr. Au seconded the motion and the Board unanimously agreed to the motion. Chair Woods will provide testimony in support of HCR 296.

B. HB2169 HD2, "Relating to Employment Security"

A motion was made by Mr. De Luz Jr. to ask the Governor to use the "State Funded Hawaii Premium Plus" model to apply to the Unemployment Insurance program with tiered rates and similar savings to small businesses. Mr. De Luz Jr. will work with DBEDT on draft language. Mr. Leis seconded the motion and the Board unanimously agreed to the motion.

C. Legislative report

Tom Smyth reported that the Chamber of Commerce of Hawaii was asked to support HCR296, "Relating to the Small Business Regulatory Review Board"

IX. NEXT MEETING – Wednesday, April 21, 2010, 250 South Hotel Street, Honolulu, HI, Room 410.

IX. ADJOURNMENT – The meeting adjourned at 2:04 p.m.