

## Small Business Regulatory Review Board

### MINUTES OF REGULAR MEETING

June 23, 2011

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

**CALL TO ORDER:** Chair Pang called the meeting to order at 10:43 a.m. with a quorum present.

**MEMBERS PRESENT:**

- Charles Au
- Bruce Bucky
- David De Luz Jr.
- Dorvin Leis
- Sharon Pang
- Roland Sagum III
- Richard Schnitzler
- Howard West
- Peter Yukimura

**ABSENT MEMBER:**

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**STAFF:** DBEDT  
Milton Kwock

Office of the Attorney General  
Margaret Ahn

### APPROVAL OF MAY 25, 2011 MINUTES

Mr. Au made a motion to accept the May 25, 2011 minutes as circulated. Mr. Yukimura seconded the motion and the Board members unanimously affirmed the motion.

### OLD BUSINESS

**A. Update on the status of nominee to the Small Business Regulatory Review Board.**

Mr. Leis is actively looking for a nominee to fill a vacancy on the board representing Maui County. Chair Pang commented that former Board Chair Lynne Woods was also looking for a nominee.

**B. Review and discussion of Chu Lan Shubert-Kwock's application to fill vacant board position.**

Ms. Shubert-Kwock was in attendance and took the time to briefly review her small business qualifications owning real estate and mortgage brokerage companies. She also mentioned her work in Chinatown as a community advocate. Mr. Schnitzler commented that with Ms. Shubert-Kwock's application, the Governor would have two nominees to choose from. Mr. De Luz suggested that the board actively pursue getting the board vacancies filled.

Mr. Au offered a motion to ask the Governor's Office of Boards & Commissions the status of John Leong's nomination. Mr. Yukimura seconded the motion and the Board voted unanimously in favor of the motion.

### NEW BUSINESS

**A. Introduction of new board members, Roland Sagum III and Howard West.**

As both have signed their oath of office they attended the meeting as official board members. Mr. Sagum mentioned his four years as a legislator on the House Finance Committee. He is a land use planner and small businessman. Mr. West's small business experience is in the environmental sector working with the State Departments of Health, Transportation, HIOSH and the Coast Guard.

**B. Proposed amendments to Chapter 5-24, HAR, "Fees for Hawaii Criminal Justice Data Center Services," which updates fees charged for services provided to the public and to certain government agencies, and fee exemptions. (ATG/HCJDC)**

Liane Moriyama, Hawaii Criminal Justice Data Center (HCJDC) Administrator briefed the board on the proposed amendments. Under the prior administration Governor Lingle called for no increase in fees and no action was taken on prior request to amend rules. Chapter 5-24-2(10), HAR, calls for a \$5 fee to scan a fingerprint card to electronic format. The HCJDC submits around 24,000 records to the FBI, some of which are manual fingerprint cards.

Mr. Au asked why the HCJDC was requesting fee increases. Ms. Moriyama responded that Chapter 5-24-2(4) and (5), HAR, dealt with fees for processing requests for expungement. Criminals with extensive records continually request expungement of their records. The fees would cover the time and cost involved in processing the applications and would cut back on habitual requests. The application fees are deposited into a special fund which would be used to support the infrastructure to improve criminal history data in Hawaii. The FBI charges more for manual records versus electronic files.

Mr. Yukimura offered a motion recommending that the Governor approve the department's request to send the proposed amendments to public hearing. He also recommended that the department need not return to the board after public hearing unless substantive changes were made to the proposed amendments. Mr. Sagum seconded the motion and the Board voted unanimously in favor of the motion.

- C. Proposed amendments to Chapter 5-25, HAR, "Covered Offender Registration," which provides covered offenders with alternate locations to report in order to comply with their annual in-person verification; defines the community notification service that will allow businesses and the general public to receive electronic notification when a covered offender provides an address within a certain geographic radius provided by the subscriber; and defines special classes of covered offenders and how their registration information is maintained and disseminated. (ATG/HCJDC)

Liane Moriyama, Hawaii Criminal Justice Data Center (HCJDC) Administrator briefed the board on the proposed amendments to Chapter 5-25, HAR. The service provided is one of the most popular free services provided by the HCJDC since its inception in 2005. Sex offenders must register annually and the proposed amendments would offer these offenders alternate sites to verify their addresses. The program benefits the community as they can sign up for an email notification if a registered offender moves into their area

Mr. Schnitzler offered a motion recommending that the Governor approve the department's request to send the proposed amendments to public hearing. He also recommended that the department need not return to the Board after public hearing unless substantive changes were made to the proposed amendments. Mr. De Luz seconded the motion and the Board voted unanimously in favor of the motion.

- D. Proposed amendments to Chapter 11-60.1, Subchapter 3, "Open Burning," and Subchapter 10, "Field Citations," HAR, which enhances the Agricultural Burning Permit application process; clarifies the conditions under which certain categories of open burning are allowed; further clarifies that the rules do not allow the open burning of human remains or animal carcasses, except as a result of a natural disaster or catastrophic event and/or emergency, where there is no other reasonable alternative method of disposal, and the Director of Health approves the open burning in advance; prohibits the open burning of household rubbish and green waste state-wide; prohibits open burning fires to heat water for residential bathing purposes; allows for Field Citations to be issued against violators found to be operating air pollution sources without a valid DOH air permit. (DOH/Clean Air Branch)

Lisa Young, DOH/Clean Air Branch staff briefed the board on the proposed amendments which were mostly housekeeping revisions addressing agricultural and residential open burning. The proposed amendments also call for the elimination of backyard rubbish burning on the neighbor islands. Mr. De Luz asked about field citations for household burning on the neighbor islands. Was there any latitude when issuing citations? Ms. Young commented that while existing rules already allows for citations, the inspectors usually issue a warning or complaint letter if a complaint is filed. The complaint letter is followed by a warning letter if the violation persists. Mr. De Luz commented that it would be difficult for the department to enforce household burning. Ms. Young responded that the department was planning on implementing an education program with the county fire departments. Mr. Schnitzler commented that the Oahu centric changes will impact rural communities.

Mr. De Luz commented that Chapter 11-60.1-54(4)(d) and (e), HAR, "Agricultural burning permit application." calls for the department to notify the applicant within 60 days if the application is complete. Mr. West suggested that the department add wording that "completion of an application does not constitute a permit."

Mr. De Luz offered a motion recommending that the Governor approve the department's request to send the proposed amendments to public hearing. He also recommended that the department notify the Board when public hearings are scheduled. Mr. Schnitzler seconded the motion and the Board voted unanimously in favor of the motion.

- E. Proposed amendments to Part 4, Administrative Rules, Kauai County Department of Water, "Fixing Rates for the Furnishing of Water Service in the County of Kauai," which institutes monthly instead of bi-monthly billing; provides detailed information about the method the department uses to bill private fire lines and institutes a late payment fee against delinquent balances. (Kauai County/DOW)**

Bill Eddy, Deputy Manager-Engineer, County of Kauai Department of Water, briefly described the proposed amendments. The change from bi-monthly billing to monthly billing is to bring billing in line with the City & County of Honolulu's Board of Water Supply because the Board of Water Supply handles billing for the County. A projected \$3,000 in late payment fees will be generated, while improving the County's cash flow and discouraging late payments.

Mr. Yukimura offered a motion recommending that the Governor approve the department's request to send the proposed amendments to public hearing. He also recommended that the department need not return to the Board after public hearing unless substantive changes were made to the proposed amendments. Mr. Sagum seconded the motion and the Board voted unanimously in favor of the motion.

**REPORT FROM CHAIR** - None

**REPORT FROM BOARD MEMBERS** - None

**NEXT MEETING** – Scheduled for Wednesday, July 20, 2011, 250 South Hotel Street, Honolulu, HI, Room 410.

**ADJOURNMENT** – The meeting adjourned at 1:18 pm.