

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

May 16, 2007

No. 1 Capitol District Building – Conference Room 410

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

MEMBERS PRESENT:

- Sharon L. Pang
- Michael Yee
- Dorvin Leis
- Donald Dymond
- George Handgis
- Charles Au
- Richard Schnitzler
- Peter Yukimura
- Bruce Bucky

ABSENT MEMBERS:

- Lynne Woods

STAFF:

DBEDT

Dori Palcovich
Steven Bretschneider
Thomas Smyth
Ilene Deutsch

Office of the Attorney General

Margaret Ahn

GUESTS:

Laurence K. Lau, Deputy Director, Environmental Health Administration, Department of Health
Alan Matsunami, Program Specialist, Med-QUEST Division, Department of Human Services
James Hardway, Special Assistant to Director, Department of Labor and Industrial Relations
Thomas Vendetta, Chairperson, Hoisting Machine Operators Advisory Board
Alton Miyasaka, Biologist, Division of Aquatic Resources, Department of Land and Natural Resources
Kayleen Polichetti, Representative, Hastings & Pleadwell

WORKING LUNCH AS THE MEETING PROGRESSED

II. **APPROVAL OF MINUTES:** Minutes of the April 25, 2007 Board meeting were approved as presented.

III. OLD BUSINESS

- A. Review and discussion of post public hearing statement of HAR Chapter 11-12, "Food Establishment Sanitation" (DOH) – Mr. Laurence Lau, Deputy Director of DOH's Environmental Health Administration, explained that the proposed rules under current law mandates that anytime food is served to the public a general permit is required by the State. The proposed rule amendments will exempt kitchens and places that serve food when they are used only to feed the homeless for free, from requiring a State permit. Conversely, food establishments that serve or provide food to the general public such as restaurants are still required to maintain full compliance in requiring a State permit. He explained that twenty people testified at the public hearing and all but one was in favor. After review, the Agency did not make any further modifications to the proposed rules as the implementation of the emergency feeding rule was based on viable past surveys and studies involving the homeless. Mr. Yukimura recommended that the proposed rules proceed to the Governor for adoption; the Board members unanimously agreed.
- B. Review and discussion of post public hearing statement of HAR Chapter 17-1724-10, "Earned Income from Self-Employment" (DHS) – Mr. Alan Matsunami, Program Specialist at DHS's Med-QUEST Division, explained that one person attended the public hearing however the testimony was not applicable to the proposed amendments. The amendments represent housekeeping measures that are not expected to have a small business impact but are intended to clarify policies regarding the budgeting of self-

employment income for medical assistance program. Mr. Handgis recommended that the proposed rules proceed to the Governor for adoption; the Board members unanimously agreed.

- C. Review and discussion of post public hearing statement of HAR Chapter 17-1737, "Scope and Content of the Fee for Service Medical Assistance Program" (DHS) – Mr. Alan Matsunami, Program Specialist at DHS's Med-QUEST Division, explained that one person attended the public hearing however the testimony was not applicable to the proposed amendments. In addition to housekeeping measures, the proposed amendments represent a new provision describing the requirements of the nursing facility after a significant change in the physical or mental condition of a resident worsens. Mr. Handgis recommended that the proposed rules proceed to the Governor for adoption; the Board members unanimously agreed.
- D. Update and discussion on Legislature – Mr. Thomas Smyth, Branch Chief of the Strategic Marketing Division at DBEDT, distributed a handout and discussed its contents which included small business bills that were heard during this year's legislative session. These bills include SB188 "Relating to the Small Business Regulatory Flexibility Act, HB855 "Relating to Workers' Compensation," HB854 "Relating to Continued Temporary Total Disability Benefits to Injured Employees," HB1500 "Relating to Unemployment Insurance," HB1503 "Relating to Employment Labor Law," SB1833 "Relating to Family Leave," HB1081 "Public Works," and SB1425 "Relating to Contractor Licensing Requirements During a State Emergency Disaster." A series of questions and answered ensued.

IV. NEW BUSINESS

- A. Review and discussion of HAR Chapter 12-136.1 "Cranes, Hoists, Elevators and Conveyors" (DLIR) – Mr. James Hardway, Special Assistant to the Director at DLIR, introduced Mr. Thomas Vendetta, Chairman of the Hoisting Machine Operators Advisory Board who was tasked with promulgating the amendments to these rules. The purpose of the amendments are intended to provide an enforcement mechanism to ensure that operators of certain cranes or hoisting machines are properly certified to operate them in accordance with State law. Specifically, the amendments would authorize the department to cite employers for allowing a non-certified employee to operate a hoisting machine on the worksite. Upon review, Mr. Handgis recommended that the proposed rules proceed to public hearing; the Board members unanimously agreed.
- B. Review and discussion of HAR Chapter 13-51, "Kahului Harbor, Maui Fisheries Management Area" (DLNR) – Mr. Alton Miyasaka, Biologist from DLNR's Division of Aquatic Resources, explained that the proposal will amend existing regulations of the Kahului Harbor fisheries management area which addresses fishing related issues within the harbor. Specifically, the amendments are expected to better manage the use of a variety of fishing nets, to establish a bag limit and to allocate fishery resources more equally among fishers. The small businesses that would be impacted are those commercial fishers who either currently or are planning to fish in Kahului Harbor; it was noted that commercial akule net fishers would directly benefit from these rules as the rules would allow them to continue fishing within the harbor. Mr. Miyasaka explained that the department is also considering proposed new language regarding fisher check state requirements, however, it was added that this provision does not appear to impact small business. Mr. Handgis recommended that the proposed rules proceed to public hearing; the Board members unanimously agreed.
- C. Update on upcoming Strategic Plan – Vice Chair Pang indicated that the Board's annual planning session is scheduled for July 18, 2007, which will be in place the Board's regularly scheduled meeting. All members present have indicated that they will be in attendance.

- V. **REPORT FROM HASTINGS & PLEADWELL** – Discuss and Review Survey Questions for Ward Research, Inc., Project - Ms. Kayleen Polichetti, representative from Hastings & Pleadwell, distributed a survey that Ward Research, Inc. prepared which will be conducted among 300 small businesses in the State of Hawaii. The survey is expected to take a total of eight minutes and reflects both general and specific questions regarding DBEDT and this Board. After much discussion among the members and Mr. Bretschneider, several changes, additions and deletions were recommended to the survey. Ms. Polichetti will provide Ms. Palcovich with a second draft who will in turn submit it to the members for final confirmation.

VI. **REPORT FROM VICE CHAIR** – Nothing was reported.

VII. **REPORT FROM BOARD MEMBERS** – Nothing was reported.

VIII. REPORT FROM COMMITTEES – Nothing was reported.

IX. ANNOUNCEMENTS – Vice Chair Pang introduced Ms. Ilene Deutsch as the Board’s newest, temporary assistant.

X. NEXT MEETING – Wednesday, June 20, 2007, No 1 Capitol Building, 250 South Hotel Street, Conference Room 410.

XI. ADJOURNMENT – Vice Chair Pang adjourned the meeting at 12:30 p.m.