

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

July 12, 2005

No. 1 Capitol Building 250 South Hotel Street Room 410

- I. **CALL TO ORDER:** Second Vice Chair Handgis called the meeting to order at 10:33 a.m., with a quorum present.

MEMBERS PRESENT:

- George Handgis
- Jeanette Chang
- Donald Dymond
- Michael Yee
- Noelani Whittington
- Dorvin Leis

ABSENT MEMBERS:

- Lynne Woods
- Edward MacDowell
- Sharon Pang

STAFF: DBEDT Office of the Attorney General
Dori Palcovich Margaret Ahn
Thomas Smyth
Carol Poepoe

GUESTS: Susan Tamura, Planner, Hawaii Community Development Authority (HCDA)
Tenev Takahashi, Director, Planning & Development, HCDA
Calvin Lee, Manager, Market Development Branch, Department of Agriculture (DOA)
Holly McEldowney, Archeologist, State Parks Department, Department of Land & Natural Resources (DLNR)
Lauren Tanaka, Planner, DLNR
Dean Minakami, Planner, Wilson Okamoto Corporation
Mark Morita, Insurance Division, Department of Commerce and Consumer Affairs (DCCA)
Charles K. H. Au, CPA, Erwin, Cabrinha & Au, LLP

WORKING LUNCH AS THE MEETING PROGRESSED

- II. **APPROVAL OF MINUTES:** Minutes of the June 14, 2005 meeting were approved as presented.

III. OLD BUSINESS

- A. Review and discussion of post public hearing statement of HAR Chapter 4-135, "Seals of Quality" (DOA) – Mr. Calvin Lee, Manager, Market Development Branch, stated that public hearings were held on June 16, 17, and 18 with four people attending and four people providing written testimonies; minor concerns were discussed at the hearing. Two changes were made to the rules due to the recommendations of the Farm Bureau and the food manufacturing industry: 1) the time frame of the certification will be left up to the discretion of DOA, and 2) the word "offset" of costs will replace "cover." The Board of Agriculture approved the rules as presented. Ms. Whittington indicated that the fines were not a significant issue because the program was strictly on a voluntary basis. She further noted that to get the "buy in" from the small business community would be a challenge, and that the unfolding of the whole program will ultimately prove interesting. Ms. Whittington recommended that the rules proceed to the Governor for adoption; the Board unanimously agreed.
- B. Update on Strategic Planning Session on October 4, 2005 – Ms. Palcovich indicated that reservations have not yet been made, however, Chair Woods will be taking the 7:30 a.m. flight from Maui to Kauai and leaving Kauai on the last flight, and that she would like all the board members to follow suit with her schedule. DBEDT staff will schedule the flights and follow-up with the members.
- C. Discussion and voting on Board officers – Deferred until the next board meeting.

IV. NEW BUSINESS

- A. Review and discussion of proposed amendments to HAR Chapter 13-233, "Urban Historic Preservation and Restoration" (DLNR) – Ms. Holly McEldowney, Archeologist, State Parks Department, explained that the rule changes reflect Act 114 of 2002, which removes the word "urban," expands "non-urban" areas, and conforms other historic preservation rules. She also stated that Act 114 exempted the department from public hearing and public notice requirements of Chapter 91. Any impact would be beneficial, as the rules may allow small businesses to become more competitive with large businesses if an option was made to lease historic property on public land.

Second Vice Chair Handgis explained he is personally opposed to any negotiations that take place without an auction process. He stated that management should follow policies and procedures that "keep honest people honest." It was explained that the proposed rules will go to a public meeting with the Board of Land and Natural Resources for approval. Mr. Dymond recommended that the proposed rules proceed through the appropriate public hearing process; the Board unanimously agreed.

- B. Review and discussion of proposed amendments to HAR Chapter 15-23, "The Kakaako Community Development District Rules for the Makai Area" (DBEDT/HCDA) – Ms. Susan Tamura, Planner, HCDA, discussed that the proposed rule changes are for the redevelopment of residential housing of the Makai area. She pointed out its location on several maps and graphics and described the diverse development proposal. Mr. Teney Takahashi, Director, Planning & Development, reported that the target market is considered "moderate housing," with 20% categorized as "affordable housing." Much discussion ensued with questions and answers. Ms. Chang recommended that the proposed rules proceed to public hearing; the Board unanimously agreed. It was also indicated that the Board will be interested in reviewing the testimony of the small businesses that may be impacted by these rules.
- C. Review and discussion of proposed amendments to HAR Chapter 16-12, "Medicare Supplement Insurance Minimum Standards" (DCCA) – Mr. Mark Morita, Insurance Division, indicated that the state is required to conform its rules to the federal requirements. These rules represent the uniform language that implements the federal requirements for the Medicare supplement insurance standards that will be used to assist the insurers to issue these types of policies. He indicated that anyone who is eligible for Medicaid at the enrollment date, i.e., disabled or retired, can supplement the Medicare insurance with a Medigap policy. Mr. Smyth mentioned that because the rules represent federal conformance, they are not mandated to be reviewed by the Board. Ms. Chang recommended that the Board pass these rules on to the Governor to proceed to public hearing; the Board unanimously agreed.
- D. Discussion and voting of prospective board member – Mr. Charles Au, CPA, and partner of Erwin Cabrinha & Au, LLP, was referred by former board member, Ms. Phyllis Shea. He discussed his accounting background, which began 15 years ago as a tax manager with Arthur Anderson, and he expressed his reasons for wanting to be part of the Review Board. Second Vice Chair Handgis explained to Mr. Au that board members are expected to attend the meetings with a reasonable amount of preparation as well as a commitment to the Board's purpose. The Board voted and unanimously agreed to recommend Mr. Au to be submitted to Governor Lingle as a nomination to this Board.

V. **REPORT FROM THE CHAIR** – Nothing was reported.

VI. **REPORT FROM COMMITTEES** – Nothing was reported.

VII. **REPORT AND UPDATE FROM BOARD MEMBERS** – Ms. Whittington discussed two agricultural bills approved during this year's State legislature, HB 168, HD2, "Agricultural Research and Development; Appropriation," and HB 1640, HD3, SD2, CD1, "Important Agricultural Lands; Agricultural Infrastructure Improvement Tax Credit." She explained important points of these new laws and explained that the counties will now have authority to appoint a group of individuals to decide what land will be deemed important agricultural land, noting that this is a broad concept.

- VIII. ANNOUNCEMENTS** – Mr. Smyth distributed and discussed information regarding U.S. House Resolution 22, which adopts a version of the “Small Business Bill of Rights.” He also discussed the Supreme Court’s ruling regarding Kelo v. City of New London, which makes it easier for the government to seize private property through eminent domain and how it may relate to the State of Hawaii. In addition, he mentioned the legislature is having a special session today to override vetoes; the Governor has 28 bills that she had planned to veto.
- IX. NEXT MEETING** - Tuesday, September 6, 2005 at 10:30 a.m., No. 1 Capitol District Building – 250 South Hotel Street, 4th floor conference room 410.
- X. ADJOURNMENT** – Second Vice Chair Handgis adjourned the meeting at 12:10 p.m.