

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

January 18, 2011

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

I. **CALL TO ORDER:** Chair Pang called the meeting to order at 10:50 a.m. with a quorum present.

MEMBERS PRESENT:

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

ABSENT MEMBER:

STAFF:

DBEDT
Milton Kwock

Office of the Attorney General
Margaret Ahn

II. **APPROVAL OF OCTOBER 13 AND DECEMBER 29, 2010 MINUTES**

Mr. Schnitzler made a motion to accept the August 18, 2010 minutes as revised. Mr. Au seconded the motion and the Board members unanimously affirmed the motion.

Mr. Au made a motion to accept the December 29, 2010 minutes as circulated. Mr. Leis seconded the motion and the Board members unanimously affirmed the motion.

III. **OLD BUSINESS**

A. Proposed amendments to Chapter 13-230-21, 13-231-5, 13-231-26, 13-231-28, 13-231-29, 13-233-29, 13-256-18, 13-256-33, 13-256-36, 13-256-39, 13-256-71, 13-256-72, 13-256-73, 13-256-77 and adoption of Chapter 13-256-72.1, 13-256-73.1, 13-256-73.2, 13-256-73.3, 13-256-73.4, 13-256-73.5, 13-256-73.6, 13-256-73.7, 13-256-73.8, 13-256-73.9, 13-256-73.10, 13-256-73.11 and 13-256-73.12, HAR, "" (DLNR). DLNR staff, led by Ed Underwood, Boating and Ocean Recreation Division Administrator, explained the proposed amendments to the Board. Mr. Yukimura commented on the pressing need for rules relating to Hanalei Bay on Kauai. DLNR commented that the proposed amendments would not have a negative impact on existing permit holders and currently there are more permits allowed than there are vendors.

Regarding proposed amendments to Chapter 13-231-26E and F, David Cooper, a recreational boater, expressed his concerns that by changing the "shall" to "may" in the rules, DoBOR would not have to issue all of the permits allotted at Ala Wai and Keehi Small Boat Harbors. Resulting loss of revenue would impact the Boating Special Fund. Mr. Underwood commented that the proposed amendments only pertain to live aboards and would have no impact on small business. Individuals interested in living aboard their vessels must obtain a permit. Currently, there are 129 live aboards at Ala Wai and 35 at Keehi Small Boat Harbor and make up around 15% of the harbor population. The amendments in question are part of a move by the department to have the harbors become self-sufficient. Live aboards tend not use revenue generating services in the harbor. Basic mooring fees do not cover harbors operating expenses. Proposed amendments would have fee increases spread out over five years. Ideally, DLNR would like to have zero live aboards at Ala Wai and Keehi Small Boat Harbors. Wording in the proposed amendments would allow DLNR to eliminate live aboards. Currently, commercial activity is not allowed in Ala Wai and Keehi Small Boat Harbors. Rule changes would create more commercial activity and has the interim director's support. The process to develop these proposed amendments has been going on for over one and a half years.

Mr. De Luz commented that there seemed to be a gap in the statutes to develop better rules – clarity lacking. Chair Pang commented that the small business impact statement submitted by the department

lacked substance. DLNR should provide more details to give the board sufficient information to make a decision. Mr. De Luz commented that the department complied with the letter of the law by providing a marginal impact statement. The “spirit” of the law was not followed. There seemed to be a fundamental communication problem between the stakeholders and staff. Mr. Underwood commented that the department conducted 54 outreach meetings on this rule package. Chair Pang asked Mr. Underwood if any outreach meetings were held after the October 2010 SBRRB meeting. Mr. Underwood said no meetings were held. Mr. Au suggested that DLNR have senior boating staff available at harbor meetings in the future to educate the boating community.

Mr. Au offered a motion to send a memo recommending that the Governor approve the department's request to send the proposed amendments to public hearing while noting the Board's opposition to that part of Chapter 13-231.26F, which substitutes “shall” with “may” when addressing the issue of live aboards at the Ala Wai and Keehi Small Boat Harbors. Mr. Bucky seconded that motion and the Board voted unanimously in favor of the motion.

B. Roland Sagum III's application to fill Kauai vacancy on the Board

After noting several minor errors on Mr. Sagum's application, Mr. Yukimura offered a motion to submit Mr. Sagum's application to the Governor's Office of Boards and Commissions for their consideration. Mr. De Luz seconded the motion and the Board voted unanimously in favor of the motion.

C. 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 submitted initially under the Lingle Administration and once again under the Abercrombie Administration.

IV. NEW BUSINESS - None

V. REPORT FROM CHAIR

Chair Pang reported to the Board that the following proposed amendments to rules and new rules had either no perceivable small business impact or a positive impact and were not subject to Board discussion and review:

- A.** Post public hearing statement of proposed amendments to Chapter 12-12-60, 12-12-61 and 12-12-63, HAR, “Prepaid Health Care Act” (DLIR)
- B.** Post public hearing statement of proposed amendments to Chapter 12-12-10, HAR, “Workers' Compensation Law,” 12-14-36, HAR, “Vocational Rehabilitation Rules” and 12-12-15, HAR, “Workers' Compensation Medical Fee Schedule” (DLIR)

VI. REPORT FROM BOARD MEMBERS - None

VII. ANNOUNCEMENTS - None

VIII. NEXT MEETING – Wednesday, February 23, 2011, 250 South Hotel Street, Honolulu, HI, Room 436.

IX. ADJOURNMENT – The meeting adjourned at 12:59 a.m.