

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

August 12, 2003

No. 1 CAPITOL DISTRICT BUILDING ROOM 436

CALL TO ORDER: Chair Woods called the meeting to order at 11:21 a.m., with a quorum present.

MEMBERS PRESENT:

- Lynne Woods
- Denise Walker
- Al Inoue
- Phyllis Shea
- David Rietow
- Robert Speers, Ph.D.
- Brian Zinn

ABSENT MEMBERS:

- Dennis Okihara
- Dorvin Leis

STAFF:

DBEDT:

Theodore Liu
Thomas Smyth
Dori Palcovich
Eric Abdulateef
Shawn Pelley

Office of the Attorney General

Linden Joesting

GUESTS: Bruce Bucky, President, Hildgund Jewelry
Charles Begg, Retired Business Executive
Joyce Edwards, President, The Systemcenter, Inc.
Michael Formby, Partner, Frame, Formby & O'Kane
Donald Dymond, Owner, Kalapawai Market
Douglas Halcro, Owner, Yankee Group Investments, Inc.
Katina Henderson, Water Quality Management Planner, Department of Health (DOH)
Patrick Felling, Environmental Ombudsman, DOH
Lawrence Lau, Deputy Director, DOH

WORKING LUNCH AS THE MEETING PROGRESSED

APPROVAL OF MINUTES: Minutes of the June 10, 2003 meeting were approved as presented.

PUBLIC COMMENTARY: The following guests introduced themselves and gave a brief history of their business background and their interest in becoming a member of the Review Board: Bruce Bucky, Charles Begg, Joyce Edwards, Michael Formby, Don Dymond and Douglas Halcro.

Director Liu discussed three of the Department of Business, Economic Development and Tourism's (DBEDT's) areas of interest regarding Hawaii's small business community. One major interest is the upcoming legislative session. Director Liu indicated that it is unclear as to how this year's legislature will transform itself, but that he understands that the Review Board's legislative priority is to establish the Small Business "Bill of Rights." He also indicated that another area of interest involves Hawaii's workforce development. The Workforce Development Council has been working closely with the Department of Labor and Industrial Relations, primarily focusing on the hard to hire and incumbent worker training. The State is seeking input from the community to find where the "gaps" are. Chair Woods will forward to Director Liu a copy of the Maui Chamber of Commerce's "needs assessment." DBEDT will prepare a "white paper" regarding the capital needs and constraints of the Hawaii small business community. Director Liu also spoke about DBEDT's Small Business Advisory Group and mentioned that he has been discussing with Kathleen Watanabe, Director of Department of Human Resources and Development, the possibility of partnering with DBEDT regarding customer service training for State employees.

Mr. Lau introduced himself and gave a status update on DOH's administrative rule, Chapter 11-56 "Nonpoint Source Pollution Control." DOH is not moving forward with the rule, and the upcoming public hearing was cancelled. The Board will be informed of any future public hearings.

Mr. Lau also updated the Board on the status of administrative rule, Chapter 11-54 "Water Quality Standards." A memo was sent to Mr. Stanley Shiraki, Acting Deputy Director, Department of Budget and Finance, requesting more time to review the rule amendments. When asked if there was a federal September deadline on the rule, Mr. Lau stated that although the rule was overdue, he was unaware of any real deadline. He will keep the Board informed on the status of the amendments.

OLD BUSINESS:

A. Review Sunshine Laws and Rules of Video Conferencing – Ms. Joesting discussed the sunshine laws as they related to policy and procedures of the Small Business Regulatory Review Board. She explained and referenced the laws and rules pertaining to open, limited, videoconference, executive and exemption meetings from public participation, as authorized by Chapter 91, HRS. Testimony dated July 14, 2003 and August 10, 2003 from Christine Paul was distributed and reviewed by the Board.

Board Action: None

B. Review of existing "Look Back" Administrative Rules reported by State Agencies – Chair Woods advised all members to thoroughly review the administrative rule report complying with the Regulatory Flexibility Act, Section 201M-7, as it will be discussed at the August 28, 2003 board meeting.

Board Action: None

C. Review and Update Board Member's Assigned Agencies – Members reviewed the updated Board assignment list. Mr. Zinn, the newest member to the Board, was assigned as the discussion leader for Department of Land and Natural Resources.

Board Action: Support

D. Review 2nd Quarter draft SBRRB Newsletter – Members reviewed and approved the second quarter newsletter; Mr. Zinn's name will be added. The Board agreed to allow Chair Woods to approve ongoing newsletters in order to allow timely distribution.

Board Action: Support

E. Discussion of Outcome of Legislative Actions – Mr. Smyth informed the Board that HB285 HD1 SD1 was vetoed by Governor Lingle. He indicated that a total of fifty bills were vetoed by the Governor with six of those bills overridden by the Legislature.

Board Action: None

F. Update on Chapter 11-56 "Nonpoint Source Pollution Control," and Chapter 11-54 "Water Quality Standards" (DOH) – Deputy Director Lau gave a status update on both administrative rules. See Public Commentary, above.

Board Action: None

G. Review Letter from Department of Water, County of Kauai, of July 28, 2003 regarding Rule Changes - Deferral of Water Rates from July 1, 2003 to July 1, 2004 – Chair Woods recommended that the Board send a letter of appreciation to the Department of Water, County of Kauai. Ms. Palcovich will draft the letter.

Board Action: Support

H. Review email from Hawaii Kiteboarding Association dated August 5, 2003 – Chair Woods informed the Board that she has a meeting with Mayor Arakawa, County of Maui, and at that time, she will inquire about the status of the May 19, 2003 letter the Board sent to him addressing this issue.

Board Action: Support

NEW BUSINESS:

A. Discussion of modification of the Governor's Administrative Directive 99-02 and Small Business Impact Statement – Mr. Smyth discussed the history of Administrative Directive 99-

02, and how it is a guide for State agencies in the internal procedures for administrative rules. Amendments to the Small Business Impact Statement and the Administrative Directive will be discussed at the August 28, 2003 board meeting.

Board Action: None

- B. Review of Administrative Rules reviewed in fiscal year 2003 – The Board discussed the list of the administrative rules it reviewed for fiscal year 2003 as well as rules reviewed by the DBEDT staff.

Board Action: None

- C. Discussion of Upcoming Strategic Board Retreat – Chair Woods asked the members to review the draft agenda for the August 28, 2003 board meeting.

Board Action: None

- D. Planet Ocean Watersports Petitions for review of DLNR Wai' Opae Tidepools Marine Life Conservation Districts, Hawaii Rules – A motion was made by Ms. Shea, seconded by Ms. Walker and passed unanimously to go into Executive Session, under the provisions of Section 92-5, HRS. The Board went into Executive Session at 1:40 p.m. The Board went out of Executive Session at 2:20 p.m.

Board Action: None

- E. Review and Decision on Chapter 3-111 "Hawaii State Art Museum" – Mr. Smyth discussed the changes to the proposed administrative rules. Mr. Rietow indicated that the rules were rational, generated revenue for private groups, created business to small businesses, and did not present a negative impact. A memorandum will be sent to Department of Accounting and General Services in support of the proposed amendments.

Board Action: Support

- F. Review proposed HAR Chapter 16-36, "Practice and Procedure of the Business Registration Division" – The proposed rule will be reviewed at the next board meeting.

Board Action: Deferred

- G. Review of Post Hearing HAR Chapter 13-34, "Pupukea Marine Life Conservation District, Oahu" – The rules represent post hearing final amendments requiring no further action by the Board.

Board Action: None

- H. Discussion of Potential Board Members – A motion was made by Ms. Shea, seconded by Ms. Walker, and passed unanimously to add the discussion of potential board members to the Agenda. Ms. Palcovich suggested that the list of potential members be sent to the Governor's office in order of preference. After review, the Board members agreed on a list which will be submitted to Governor Lingle.

Board Action: Support

REPORTS FROM COMMITTEES

- A. Update from the Legislative Subcommittee regarding the Small Business Bill of Rights – Dr. Speers solicited assistance from the members in drafting the Bill and requested recommendations to include any additional "rights."

Board Action: Support

POLICIES AND PROCEDURES

Testimony dated July 14, 2003 and August 10, 2003 from Christine Paul and Thomas Russi was distributed and reviewed by the Board.

ANNOUNCEMENTS

- Next Board Meeting – Thursday, August 28, 2003, at 10:00 a.m. – No. 1 Capitol District Building, 250 South Hotel Street, 4th Floor, Conference Room 410.

ADJOURNMENT: Chair Woods adjourned the meeting at 2:20 p.m.