

## Small Business Regulatory Review Board

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### MINUTES OF REGULAR MEETING

June 10, 2003

No. 1 CAPITOL DISTRICT BUILDING ROOM 436

**CALL TO ORDER:** Interim Chair Walker called the meeting to order at 11:10 a.m., with a quorum present.

#### MEMBERS PRESENT:

- Denise Walker
- Al Inoue
- Phyllis Shea
- David Rietow
- Lynne Woods
- Robert Speers, Ph.D.
- Dorvin Leis\*

#### ABSENT MEMBERS:

- Dennis Okihara
- Nolan Ahn

\* New member sworn in at 12:30 p.m.

**STAFF:**      DBEDT:                      Office of the Attorney General  
Steve Bretschneider      Linden Joesting  
Dori Palcovich  
Eric Abdullateef  
Shawn Pelley

**GUESTS:**      Mr. Alton Miyasaka, Aquatic Biologist, Department of Land and Natural Resources (DLNR)  
Mr. Francis Oishi, Program Manager, DLNR  
Ms. Yvonne Izu, Deputy Attorney General, Department of the Attorney General  
Ms. June Harrigan-Lum, Manager, Environmental Planning Office, Department of Health

#### WORKING LUNCH AS THE MEETING PROGRESSED

#### NOMINATION OF REVIEW BOARD CHAIR AND VICE-CHAIR SELECTION

The Board discussed the nominations for Chair and Vice-Chair that were previously submitted by some of the board members. Ms. Shea also nominated a board member who declined the nomination. The Board voted for Chair and Vice-Chair with Ms. Woods and Mr. Rietow voted unanimously for Chair and Vice-Chair, respectively. Ms. Woods thanked the board members and proceeded to chair the remainder of the meeting.

**APPROVAL OF MINUTES:** Minutes of the May 13, 2003 meeting were approved as presented.

**PUBLIC COMMENTARY:** Mr. Alton Miyasaka introduced himself to the Board and discussed the DLNR proposal regarding HAR Chapter 13-38 "Wai'Opae Tidepools Marine Life Conservation District, Hawaii." He explained the geography of the area involving the tidepools and the obstruction caused from human contact. He made reference to a local small business, Planet Ocean Watersports, and is fully aware of the negative impact the new rules could have on their business. He stated the draft rules have already gone through public hearing and are in the Governor's office waiting approval. Ms. Walker asked what studies DLNR used to make their final decision. Mr. Miyasaka responded that studies have been conducted for the past five years from the University of Hawaii at Hilo that gave insight to their final decision.

Mr. Miyasaka further explained that there are certain guidelines in determining that an area should be distinguished as a conservation area, 1) habitat, 2) potential public benefit, and 3) existing uses. Mr. Reitow suggested that the Board should submit an amendment to the rule stating “may prohibit commercial activities by permit only.” Ms. Izu explained the decision by the Board of Land and Natural Resources (BLNR) in mandating the rule against public versus commercial use. She stated BLNR decisions are usually decided by three factors: 1) resource, 2) public use, and 3) commercial use.

Ms. Harrigan-Lum introduced herself to the Board and explained the Department of Health’s (DOH) decision to amend the wording, despite the Board’s request for specific language changes, on both rules “Nonpoint Source Pollution Control” and “Water Quality Standards.” She stated the recommendations to submit the amended rules were from the DOH Advisory Committee. She discussed the “Nonpoint Source Pollution Control” rule and explained that the Board’s request to amend the wording would cause a negative impact on Hawaii. She invited and answered questions from the board members.

#### **OLD BUSINESS:**

**A.** Update and Discussion of Review Board’s Presentation at Governor Lingle’s May 21, 2003 Cabinet Meeting – Board members that attended the cabinet meeting provided feedback and conveyed their perspectives of the meeting. It was felt that the presentation raised consciousness as the cabinet members are now more aware of the Review Board. There appears to be a commitment by the current administration as Governor Lingle has conveyed her support to the Board. Chair Woods indicated that she was looking forward to a very positive year.

**Board Action: None**

**B.** Discussion of Intergovernmental Conflicts in Regulation, and Enforcement of State regulations regarding Tax Cab Transportation Issues, Hawaii Revised Statutes (HRS) Chapter 271 “Motor Carrier Law” – Mr. Inoue suggested having a representative of Department of Transportation (DOT) and Public Utilities Commission (PUC) speak at the next board meeting. However, it was further discussed that because there were several issues that impact businesses as well as affect other agencies beside DOT and PUC, that it would be more prudent to assign one or two of the board members to work closely with DBEDT staff and choose three or four items of concern to work through. Ms. Walker volunteered to work on this project; Ms. Palcovich will follow-up on behalf of DBEDT.

**Board Action: Support**

#### **NEW BUSINESS:**

**A.** Discussion and Update of HAR Chapter 11-56 “Nonpoint Source Pollution Control” Department of Health (DOH) - Ms. Walker explained that the amended rules, if approved, could negatively affect small business. Ms. Harrigan-Lum, in her initial presentation, discussed DOH’s proposed rule. Chair Woods recommended requesting the small business impact statement from DOH on this rule. A meeting with DOH will also be scheduled to discuss these rules.

**Board Action: Support**

**B.** Discussion and Review of HAR Chapter 11-60.1 “Air Pollution Control” (DOH) – Ms. Walker recommended that the Board support the amendments to this rule as there was no negative impact on small business and no further recommendations to be made.

**Board Action: Support**

**C.** Discussion and Review of HAR Chapter 13-38 “Wai’Opae Tidepools Marine Life Conservation District Hawaii” (DLNR) – Mr. Miyasaka, in his presentation, discussed DLNR’s proposed rule amendments. Dr. Speers suggested amending the rules and asked, “if permitting is to be allowed, may permitting be grand-fathered or allowed.” Mr. Rietow moved to approve submitting the amendment and Ms. Walker seconded the motion. A letter will be sent to the Office of the Governor.

**Board Action: Support**

- D. Discussion and review of HAR Chapter 11-54 “Water Quality Standards” (DOH) - Ms. Walker explained how the amended rules, if approved, could affect small business. Ms. Harrigan-Lum, in her initial presentation, discussed DOH’s proposed rule. Ms. Woods suggested requesting DOH’s small business impact statement for the rule. Ms. Palcovich will follow-up on the request.

**Board Action: Support**

- E. Discussion of Board Member’s Agency Preferences – Ms. Woods requested that each member select the agencies they preferred to work with as discussion leader. Chair Woods selected the Office of the Governor, back-up for Department of Commerce and Consumer Affairs, Department of Labor and Industrial Relations, and Department of Business, Economic Development and Tourism. Mr. Reitow selected the Office of the Lieutenant Governor, Department of Agriculture (DOA), and the Department of Transportation. Ms. Walker selected Department of Budget and Finance – Public Utilities Commission and the Department of Health (DOH) – Environmental Division only. Mr. Inoue selected Department of Land and Natural Resources – Land Division and Island Burial Council only, and back-up for DCCA. Mr. Okihara was selected for the Board of Agriculture. Ms. Shea selected the Department of Taxation and the Department of Human Services (DHS). Dr. Speers selected DOH, DHS, Department of Human Resources Development, Department of Education and DCCA. Mr. Leis selected University of Hawaii and the Department of Accounting and General Services. Mr. Pelley will draft a list of discussion leader assignments for each agency for the board members to review and approve at the next meeting.

**Board Action: Support**

- F. Discussion of “look back” administrative rules – Dr. Speers discussed the letter that has been mailed to all of the agencies requesting them to provide a list of current administrative rules by June 30, 2003 that have affected Small Business.

**Board Action: None**

**REPORTS FROM COMMITTEES** – There were no committee reports discussed. Ms. Walker moved that Dr. Speers become the Chair of the Legislative Sub-Committee. Mr. Inoue seconded the motion and the motion passed. Mr. Walker made a second motion to add Ms. Woods to the Legislative Sub-Committee. Mr. Speers seconded the motion which passed. Ms. Woods accepted the nomination and is now on the Legislative Sub-Committee.

**Board Action: Supported**

**POLICIES AND PROCEDURES** – Dr. Speers discussed and presented ways to better coordinate the future meetings of the Board. Dr. Speers and Mr. Inoue offered suggestions to implement agency communications into the SBRRB website for public notification, which will be taken into consideration. Ms. Woods suggested a board orientation be included as an agenda item for the July meeting. The Board members were asked to present their own ideas and processes for policy and procedures in the next meeting. Ms. Woods updated the Board with the status of a future intern to assist the Board. Ms. Woods will be scheduling and meeting with Mr. Theodore Liu, Director of DBEDT. She will provide the outcome at the next board meeting.

**Board Action: Supported**

## **ANNOUNCEMENTS**

None.

- Next Board Meeting – Tuesday, July 15, 2003, at 11:00 a.m. – No. 1 Capitol District Building, 250 South Hotel Street, 4<sup>th</sup> Floor, Conference Room 436

**ADJOURNMENT:** Chair Woods adjourned the meeting at 2:15 p.m.