

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

July 19, 2006

No. 1 Capitol District Building 250 South Hotel Street – Conference Room 410

I. **CALL TO ORDER:** Chair Woods called the meeting to order at 10:53 a.m., with a quorum present.

MEMBERS PRESENT:

- Lynne Woods
- Sharon L. Pang
- Michael Yee
- Donald Dymond
- Charles Au
- Richard Schnitzler

ABSENT MEMBERS:

- George Handgis
- Dorvin Leis

STAFF: DBEDT Office of the Attorney General
Dori Palcovich Margaret Ahn
Leslie Kawamoto

GUESTS: Patrick Shaw, North West CruiseShip Association (NWCA)
Jeffrey Conners, Operations Director, Norwegian Cruise Line
Scott Cunningham, Honolulu Harbor Master, Harbors Division, Department of Transportation (DOT)
Susan A. Kusunoki, Vice President, PMCI
Jeri Kahana, Program Manager, Commodities Branch, Department of Agriculture (DOA)
Mark Willman, Owner, Hawaiian Pacific Watersports
Paul Yuen, Attorney, Insurance Division, Department of Commerce and Consumer Affairs (DCCA)
David Sakamoto, Administrator, State Health Planning and Development Agency, Department of Health (DOH)
Darryl Shutter, Branch Chief, State Health Planning and Development Agency, DOH

WORKING LUNCH AS THE MEETING PROGRESSED

II. **APPROVAL OF MINUTES:** Minutes of the June 21, 2006 Board meeting were approved as amended.

III. **PUBLIC TESTIMONY:** Public testimony is included with each agenda topic discussed.

IV. OLD BUSINESS

A. Review and discussion of post public hearing statement, HAR Chapter 4-60, "Milk Control Rules" (DOA) – Ms. Jeri Kahana, Program Manager of the Commodities Branch at DOA, explained that the milk producers were losing thousands of dollars per month without the proposed price increase. Three individuals attended the public hearing and no written or oral testimonies were received. Discussion, initiated by Mr. Dymond, entailed price controls on products. After much discussion, Mr. Au recommended that the proposed rules proceed to the Governor for adoption but that the Board is fundamentally opposed to price controls and understands that the proposed price increase is meant to sustain the local milk producers in business, though ultimately causing the consumer to pay higher taxes and higher prices for milk; the Board agreed.

B. Update and review of information regarding HAR Chapter 19-42, "Vessel and Harbor Controls" (DOT) – Mr. Scott Cunningham, Honolulu Harbor Master at DOT's Harbors Division, explained that changes to these rules from previous recommendations relate to the safe use of commercial harbors by large vessels and require, as appropriate to the individual harbors, the use of at least one assist tug for all ships six hundred feet in length or more. The changes take into account the host minimum tug requirements, and are intended to ensure that modern tugs with adequate power are stationed at the neighbor island ports.

Mr. Cunningham explained that approval for all arriving and departing vessel traffic for Honolulu Harbor and the anchorages, as well as for movement through the main ship channel and approaches, is directed via radio communication on VHF channels. He also explained the requirements for the movement of large vessels (six hundred feet in length or more) at State ports along with exceptions to general tug requirements.

Mr. Jeffrey Conners, Operations Director at Norwegian Cruise Line, and Mr. Patrick Shaw of NWCA both expressed their support for the modified proposed rules. Additionally, Mr. Mark Willman, small business owner of Hawaiian Pacific Watersports in Hilo, also expressed his support of the proposed rules as presented. Both Chair Woods and Vice Chair Pang were pleased with the outcome of the modifications and applauded Mr. Cunningham. Mr. Dymond recommended that the modified proposed rules proceed to public hearing; the Board unanimously agreed.

V. NEW BUSINESS

- A. Review and discussion of HAR Chapter 16-171, "Miscellaneous Insurance Rules" (DCCA) – Mr. Paul Yuen, Attorney with the Insurance Division of DCCA, explained that the proposed rules require that insurers notify claimants when payments are made to claimant's attorneys or other legal representatives and not to the claimants themselves. Small businesses would not be adversely affected by the amendments as they are directed solely at insurers, and the only fees involved are costs of copying, mailing, and postage. Mr. Au recommended that the proposed rules proceed to public hearing; the Board unanimously agreed.

VI. UPDATE AND OUTCOME OF STRATEGIC PLAN

- A. Update on the "Small Business Bill of Rights" brochure – Mr. Dymond suggested that the proposed Bill of Rights brochure be mirrored after the Hawaii's Taxpayer's Bill of Rights. A copy of the Bill of Rights bill presented during the last legislative session will be submitted to each board member for their review. It was also suggested that the SBRRB's brochure be provided to DCCA so that small businesses will have access to it.
- B. Update on prospective Board members – Chair Woods indicated that there are currently three vacancies on the Board as Ms. Chang recently resigned as a member due to business and personal issues; two of the member openings are for the Island of Kauai. Although the Governor's office has not yet provided the Board with new members, it may occur soon. Mr. Dymond mentioned that he knew of a small business owner in Kauai that would be a good candidate for the Board; Ms. Palcovich will follow up with him.
- C. Update and discussion on clerical assistance to the Board – Chair Woods expressed her concern regarding the lack of clerical assistance for the Board; she is planning to contact the Governor's Office in an attempt to understand what alternatives the Board may have.
- D. Update and discussion of establishing a special marketing trust fund – This was discussed during a separate investigative task force meeting prior to the Board meeting.

VII. 201M-7 RULE REVIEW

- A. HAR Chapter 11-186, "Hawaii State Health Planning and Development Agency Certificate of Need" (DOH) – Mr. David Sakamoto, Administrator, and Mr. Darryl Shutter, Branch Chief, from the State Health Planning and Development Agency at DOH, outlined the purpose and provisions of these rules and answered specific questions from the members. Questions entailed the application process, filing fees, and what types of businesses are exempt. Chair Woods expressed to the members that this is a very important rule that had significant business impact. She asked that the members review these rules and provide any recommendations they may have at the next Board meeting. She also extended an invitation to Messrs. Sakamoto and Sutter to attend the August meeting to review those recommendations.

VIII. REPORT FROM THE CHAIR – Nothing was reported.

IX. REPORT AND UPDATE FROM BOARD MEMBERS – Nothing was reported.

- X. **ANNOUNCEMENTS** – Vice Chair Pang reiterated to the members that she received a complaint from a business owner regarding a form letter from the State’s Professional and Vocational Licensing Division at DCCA, informing them that their application to renew their nurse aide certification would not be approved. Chair Woods suggested that Vice Chair Pang determine exactly what administrative rule this relates to and/or request that the small business owner file a formal complaint to this Board.
- XI. **NEXT MEETING** - Wednesday, August 16, 2006, No. 1 Capitol Building, Conference Room 410.
- XII. **ADJOURNMENT** – Chair Woods adjourned the meeting at 1:30 p.m.