

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

March 15, 2005

No. 1 Capitol Building 250 South Hotel Street ROOM 410

I. **CALL TO ORDER:** Chair Woods called the meeting to order at 10:30 a.m., with a quorum present.

MEMBERS PRESENT:

- Lynne Woods
- Jeanette Chang
- Phyllis Shea
- Dorvin Leis
- Donald Dymond
- Michael Yee
- Noelani Whittington

ABSENT MEMBERS:

- George Handgis
- Edward MacDowell
- Brian Zinn

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

GUESTS:

Helen Jo, Director, Resource Management & Development, Adult Mental Health Division, Department of Health (DOH)
Ruth Yamaguchi, Acting Administrator, State Procurement Office, Department of Accounting and General Services (DAGS)
Pearl Imada Iboshi, Administrator, Research and Economic Analysis Division, Department of Business, Economic Development and Tourism (DBEDT)
Larry Reifurth, Deputy Director, Department of Commerce and Consumer Affairs (DCCA)
Anna Hirai, Assistant to the Administrator, Liquor Commission – City and County of Honolulu
Daniel Dinell, Executive Director, Hawaii Community Development Authority (HCDA)
Allen Leong, Representative, KC Rainbow Development Company, LLC

WORKING LUNCH AS THE MEETING PROGRESSED

II. **APPROVAL OF MINUTES:** Ms. Chang mentioned that the minutes did not reflect her comment suggesting that when members vote on a prospective member to the Board that it be done when those persons are not in attendance. After some discussion, Ms. Ahn agreed to review the sunshine law and report back to the Board with a legal opinion on this issue. Minutes of the February 8, 2005 meeting were approved and presented as amended.

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

IV. OLD BUSINESS

- A. Update and discussion of the “Small Business Bill of Rights” bill – Ms. Pearl Imada Iboshi, Administrator and DBEDT State Economist and Mr. Larry Reifurth, Deputy Director, DCCA, updated the Board’s “Small Business Bill of Rights” bill. Ms. Imada Iboshi relayed that there is a “version” of the Board’s bill that is still alive, SB 1380 HD1, although some changes were made to the original bill after it was heard by the Consumer Protection and Commerce Committee. She stated that DBEDT would like to modify the bill so that all parties will be in agreement with it. Much discussion ensued as changes were made and agreed to. Chair Woods recommended that members accept the changes as presented; the Board unanimously agreed. Mr. Smyth suggested that if the bill is heard that a designated Board member be in attendance.
- B. Review and discussion of post public hearing statement HAR Chapter 11-172, “Certificate and Reimbursement of Mental Health Rehabilitation Services Providers” (DOH) – Ms. Helen Jo, Director, Resource Management & Development, Adult Mental Health Division, DOH, briefed the Board on the

proposed rules, indicating these rules reflect an opportunity for DOH to receive federal matching funds for services provided to Medicaid recipients. It is estimated that DOH will bring in \$9.5 million in federal funds per year to the State of Hawaii. The rules regulate the processes whereby the agency will certify providers to make sure they are going to meet the medical legal requirements. As no one appeared to testify at the public hearing, no changes were made to the rules since the Board first reviewed them. Chair Woods recommended that the rules proceed to the Governor for adoption; the board unanimously agreed.

- C. Review and discussion of post public hearing statement of Liquor Commission - City and County of Honolulu – Ms. Anna Hirai, Assistant to the Administrator, Liquor Commission, reported the results from the January 25, 2005 public hearing. Due to testimony received at the hearing, the Commission approved the proposed rules without the inclusion of the following sections: 38-3 Preparation of Drinks at Open Bars; 38.9 Licensee and Manager in Charge of Premises; 3-83-53-3 Guaranty; and 101.5-4 Minors on Licenses Premises with Nude Dancing. After much discussion, Mr. Dymond recommended that the rules be supported for adoption; the Board unanimously agreed. Mr. Smyth noted that the Board was not required to take any action on City and County rules after public hearing.

In addition, Ms. Hirai mentioned that the proposed rules relating to increased fees previously reviewed by the Board were presented to the Counsel Budget Committee, of which, the Committee deferred any action and requested that the Liquor Commission re-review and re-evaluate their proposal.

- D. Legislative Update – Mr. Smyth updated the members on various bills currently being heard at the legislature. He discussed several bills and their status; i.e., bills relating to minimum wage, small businesses, meal breaks, taxes, small business advocacy, long-term care tax credit, the regulatory flexibility act, health care, and more.
- E. Update on upcoming strategic planning session and business cards – Chair Woods updated the Board on the upcoming strategic planning session to be held in Kauai. Discussion ensued as to what the Board will like to achieve and accomplish during this session. Chair Woods mentioned that she would like to see the Board be more pro-active; she requested that if any of the members have any ideas that they would like to share to pass them on to Ms. Palcovich.

Members reviewed the Board's proposed business cards; suggestions to add the Board's website address, and center and reduce the font size of the Board's name were recommended.

- F. Administrative rules reviewed by DBEDT – Ms. Palcovich explained that the rules reviewed by DBEDT staff had little, if any, business impact. Members reviewed the list of the rules; no action was taken.

V. NEW BUSINESS

- A. Review and discussion of HAR Chapter 3-122, "Source Selection and Contract Formation" (DAGS) - Ms. Ruth Yamaguchi, Acting Administrator, State Procurement Office, DAGS, discussed the major changes to the rules. She indicated that because the agency is allowed by statute to implement the rules prior to adoption, these rules have in fact already been in effect for the past few years. Chair Woods recommended that these rules proceed to public hearing; the Board unanimously agreed.
- B. Review and discussion of HAR Chapter 15-22, "Provide Flexibility in the Development of Public Facilities" (HCDA) – Mr. Dan Dinell, Executive Director, HCDA, indicated that the rule proposal was precipitated by the need for parking expressed by many of the small businesses located in the Improvement District 11 (ID-111) area. The proposal entails the "transfer of use" between land in the Mauka area and a parcel of land designated as a public facility. This land, which is currently vacant measuring 30,000 square feet and located one and half blocks away from the ID-11 area near Queen Street, would be designated as a parking garage structure. The proposal will also make a rule amendment regarding the "transfer of use," and ultimately allow the premises' owner to transfer the "use" between two existing lots. Although this process is currently allowed, Mr. Dinell indicated that the lots are required to be adjoining.

Mr. Allen Leong, representative of KC Rainbow Development Company, LLC, explained that there is certain property that his company would like to "transfer the use" to and is currently in negotiations to acquire this property. The current use of the receiving lot is restricted to light industrial but would be

changed to retail commercial use. It was conveyed that HCDA is anxious to expedite the rule process as the Governor's office is awaiting the Board's response to this proposal. After a series of questions and answers, Ms. Shea recommended that the proposed rules proceed to public hearing; the Board unanimously agreed.

- VI. REPORT FROM THE CHAIR** – Chair Woods introduced Ms. Carol Poepoe who will assist Ms. Palcovich with the Board's work. In addition, Chair Woods updated the members on the proposed Kakaako ID-11 rules. Mr. Jim Garcia, one of the business owners that testified in front of the Board against this rule, indicated to Chair Woods that a meeting was recently held with the Governor and that a follow-up meeting outlining the Governor's recommendations will be forthcoming. He will contact her with the results. Chair Woods expressed that Mr. Garcia and the other business owners have done a very good job in using the system to be heard.
- VII. REPORT FROM COMMITTEES** – Nothing was reported.
- VIII. REPORT AND UPDATE FROM BOARD MEMBERS** – Nothing was reported.
- IX. ANNOUNCEMENTS** – Chair Woods announced that she will be officially leaving the Maui Chamber of Commerce in six weeks.
- X. NEXT MEETING** - Tuesday, April 12, 2005 at 10:30 a.m.: No. 1 Capital District Building, Room 410
- XI. ADJOURNMENT** - Chair Woods adjourned the meeting at 1:40 p.m.