

## Small Business Regulatory Review Board

### MINUTES OF REGULAR MEETING

April 20, 2011

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

**CALL TO ORDER:** Chair Pang called the meeting to order at 10:30 a.m. with a quorum present.

**MEMBERS PRESENT:**

- Charles Au
- Bruce Bucky
- David De Luz Jr.
- Sharon Pang
- Richard Schnitzler
- Peter Yukimura

**ABSENT MEMBER:**

- Dorvin Leis

**STAFF:**

DBEDT

Milton Kwock

Office of the Attorney General

Margaret Ahn

### APPROVAL OF MARCH 16, 2011 MINUTES

Mr. Schnitzler made a motion to accept the March 16, 2011 minutes as circulated. Mr. Au seconded the motion and the Board members unanimously affirmed the motion.

### OLD BUSINESS

- A. Post public hearing statement on proposed amendments to Chapter 13-230-21, HAR, which adds personal partner definition; 13-231-5, which adds grace period provision for mooring permit renewals; 13-231-28, which increases length of stay and includes personal partner; 13-233-29, which adds personal partner and new parking permit category; 13-256-18, which incorporates water sledding activity in Kaneohe Bay; 13-256-33 and 13-256-36, which pertain to vessel operations in Hanalei Bay and river. (DLNR/DoBOR)**

Clifford Inn, DLNR Boating Specialist, briefly explained the proposed amendments to the Board. He noted the need to establish a baseline for Hanalei Bay and River since the community had voiced concerns about the proliferation of vessels. After the baseline was set, the department would assess the capacity of the area and determine their next move.

Regarding Hanalei Bay, Mr. DeLuz commented that the rules need clarity, accountability and responsiveness, which are not always the case in the current set of rules, even though the department has worked out the policies and procedures process. Without clear rules, policies and procedures can change without due process for business owners. Business owners have no recourse against government and get locked into decisions not backed by rules.

Mr. De Luz offered a motion to send a memo recommending that the Governor approve the department's request to adopt the proposed amendments and requested that the DoBOR provide written policies covering DLNR and the County in regard to permits. Mr. Yukimura seconded the motion and the Board voted unanimously in favor of the motion.

- B. Review, discussion and approval for public hearing on amendments to HAR Chapter 13-256-39, which pertain to vessel operations in Hanalei Bay and River; 13-256-71, 13-256-72, 13-256-73 and 13-256-77, which implement the Kaneohe Bay Master Plan according to HRS §200-39; and Chapter 13-256-72.1, which addresses Kualoa waters restricted zones permits; 13-256-73.1, which addresses Kaneohe Bay ocean waters commercial use permits; 13-256-73.2, which addresses large full service permit restrictions; 13-256-73.3, which addresses small full service permit restrictions; 13-256-73.4, which addresses small full service permit restrictions without thrill craft, water sledding, and high speed towing activities; 13-256-73.5, which addresses large snorkel tour permit restrictions; 13-256-73.6, which addresses small sail/snorkel tour permit restrictions; 13-256-73.7, which addresses glass bottom boat tour permit restrictions; 13-256-73.8, which addresses**

replacement vessels size restrictions; 13-256-73.9, which addresses shuttling restrictions; 13-256-73.10, which addresses permit issuance; 13-256-73.11 which addresses temporary mooring of vessels authorized for commercial use in Kaneohe Bay at Heeia Kea small boat harbor; and 13-256-73.12, HAR, which addresses Kaneohe Bay ocean waters commercial use permit revocation; and implements the Kaneohe Bay Master Plan according to HRS §200-39. Aforementioned chapters with new exhibits will be taken back to public hearing at the request of the Board of Land and Natural Resources. (DLNR/DoBOR)

Clifford Inn, DLNR Boating Specialist, briefly explained the proposed amendments to the Board. The Board of Land & Natural Resources directed the department to go back to public hearing on the above proposed amendments due to the volume of comments in opposition to the changes. Mr. De Luz commented that many small businesses have difficulty understanding the rules as written.

Mr. Bucky offered a motion to send a memo recommending that the Governor approve the department's request to go to public hearing on the proposed amendments. Mr. Schnitzler seconded the motion and the Board voted unanimously in favor of the motion.

**C. Update to industry request to have the Board review the status of proposed new rules to implement portions of Chapter 17-1737-41 and 1737-42, HAR, as it relates to certification and recertification of certified nurse aides. (Staff)**

The Board directed staff to contact DHS/SSD to find out the process they went through to engage industry stakeholders while developing these new rules. The Board also asked that DHS/SSD provide the Board a list of stakeholders who participated in the process of drafting the new rules.

The Board suggested that an additional question be added to the Small Business Impact Statement which asks whether the department engaged stakeholders prior to commencing the process of drafting amendments to or new rules.

**D. Update on the status of nominees to the Small Business Regulatory Review Board (Staff)**

Staff reported that the Governor's Office of Boards and Commissions has not made a decision on the three nominees from Oahu and the nominee from Kauai yet. All four have resubmitted their application on the Governor's website and are awaiting word from the Governor's Office.

**E. Update on meeting with DCCA Director Keali'i Lopez (Chair)**

Chair Pang reported that she and Mr. Au met with Director Lopez and both commented that the meeting was very productive and positive. Director Lopez mentioned the idea of looking of dedicated funds from DCCA to help DBEDT fund the Board. She suggested that the Board consider circling back to DBEDT Director Lim to explore creative ways to keep the Board in DBEDT.

## **NEW BUSINESS**

**A. Legislative update – HB980, HD1 and SB1498, SD2, “Relating to the Small Business Regulatory Review Board. (Staff)**

As of this meeting, the Senate and House bills contain the same increased annual reporting requirements. The Senate version adds the transfer of the Board to the Department of Commerce and Consumer Affairs. It's still too early to know what the final bills will look like, assuming they are still intact prior to going to conference.

## **REPORT FROM CHAIR**

**A. Proposed amendments to Chapter 19-122, HAR, “Rules Relating to the Examination of Applicants for Issuance and Renewal of Motor Vehicle Driver’s Licenses and Instruction Permits.” (DOT)**

Chair Pang reported that the proposed amendments had no perceivable small business impact and were not subject to Board discussion and review and DOT need not return to the Board after public hearings.

## **REPORT FROM BOARD MEMBERS - None**

## **ANNOUNCEMENTS - None**

**NEXT MEETING** – Scheduled for Wednesday, May 18, 2011, 250 South Hotel Street, Honolulu, HI, Room 410. Date of meeting may change depending on members' availability.

**ADJOURNMENT** – The meeting adjourned at 12:00 noon.