

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

February 8, 2005

No. 1 Capitol Building 250 South Hotel Street ROOM 410

I. **CALL TO ORDER:** Chair Woods called the meeting to order at 10:27 a.m., with a quorum present.

MEMBERS PRESENT:

- Lynne Woods
- Brian Zinn
- George Handgis
- Jeanette Chang
- Ed MacDowell
- Donald Dymond
- Michael Yee
- Noelani Whittington

ABSENT MEMBERS:

- Phyllis Shea

STAFF:

DBEDT

Dori Palcovich

Tom Smyth

Office of the Attorney General

Margaret Ahn

GUESTS:

Calvin Lee, Manager, Department of Agriculture (DOA)
Jayne Uyehara, Rules Officer, Department of Taxation (DoTax)
Roni Matsuda, Advisor Specialist, DoTax
Daniel Dinell, Executive Director, Hawaii Community Development Authority (HCDA)
Richard Kuitunen, Asset Manager, HCDA
Larry Nakano, Manager, Harbors Division, Department of Transportation (DOT)
Paul Conry, Administrator, Division of Forestry and Wildlife, Department of Land and Natural Resources (DLNR)
Sharon Pang, Health Care Administrator, Living Manoa

WORKING LUNCH AS THE MEETING PROGRESSED

II. **APPROVAL OF MINUTES:** Minutes of the January 11, 2005 meeting were approved as presented.

III. **PUBLIC COMMENTARY** – Public commentary is included with each agenda topic discussed.

IV. OLD BUSINESS

- A. Re-review and discussion of HAR Chapter 18-235, "Certification Rules" (DoTax) – Ms. Jayna Uyehara, Rules Officer, and Ms. Roni Matsuda, Advisory Specialist, DoTax, explained the proposed rule changes as they related to the high technology investment tax credit and the research activities tax credit. She explained the process and typically who would be applying for the tax credits. Much discussion ensued. Chair Woods recommended that the Board support these rules to proceed to public hearing and that the department notify all groups that represent high technology businesses that will be affected by these rules; the Board unanimously agreed.
- B. Review and discussion of post public hearing statement HAR Chapter 19-44, "Wharfage Rates" (DOT) – Vice Chair Zinn indicated that when the Board originally supported these rules, it was subject to the impacted parties being notified by mail of the public hearing. While this request was not followed by the Harbors Division, it appears not to have had an adverse affect on the impacted small businesses. Mr. Larry Nakano, Manager, Harbors Division, DOT, indicated that since the public hearing, there has been only one business that moved out to Kalaeloa Barbers Point Harbor. Vice Chair Zinn recommended that these rules proceed to the Governor for adoption; the Board unanimously concurred.

- C. Legislative update, and discussion of legislative advocacy and testimony – Chair Woods explained that the Administration’s bill HB 601, “Relating to the Small Business Bill of Rights” was heard and passed on with no opposition; there is currently no indication as to when the Senate hearing will occur. Members were encouraged to submit testimony in support of this bill. Chair Woods recommended any neighbor island member wishing to testify on any of the Board’s bills, “Relating to the Regulatory Flexibility Act” and “Relating to the Small Business Bill of Rights,” that airfare will be reimbursed by the State; the Board unanimously agreed.

Mr. Smyth discussed several bills, a few of which affect the Board. One such bill is Senate Bill 435 “Relating to Small Business Advocacy,” which was heard yesterday. It was suggested that the Board submit correspondence to Senator Espero’s office, as he is awaiting the Board’s comments on this bill. After much discussion, the Board recommended not to support the bill due to its overall redundancy and vagueness as it relates to the specific powers and duties of the proposed executive director as compared with the current business advocate’s duties, and also that it adds another layer of necessary costs.

Another bill affecting the Board is HB 836, “Relating to Small Business,” which creates the small business advocate position within the department of business, economic development and tourism. The Board agreed that if this bill is heard, Ms. Palcovich will submit testimony not in support on behalf of the Board.

- D. Administrative rules reviewed by DBEDT – Members reviewed the listing of rules reviewed; no action was taken.

V. NEW BUSINESS

- A. Review and discussion of HAR Chapter 13-104-22, “Commercial Harvest Permits” (DLNR) – Vice Chair Zinn contacted the Hawaii Forestry Industry Association; the association is very much in favor of these rules as they ease the permitting process. Much discussion ensued as Mr. Paul Conry, Administrator, Division of Forest and Wildlife, DLNR, discussed the proposed rules and explained ways in which the State has made provisions for the harvesting of wood. Mr. Leis recommended that the Board support the rules, as presented, to proceed to public hearing; Chair Woods added that all those entities in the industry and related associations be provided with the upcoming hearing announcement. The Board unanimously agreed. Vice Chair Zinn stated that all permittees that are not associated with the Hawaii Forestry Industry Association should also be notified. Mr. Conry conveyed that the division will work with and notify all those impacted businesses.
- B. Review and discussion of HAR Chapter 15-210, “Rules, Regulations, Charges and Fees for Public Parks” (DBEDT/HCDA) – Messrs. Daniel Dinell, Administrator, and Richard Kuitunen, Asset Manager, HCDA, discussed that the proposed rules which are intended to be working guidelines for operating the parks. It was pointed out that the rules do not impact small business, at this point in time, but in the event they are needed to regulate business activity in the future, the department will have the tools in place. The rules primarily regulate the Waterfront Park in Kakaako and the Gateway Park, a two-mile parcel fronting Kakaako, for operating under a system where there are two types of permits – a group permit and a special use permit and a temporary concession permit, whereby, the agency would have to issue a revocable lease right of entry. The goal is to make the parks open to as many people as possible so the public would have use and enjoyment of it. Vice Chair Zinn recommended that the Board support the proposed rules to proceed on to public hearing and then to hear testimony after the public hearing; Mr. Dymond added that the department notify the Hawaii Visitor’s Bureau of the public hearing. The Board unanimously agreed.
- C. Review and discussion of HAR Chapter 4-135, “Seals of Quality” (DOA) – Ms. Whittington discussed the challenges of these rules, and much discussion ensued regarding their fundamental usage. Mr. Calvin Lee, Manager, Department of Agriculture (DOA), indicated that there are three components to the seal of quality, which is similar to a “good housekeeping seal” 1) Hawaii origin, 2) the need for quality and content, and 3) made with a Hawaii component or 51% value added. He further indicated that it is very important to educate the public. Initially, and used for testing purposes, it has been determined that the agency will work with 25 companies with regards to advertising and any problems facing these companies. Ms. Whittington recommended the proposed rules be supported and proceed to public hearing; the Board unanimously agreed.

- D. Discussion and nomination of new board member(s) – Ms. Sharon Pang, Health Care Administrator, Living Manoa, discussed her background and reasons why she is interested in becoming a Board member. The Board voted and unanimously agreed to recommend Ms. Pang to be submitted to Governor Lingle as a nomination to the Board. Upon voting, Ms. Chang suggested that going forward when the members vote on a prospective member to the Board that it is done when those persons are not in attendance; this would be done as a means of confidentiality.
- E. Discussion of upcoming strategic planning session – Chair Woods explained that since so many of the Board members are new, a strategic planning session will be held to discuss the Board's focus and direction for the upcoming year; the budget allows for a professional strategic facilitator to head up the session. Chair Woods recommended that the Board have its strategic planning session in Kauai and the Board unanimously concurred.
- VI. **REPORT FROM THE CHAIR** – The Board agreed to reschedule the December 13, 2005 board meeting to December 6, 2005.
- VII. **REPORT FROM COMMITTEES** – Nothing was reported.
- VIII. **REPORT AND UPDATE FROM BOARD MEMBERS** – Nothing was reported.
- IX. **ANNOUNCEMENTS** – Nothing was reported.
- X. **NEXT MEETING** - Tuesday, March 8, 2005 at 10:30 a.m.: No. 1 Capital District Building, Room 410
- XI. **ADJOURNMENT** - Chair Woods adjourned the meeting at 12:54 p.m.