

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

November 18, 2009

Conference Room 410 - No. 1 Capitol Building, Honolulu, HI

I. **CALL TO ORDER:** Chair Woods called the meeting to order at 10:31 a.m., with a quorum present.

MEMBERS PRESENT:

- Lynne Woods
- Charles Au
- Peter Yukimura
- Sharon L. Pang
- Bruce Bucky
- David S. De Luz, Jr.

ABSENT MEMBERS:

- Dorvin Leis
- Donald Dymond
- Richard Schnitzler

STAFF:	<u>DBEDT</u> Steve Bretschneider Dori Palcovich Milton Kwock	<u>Office of the Attorney General</u> Margaret Ahn
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WORKING LUNCH AS THE MEETING PROGRESSED

II. **APPROVAL OF SEPTEMBER 23, 2009 MINUTES**

Ms. Pang recommended that the September 23, 2009 minutes be approved as presented, Mr. De Luz, Jr., seconded and the Board members unanimously agreed.

III. **OLD BUSINESS**

A. Review and discussion of post public hearing statement of HAR Chapter 13-146, "Hawaii State Park System" (DLNR) – Ms. Laura Thielen, Chairperson of the Board of Land and Natural Resources, thanked the Board members for the opportunity to come back to this Board after public hearing. Mr. Daniel Quinn, State Parks Administrator, indicated that as of two days prior DLNR had not received any comments from commercial small business; however, subsequently, comments were received from two separate businesses. It was indicated that there are sixty-nine state parks and park reserves in Hawaii, and the major concern from all testimonies received was the park entry fees. Chair Thielen stated that DLNR met with a number of the transportation companies who preferred the Diamond Head entry fee model because the businesses can drop their passengers off, who then walk in and pay the individual entry fees; thus, the rule changes allow DLNR to draw an entry fee rather than a parking fee.

The question was posed as to whether a fee was charged when someone gets out of a car, snaps a few photographs and leaves the park. Chair Thielen explained that this occurs at Hanama Bay, which is governed by the City and County of Honolulu. However, she explained that if Nuuanu Pali was being referred to, DLNR is currently in discussions with the bus and taxi cab companies regarding this issue. Further, when the division approaches the Land Board, it will be proposed that commercial transporters be given a pro rata discount entry fee. After a series of questions and answers, Mr. Yukimura recommended that the proposed amendments proceed through the proper channels for approval and that the general public be given notice regarding the difference between parking fees and entrance fees, Vice Chair Au seconded and the Board members unanimously agreed.

B. Review and discussion of post public hearing statement of HAR Chapter 13-233 and 234, "Small Boat Harbors," and HAR Chapter 241, "Boating" (DLNR) – Mr. Edward Underwood, Administrator of DLNR's Division of Boating and Ocean Recreation (DOBOR), provided comments regarding the proposed administrative rule changes and the public hearings, noting that small business impact relates directly to the proposed mooring fee increase. During the public hearings, commercial operators expressed

concern that should the mooring fees were increased, the monthly amount would be too substantial and difficult to pay. Operators are permitted to pay either three percent of the gross receipts or twice the mooring fee, whichever is greater. The actual calculation of the mooring fees was questioned and scrutinized at length; the mooring fees were compared to those charged in the west coast, ultimately proving to be reasonable. Temporary mooring rates primarily affect recreational vessels because temporary moorings prohibit commercial operations loading and unloading paying passengers as well as limiting the stay of the vessel. Public hearing testimonies indicated that there may also be indirect impact on businesses, such as the impact on the sale of boats and yachts and the use of a temporary mooring emergency and repair stops, on an occasional basis. It was also noted that DOBOR has implemented an increase in registration charges; this represents a blanket five dollar fee per transaction.

Mr. Underwood explained that DOBOR has been working with the deputy attorney general to clarify language at the SBRRB's request. The fee increases would be phased in over years and are not twenty percent annual creases; the total fee increase will amount to \$3.47 per foot, covering five different harbor categories. The increases will be across-the-board and are used to operate, maintain and manage harbors statewide. Existing statutes require that sufficient fees are charged in order to support the mooring program; commercial mooring fees are double the recreational fees or three percent of gross proceeds, whichever is greater. Director Thielen stated that most commercial users pay the three percent rate; the fee increase, however, would still be considered reasonable when compared with fees charged by west coast harbors. DLNR is mandated to collect enough mooring fees to break-even its operating costs; this information, including financial data, is on DLNR's website, which is available to the public. It was noted that mooring fees collected have never been sufficient to pay for harbor improvements, and the harbor improvements made in the past last thirty years have come to the end of their useful life.

Testifier, Mr. Reg White, tenant, resident of Ala Wai Boat Harbor, and an operator of two small businesses, supports the proposed fee increases; however, he is concerned with "how" DLNR was going about it. He stated that the fee increases would not affect his two businesses since both pay three percent of their gross proceeds; he noted that the harbors that make money spill over to harbors that do not make money. He objects to surplus money being used to pay for harbors that run on a deficit, especially since the users are paying lower rates, which is the cause of the deficits. As those harbors cannot support themselves, the users should pay the same fees his businesses are paying. He also objected to stand-alone recreational facilities being included with harbors and boating, believing they should be moved to the parks division; \$500,000 was collected from users of boat launch ramps and deposited into the boating special fund. Mr. William Mossman, representing the Hawaii Boaters Political Action Association, testified that DOBOR is unique to State government as almost all of its operations, including salaries, are funded by user fees; DOBOR receives no appropriations from the legislature. Mr. Mossman objects to DLNR using \$500,000 from the boating special fund to pay for lifeguards at Makena Beach, as lifeguards have nothing to do with boating. He also objects to other revenue sources (non-mooring fees), which are used to help finance DOBOR's ocean recreation expenses, but which are no longer going to the boating special fund; these include land lease rents, federal funds and parking fees.

Ms. Jeanne Light, co-owner of Ala Wai Yacht Brokerage, LLC, the largest yacht brokerage in the State (in terms of the number of boats sold) testified against the temporary mooring fee increases. As a small business owner, her biggest concern is finding a temporary boat slip once a boat has been sold; once a boat is sold, the slip is lost to a new owner. The temporary mooring fees are currently \$6 per day for a thirty-foot boat. With the proposed fee increases, the fee would increase 450% to \$30 per day for the same boat. She claimed the increased fee was too high for transient boaters, tourists, locals and people waiting for permanent mooring, given the state of the economy, the proposed fee increases would mostly affect recreational boaters. While she supports raising fees, the proposed fee increases are exorbitant. Mr. Underwood noted that based on discussions with Ala Wai Yacht Brokerage and other impacted businesses, DOBOR proposed to lower the fees and simplify the fee structure to \$1 per foot per day, which is considered a fair rate; boaters would have access to water and electricity and would not require insurance coverage; this would bring fees in-line with those charged on the mainland. Director Thielen noted that boating registration fees collected remain in the boating special fund. She stated that DLNR has conducted numerous meetings over the past year and a half period and will continue to dialogue with harbor users; she noted that there is community support for the Renaissance plan. Further, she noted that in order to take the next step, such as capital improvements; it is cheaper and easier to do one bid rather several together; the legislature will be asked to approve a new special fund that will not allow for co-mingling to funds.

A series of questions and answers ensued with each board member voicing their opinions and concerns. Vice Chair Au suggested that this Board review a copy of DLNR's audit report. While this is not a good time for increases, he understands the need for the improvement in the facilities; therefore he believes that the rules should move forward. Mr. Bucky stated that an across-the-board increase of mooring fees is unfair. Ms. Pang wanted guarantees to the boaters and an improvement in communication with the stakeholders. Mr. Yukimura acknowledged that most commercial users will not be impacted by the proposed fee increases except for the temporary mooring issue. Mr. DeLuz, Jr., noted that as an ocean state he endorses the changes, however, he believes among other concerns that DLNR should identify the stakeholders and receive their input. Chair Woods stated that while this Board is in support of the Renaissance plan, which is extremely creative and well-needed, the cost of boating and ocean recreation programs should be spread out wider and not only burden the shoulders of commercial boaters. Further, the support that DLNR receives from the visitor's industry is critical because the people pay the public to come to Hawaii. There is criticism, however, of the many decades of not dealing with the upkeep of the harbors. While public monies should be utilized to help with the upkeep and maintenance, there needs to be more responsibility for this cost; not merely on the commercial boaters or on the small businesses as this is too small a pool to accomplish the plan at hand.

After much discussion, Ms. Pang recommended that the rules proceed through the proper channels for adoption, subject to this Board receiving copies of the audit report and DLNR re-evaluating the proposed temporary mooring fees, Mr. Yukimura seconded and the Board members agreed, with one reservation.

- C. Review and discussion of post public hearing statement of HAR Chapter 13-121, "Rules Regulating the Hunting of Wildlife on Public Lands and Other Lands," repeal of HAR Chapter 13-125, "Wildlife Sanctuaries" and adoption of new HAR Chapter 13-126, "Wildlife Sanctuaries" (DLNR) – Mr. Paul Conry, Administrator at DLNR's Forestry and Wildlife Division, explained that HAR Chapter 13-121 provides authority to establish public shooting ranges. At the public hearings, which were held at six different locations, a number of people provided comments, ranging from strong support to opposing prohibitions on hunting if the range operations would not interfere with hunting activities. As there are currently no small businesses operating at public shooting ranges, there is no affect on small businesses; however, a request to change the proposed rules to provide flexibility for future food concessionaires, which has a direct relationship on small businesses, was accepted. It was noted that meetings were held with the Hawaii Island Public Shooting Range Working Group to allow for input and suggestions for the rules. In terms of business impact, Chair Woods explained that the rules may influence some small business development, and she encouraged the Land Board to look at public/private partnerships because private businesses have historically run such locations more cost effectively. Upon discussion, Vice Chair Au recommended that the proposed amendments proceed through the proper channels for approval, Mr. De Luz, Jr., seconded and the Board members unanimously agreed.

In regards to the repeal of Chapter 13-125, "Wildlife Sanctuaries" and the adoption of Chapter 13-126, Mr. Conry indicated that the rule request provides an update to the wildlife sanctuaries. He stated that the public was very supportive of the proposed rules at the public hearings. However, vendors had the following concerns: the proposed fee changes were too high, the number of visits per day to two islands in Kailua Bay was too low, and the commercial use permits should be transferable. In response to the vendors' concerns, DLNR proposed the following changes: reduce single kayak rental fees from \$5 per day to \$3 per day; reduce the two seat kayaks fees from \$10 per day to \$6 per day; not count visits to each of the two adjacent islands in Kailua Bay separately; and raised visitor limits from 100 to 200 per day. Mr. Bill Mossman, representing the Hawaii Boaters Political Action Association, was concerned about the impact of the proposed changes regarding recreational and non-commercial individuals that use their own kayaks. Mr. Conry responded that DLNR's priorities are to protect the State's resources, to have staff available to regulate the rules, and to address commercial use of the wildlife sanctuaries. Chair Thielen noted that although the proposed amendments have minimal impact on small business, small businesses have been actively engaged in discussions.

Upon review, Mr. De Luz, Jr. recommended that the proposed amendments proceed through the proper channels for approval, Ms. Pang seconded and the Board members unanimously agreed.

- D. Review and discussion of post public hearing statement of HAR Chapter 11-81, "Smoking in Public Places" (DOH) – Mr. Julian Lipsher, Program Coordinator at DOH, summarized the public hearing that

was held in Oahu on August 12, 2009, and on August 10, 2009, where hearings were held via video conferencing on the neighbor islands of Kauai, Hawaii and Maui. One Kauai testifier provided written comments and twelve testifiers provided oral comments at the Oahu hearing. Upon a full review of the testimonies and comments received, DOH made additional changes that were incorporated into the rules; these include changing the definition of smoking and other “non-substantive” changes.

The following provides paraphrased testimonies. Mr. Dewey Kim, Administrator at the Honolulu Liquor Commission, explained that small business owners require due process, pursuant to Chapters 91 and 92, HRS. If the State attempts to “go after” a small business owner due to a complaint, it will inevitably become a contested case; the State cannot take away someone’s business license or property right without proper due process. Thus, he requested that the section in the rules regarding a person registering a complaint be stricken. He believes that there also has to be “accurate adjudication.” He explained that currently many complaints are filed with the Honolulu Liquor Commission, but due to an internal screening process, some complaints are never enforced. Mr. Bill Comerford, spokesperson for the Hawaii Bar Owners Association, summarized his written testimony, and noted that he is in complete opposition of the proposed rules. One of the biggest concerns is that a rule violation will occur because a customer is smoking in the restaurant; however, the rules do not spell out exactly what the violation to the business owner is; the rules lack what constitutes a violation of a law regarding a business owner’s responsibilities. He also suggested that the term “interim” referencing an exemption be included in the final rules.

Ms. Jolyn Tenn, with the Hawaii Bar Owners Association, explained that DOH changed the definition of “smoking,” which should not be allowed. She also explained that DOH is “reinterpreting building codes,” in regards to the definition of a “wall,” as they re-worded this term. Mr. Michael Zehner, from the Hawaii Smokers Alliance, provided written testimony and noted concerns with the definition of “enclosed or partially enclosed,” and the “30 foot rule.” He also noted that the use of “complaints” was an attempt to sway outside agencies to punish small businesses by removal their licenses without due process and others; he would like to see the rules rewritten. Mr. Kawika Crowley, representing Hawaii Smoker’s Alliance and Hawaii Bar Owners Association, stated that it is a fact that smoking bans kill businesses.

Mr. Lipsher explained that under Chapter 91, HRS, the rules afford small businesses due process and rebutted comments from the testifiers. He stated that the law was purposefully vague, for example, on an exemption for film production to develop a reasonable process. He does not believe that the rules are an over-extension of what the law provides but believes that DOH provided clarity where there was none and where it was appropriate. In questioning whether “due process” is missing from the rules and whether the rules overstep the intent of the law, Ms. Ahn deferred to the deputy attorney who reviewed these rules who did not attend this meeting. Mr. De Luz, Jr., stated that the law is “bad” for various reasons discussed among the testifiers, and although the law was well-intended, the consequences would be severe and onerous to the small business owners. After much discussion, Mr. De Luz, Jr., recommended that the rules be deferred until the deputy director reviewing the rules for DOH comes before this Board at the next scheduled meeting to discuss several concerns relating to understanding the intent of the law versus the proposed rules in regards to exemptions and due process rights, Mr. Bucky seconded and the Board members unanimously agreed.

IV. NEW BUSINESS

- A.** Review and discussion of amendments to HAR Chapter 19-44, “Rules Relating to Services and Procedures, Charges, Tolls and Fees” (DOT) – Mr. Michael Formby, Deputy Director at DOT’s Harbors Division, explained that because the Harbors Division does not receive State general funds, it is required by law to operate the Commercial Harbors System as a self-sufficient enterprise. Thus, the division is responsible for imposing and collecting fees necessary to cover operating and maintenance costs as well as the cost of capital improvement projects. He noted that fees and tariff charges for commercial harbors’ services and facilities in Hawaii have not increased in over twelve years. He explained that as an island state, Hawaii relies heavily on its commercial harbors and imported cargo to meet the demands of its residents, businesses and visitors. Hawaii’s commercial harbors are shared-use facilities through which cruise ship passengers and ninety-eight percent of Hawaii’s imported goods pass; this includes consumer goods, vehicles, fueling and construction materials. Inter-island barge departures from Honolulu Harbor have been steadily increasing, and cruise ship operations continue to contribute to the State’s visitor industry. It was noted that to ensure the continued and unimpeded movement of cargo in, out and within Hawaii, the harbors must be maintained and improved to operate efficiently. Therefore, in order to

accommodate current operations and anticipated future growth, expansion is needed and capital improvement projects must be undertaken to assure the efficiency of the commercial harbors system.

Mr. Formby explained that the amendments include structural changes to the wharfage tariff framework along with fee increases and a mechanism for incremental rate increases, with other changes that include a one-time increase to be imposed on all other fees, as well as housekeeping measures. It was further explained that costs of operating, maintaining and improving the commercial harbors have increased significantly since the last fee increase, as aging harbor facilities are in need of upgrades. Additionally, congestion and limited cargo handling space are common place and have highlighted the need to expand and modernize the State's harbors to provide an efficient gateway for incoming cargo. He stated that Harbors Division developed a system-wide Harbors Modernization Plan (HMP) to modernize and expand the commercial harbors system to meet the projected needs. HMP was passed by the State legislature and signed into law as Act 200 in June of 2008. HMP projects have been prioritized and currently total \$618 million with improvements to be funded by the issuance of revenue bonds. Debt service costs on the bonds will be paid by Harbors Division. The proposed fee increases are necessary to provide revenues to cover current operating and maintenance expenses as well as the longer term HMP projects. He further explained that the economic downturn has led to declines in global cargo activity and harbor revenues. Lowered revenue projections, coupled with rising operational capital costs, require rate adjustments that provide revenues sufficient to meet revenue tests set forth by the bond certificate, sustain existing services, and provide revenue over time to underwrite HMP projects.

The specific initial structural changes for wharfage tariffs include the following: container sizes that will be combined into two categories, containers twenty-four feet and under and containers over twenty-four feet; new rates that will be assigned to the two categories; domestic and foreign cargo that will be assessed the same rate regardless of direction of travel; rates for inter-island cargo that will continue to reflect a discount and be charged a lower rate; containers to and from a foreign port that will incur an additional charge to account for costs specific to foreign cargo such as security and customs; empty containers that will not be assessed a fee; all movements of transshipped cargo that will be charged with discounts for certain movements; equitable charges for U.S. and foreign cruise lines – to begin July 1, 2011; and initial discrete rate increases that will take effect depending on the type of cargo movement.

Mr. Gary North, Executive Director of Hawaii Harbors Users Group (HHUG), testified that HHUG is in full support of the user fee increases. HHUG was established in 2005 as a non-profit harbor user industry group with a membership that includes fifteen of the larger users of Hawaii's commercial harbors. Some of those include Matson Navigation, Horizon Lines, Tesoro, and Hawaii Pilots Association. Mr. North stated that if the State does not move forward with the modernization of the harbors immediately, it will cost the State much more in the long run. He explained that while \$618 million is a lot of money, it is not a lot when compared to the \$50 billion in gross domestic product that Hawaii could lose by 2030 if the harbors are not upgraded. Mr. Patrick Shaw, Hawaii Representative from North West Cruise ship Association (NWCA) explained that NWCA is opposed to the proposed increases. NWCA believes the increases are not fair or reasonable, and are ill-considered given the current economic circumstances and the importance of tourism to Hawaii. He stated that any increases should be directly tied to services provided and/or investments in infrastructure as required by the industry to operate safely and efficiently, and to enhance passenger experiences. He added that should the increases occur, NWCA would like to see them implemented over several years.

Ms. Sandra Weir, director of business development at Norwegian Cruise Lines, America, Inc., (NCLA), indicated that with the current economic conditions existing in the State of Hawaii, coupled with reduced passenger counts, NCLA cannot at this time support the proposed tariff increases. She stated that NCLA is a frequent user of the harbor facilities and recognizes the need to maintain and improve conditions at the State harbors, but it is concerned that the increases will bring no direct benefits to its operations in Hawaii or for cruise passengers despite a more than 260% cost increase. It is NCLA's view that increased collections from harbor users should be tied to direct benefits, and while NCLA remains committed to building a strong U.S. flag cruise business home ported in Hawaii, NCLA cannot continue to absorb additional costs and remain viable, especially in these difficult economic times. Upon much discussion with a series of questions and answers, it was determined that no quorum existed due to Messrs. Yukimura and De Luz, Jr., recusing themselves from voting. As a result, the Board made no recommendations to forward to DOT.

- B. Review and discussion of amendments to HAR Chapter 19-133.2, "Periodic Inspection of Vehicles"** (DOT) - Mr. John Lovstedt, Manager at DOT's Highway Division, explained that the proposed rule changes are required by law and also to simplify internal processes; the rules provide no negative small business impact as changes are mostly housekeeping in nature. Therefore, because there is no negative business impact, the rules do not have to come back to this Board after public hearing. As a result, Mr. De Luz, Jr., recommended that the proposed amendments proceed to public hearing and because there is no negative business impact that the rules do not have to come back to this Board after public hearing, Vice Chair Au seconded and the members unanimously agreed.
- C. Review and discussion of amendments to HAR Chapter 17-1714, "General Eligibility Requirements," and 17-1722.3, "Basic Health Hawaii Program"** (DHS) – Mr. Paul Higa, Supervisor at DHS's Med-QUEST Division, explained that the rules will create totally-State funded programs that are specifically for aliens who do not qualify for federal funds. This program will provide health care coverage to uninsured citizens from countries that have a "Compact of Free Association agreement" with the United States, and to uninsured legal permanent residents age nineteen years or older, who are not pregnant and are prohibited from participating in Federal medical assistance programs; these people have resided in the United States for less than five years under Title XIX of the Social Security Act. The amendments impact small businesses that provide services to citizens of nations who are eligible for this basic program, as the affected individuals will have a decrease in their health benefits. Ms. Pang recommended that the proposed amendments proceed to public hearing, Mr. Bucky seconded and the Board members unanimously agreed.
- D. Review and discussion of amendments to HAR Chapter 3-70, Rules of the Stadium Authority"** (DAGS) – Mr. Randall Nishiyama, Deputy Attorney General assigned to the Aloha Stadium stated that the proposed amendments adjust some of the fees that are charged at the stadium and are also for housekeeping measures. There is very little impact to small business, if any; the only impact would be that if a small business rented the stadium. Mr. De Luz, Jr., recommended that the proposed amendments proceed to public hearing and as there is no direct business impact, the rules do not have to come back to this Board after public hearing, Mr. Yukimura seconded and the members unanimously agreed.
- E. Review and discussion of HAR Chapter Part 4, "Fixing Rates for the furnishing of Water Service in the County of Kauai"** (Department of Water, County of Kauai) – Mr. David Craddick, Manager at Kauai Department of Water Supply, explained that the proposed amendments are intended to accomplish several changes in the schedule of rates and charges for water service. In general, the changes provide for new rate blocks with an added block for high use and adding some consumption to the service charge. By implementing the changes, the Kauai Board of Water Supply is promoting demand management and hopes to increase water conservation with no change in the water rates except for high end use, which has an added block with a four percent increase. The consumption added to the service charge is effort to recover costs for meters that are installed with little to no use when compared to the use that can go through the meter. If there is no change in consumption, it would result in revenue of approximately \$800,000 to \$1.2 million. The amendments will become effective July 1, 2010. Mr. Yukimura indicated that he was in favor of the rule changes because, essentially, the more water used, the more one will pay. Upon review, Mr. Yukimura recommended that the proposed amendments proceed to public hearing, Ms. Pang seconded and the Board members unanimously agreed.
- F. Review and recommendation to nominate Board members** – Mr. Yukimura recommended that Messrs. Schnitzler and Bucky be nominated as board members, Ms. Pang seconded and the Board members unanimously agreed. Chair Woods stated that Mr. Fred Atkins is a potential new member from Kauai. Mr. Yukimura, who had originally nominated Mr. Atkins two years ago, stated that Mr. Atkins is the owner of Kilohana Plantation, a tourist complex in Kauai, and Mr. De Luz, Jr., spoke with Mr. Atkins recently about this Board. Mr. Yukimura recommended that Mr. Atkins be nominated as a board member to this Board, Ms. Pang seconded and the Board members unanimously agreed.

Vice Chair Au stated Mr. Howard West, who works in the environmental industry, is a good candidate for this Board and requested that Ms. Palcovich contact him. Mr. Au recommended that Mr. West be nominated as a board member this Board, Mr. Yukimura seconded and the Board members unanimously agreed.

Chair Woods informed the members that her term on this Board expires in June 2010; at this point in time, she is not planning to re-new. She encouraged the members to think about who they would like to take over as the Board's chairperson.

- G. Review and approval of draft 2009 Annual SBRRB Report – The members reviewed the draft annual report. Upon review, Ms. Pang recommended that upon finalization, the report be approved for distribution, Mr. Yukimura seconded and the Board members unanimously agreed.
- H. Review and discussion of Governor's Administrative Directive No. 09-01 – Chair Woods explained that as a result of the new administrative directive, proposed and amended rules will be submitted to the Governor and to this Board simultaneously, prior to public hearing. She noted that this process essentially takes away the Board's ability to request that the agency make changes to the rules; as such, Director Liu expressed an opinion that this Board should continue to meet monthly, rather than every other month. Mr. De Luz, Jr., suggested that a letter be sent to the State agency directors and chairs requesting how many rules were anticipated to be sent to this Board for review for the first half of 2010.

V. REPORT FROM CHAIR

- A. Update of administrative work for the SBRRB – Chair Woods stated that the Board's current administrative assistant is being transferred to a different division within DBEDT and a new person may be taking over the Board's administrative work. At this point in time, it is unknown when this will occur.
- B. Discussion of RegAlert – Chair Woods explained that at the direction of Director Liu, a RegAlert was distributed to the RegAlert partners to alert small businesses of the State's Small Business Preference Program; this was done without this Board's vote. It was discussed that while the RegAlerts are considered "administrative," going forward, this Board will approve each RegAlert that goes out.
- C. Discussion of 2010 Legislative Session – Chair Woods was contacted by Senator Carol Fukunaga who is in the process of drafting legislation to transfer this Board to DCCA. She informed Senator Fukunaga that this Board did not want to go through the same problems that were experienced during the last legislative session with the Board having no budget and a position being eliminated. However, if the bill is clear and concise, the Board would consider supporting it; a draft bill has been requested for review prior to the legislative session. Chair Woods indicated that she also spoke with DCCA Director Lawrence Reifurth who explained that DCCA does not have provisions to fund this Board, and if this Board was transferred, businesses' fees would need to be raised. However, Chair Woods stated that Senator Fukunaga maintains that DCCA can have this Board transferred without any detriment to increasing the fees.

Mr. De Luz, Jr., requested that an inquiry letter be sent to the State directors asking what, if any, pending rules are expected for review within the next six months.

VI. REPORT FROM BOARD MEMBERS

- VII. **ANNOUNCEMENTS** – It was announced that Mr. Steve Bretschneider will be retiring at the end of December 2009, and moving to Arizona. He expressed that he enjoyed working with this Board as the members have common sense and real world experience, and are a great group of volunteers. Chair Woods wished him well.

It was discussed that the December 16, 2009 Board meeting would begin at 12:30 p.m., rather than the usual time of 10:30 a.m.

- VIII. **NEXT MEETING** – Wednesday, December 16, 2009, 250 South Hotel Street, Honolulu, HI, Room 410.

- IX. **ADJOURNMENT** – The meeting adjourned at 4:42 p.m.