

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

March 11, 2003

No. 1 CAPITOL DISTRICT BUILDING ROOM 436

CALL TO ORDER: Chair Katsumi Tanaka called the meeting to order at 11:00 a.m., with a quorum present.

MEMBERS PRESENT:

- Katsumi Tanaka
- Sidney Quintal
- Al Inoue
- Nolan Ahn
- Phyllis Shea
- Toni Davis
- Carolann Guy
- Dennis Okihara
- Denise Walker
- Robert Speers, Ph.D.

ABSENT MEMBERS:

- Warren Orikasa

STAFF: DBEDT:

Tom Smyth
Dori Palcovich
Shawn Pelley

Office of the Attorney General

Linden Joesting

GUESTS: Mr. Jim Russo, Owner, Executive Chef
Ms. Patti Cadiz, Vice President, HST Windsurfing & Kite Surfing School
Mr. David Dorn, Owner, Action Sports Maui
Mr. Kimo Harlacher, Owner/Director, Aqua Sports, Ltd.
Mr. Martin Kirk, President, Hawaii Kite-boarding Association

WORKING LUNCH AS THE MEETING PROGRESSED

APPROVAL OF MINUTES: Minutes of the February 11, 2003 meeting were deferred until next month.

PUBLIC COMMENTARY: Mr. Russo discussed his experience with the Hawaii Civil Rights Commission (HCRC) on the matter of a prior employee in 2002. Although the case has been settled, he was limited to discussing specific information due to a confidentiality agreement. He stated that changes are needed within the authority of HCRC.

Ms. Cadiz discussed issues with the Federal Aviation Association (FAA) regarding her Maui windsurfing and kite-surfing business. She spoke of complications in obtaining kite surfing permits and waivers through the County of Maui and the FAA. She expressed the need to eliminate the Letter of Good Standing between the County and the FAA.

Mr. Dorn discussed issues of renewing his permit from the County of Maui for kite surfing, and expressed negative experiences in obtaining a Letter of Good Standing and meeting the required criteria. He is still awaiting permit renewal.

Mr. Harlacher, a Maui business owner for 21 years, discussed his experience of starting up his kite surfing business and obtaining a waiver of Letter of Good Standing. He stated that he has never had any problems with obtaining a waiver or permit.

Mr. Kirk distributed a handout and discussed specific regulations regarding kite surfing in Maui, and how to successfully gain a waiver from the Code of Federal Regulation. Currently, Mr. Kirk, President of the Hawaii Kite-boarding Association, is the only entity that has the authority from the FAA to issue a Letter of Good Standing that is required to get an FAA waiver. He suggested two ways he would like to eliminate his responsibility of issuing the letter - transfer waiver responsibility to the kite boarding association and have the FAA issue waivers to individual businesses. He stated that he is meeting with an FAA representative to discuss transferring the waiver to the association as well as issuing individual waivers to businesses. He will inform the Board of the decision by the FAA.

OLD BUSINESS:

- A.** Clarification of the Review Board's letter of January 27, 2003 to TLC Cleaning's request for the Board to determine the fairness of the County of Hawaii's requirement for sole proprietorships (no employees) to purchase Workers' Compensation Insurance on County contracts – Mr. Inoue distributed a letter from the County of Hawaii to TLC Cleaning for review. He further presented the Board with a draft letter and moved to send the letter to TLC Cleaning stating that it is the County of Hawaii's prerogative to require insurance for sole proprietorships. Ms. Shea seconded the motion; none opposed.
Board Action: Supported
- B.** Review and Discussion of State Motor Vehicle Franchise Protection Laws – Ms. Walker recommended that the Board support the Hawaii Automobile Dealers Association by supporting reintroduction of Chapter 437, Hawaii Revised Statutes. She further recommended that the Board tell legislature of its support, to be publicized in the next report to the legislature. All members were in favor with the exception of Ms. Shea who recused herself due to a conflict of interest.
Board Action: Supported
- C.** Discussion and Update of Legislative Activity – Dr. Speers suggested that over the next few months, the Board's legislative subcommittee reconvene and discuss House Concurrent Resolution 57, and House Resolution 60, as well as any other small business related bills.
Board Action: Supported
- D.** Discussion and Recommendation of New Board Members (continued from last meeting) – Ms. Walker suggested that each member select a nominee and the board would then note to send names to the Governor for her nomination. Ms. Guy nominated Mr. James O'Keefe. Mr. Quintal seconded the motion and all were in favor. Ms. Walker then nominated Mr. Brad Coles, Ms. Lynn Woods and Mr. Dorvin Leis. Mr. Inoue seconded the motion and all were in favor. The Board will send the Governor a letter with the nominations.
Board Action: Supported
- E.** Discussion and Recommendation on Revised Administrative Rules – Department of Health – Chapter 11-54 "Water Quality Standards" – Ms. Walker discussed the amendments to the Water Quality Standards' administrative rules currently being submitted for approval, and recommended two further changes. The word "national" was deleted in error in the original amendments and should be replaced; the word "existing" was added to the federal language in the text, but should be omitted, as it does not follow the Environment Protection Agency's regulations word for word. Additionally, Ms. Walker motioned that the Board only approve those changes that do not deviate from federal mandates; Chair Tanaka seconded the motion and the Board voted all in favor.
Board Action: Supported
- F.** Review and Discussion on the following:
- State and County Procurement Code and Practices for Small Businesses- Chair Tanaka suggested that the Board focus on the set-aside in granting contracts by state and county agencies. Dr. Speers moved that the Board direct the legislative subcommittee to pursue the issue of set-asides for small business. Mr. Smyth will coordinate with Mr. Abdulateef and gather information on other states that have set-asides. Ms. Shea seconded the motion and all were in favor.
Board Action: Supported

2. Functions of the Ombudsman for Hawaii's Small Business Community – It was recommended that a representative from the Ombudsman's Office be extended an invitation from the Board to discuss the functions of the Ombudsman.
Board Action: Supported

3. U.S. Small Business Administration "Office of Advocacy's Model Legislation for States" – This topic will be discussed at the next Board meeting.
Board Action: Deferred

4. Civil Rights Commission - Ms. Joesting explained why the Commission was created and its purpose within the State. She explained the process when there is a complaint, and that if an investigation is done in a discrimination case between an employer and employee, what the potential results might be. Mr. Inoue suggested extending an invitation to a representative from the Civil Rights Commission to attend a future Board meeting to discuss the processes in more depth.
Board Action: Supported

NEW BUSINESS:

- A. Review and Discussion of House Resolutions "Endorsing the Small Business Bill of Rights" - Ms. Walker spoke on HCR 57 and HR 60, the Small Business Bill of Rights, noting that it was a good first step in approaching legislature, and encouraged members to write testimony in support. Mr. Smyth explained what resolutions and concurrent resolutions are. He suggested that the Bill of Rights be sent to the Directors of the Departments of Land and Natural Resources, Transportation, Consumer and Commerce Affairs, Accounting and General Services, and Governor Lingle to request their support. Ms. Walker urged that the resolution be passed during this legislative session so that it can be resubmitted to legislature for adoption of a bill. She also recommended that a letter be sent to Hawaii small business organizations for their support. Dr. Speers requested that members ascertain specific small business rights that they feel should be included. Ms. Walker motioned for the Board to support HCR 57 and HR 60.
Board Action: Supported

- B. Report from Linden Joesting regarding possible relevance and assistance from Hawaii Ombudsman and inclusion of counties' issues vis a vis small Business community – This topic will be discussed at the next board meeting.
Board Action: Deferred

- C. Maui County Requirements of a Letter of Good Standing – Mr. Kirk, in his initial presentation, discussed the requirements and conditions needed to obtain a Letter of Good Standing. Ms. Walker suggested to Mr. Kirk that it would benefit all the associations to go to the FAA and present the notion of issuing the waiver to all kite surfers as long as they are in compliance with FAA rules. Mr. Kirk will follow-up with the Board on the outcome of his meeting with the FAA.
Board Action: Deferred

- D. Required Annual Reports from State Agencies - Timely receipt of the required reports from state agencies, pursuant to the Small Business Regulatory Flexibility Act, continues to be an issue. Regarding the requirement of the Board filing an annual report with the legislature, Mr. Smyth indicated that participation involves input from the Board members to complete the report and that in the past the process has taken some time to complete. The Review Board's 2002 Report is complete and in the process of being submitted to the Governor's Office.
Board Action: None

- E. Formation of a Marketing-Publicity Committee – This topic will be discussed at the next Board meeting.
Board Action: Deferred

F. Report from Board Members - Chair Tanaka asked the members about their progress in contacting and meeting with the directors of their assigned agencies. He asked each member to provide topics and issues that the Board should address as a whole regarding small business for each committee for next month. Also, Chair Tanaka suggested that members become small business advocates. Ms. Walker presented the notion of creating a quarterly report and a newsletter with information on the Board's interest issues, accomplishments, etc.

Board Action: Supported

G. Procurement of State Identification Card - Chair Tanaka discussed the consequences and effects derived from tourists by obtaining a state identification card in order to claim a Kama'aina rate from small businesses. He used the municipal golf courses as an example of the impact this has shown on small businesses in the tourist industry.

Board Action: None

H. Tracking and Monitoring Bills – Ms. Walker recommended that additional bills be deferred from discussion until the next Board meeting.

Board Action: Deferred

ANNOUNCEMENTS

None

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

ADJOURNMENT: Chair Katsumi Tanaka adjourned the meeting at 3:00 p.m.