

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

April 20, 2016

Conference Room 436 - No. 1 Capitol District Building, Honolulu, Hawaii

- I. **CALL TO ORDER:** Chair Borge called the meeting to order at 1:00 p.m. with a quorum present.

MEMBERS PRESENT:

- Anthony Borge
- Kyoko Kimura
- Robert Cundiff
- Nancy Atmospera-Walch
- Garth Yamanaka
- Milton Kwock

ABSENT MEMBERS:

- Harris Nakamoto
- Barbara Bennett

STAFF: DBEDT

Dori Palcovich

Office of the Attorney General

Margaret Ahn

II. APPROVAL OF MARCH 16, 2016 MINUTES

Chair Borge introduced and welcomed Mr. Milton Kwock, DBEDT’s designated voting member, who is replacing Mr. Mark Ritchie today.

Mr. Cundiff made a motion to accept the March 16, 2016 minutes, as presented. Mr. Yamanaka seconded the motion, and the Board members unanimously agreed.

III. LEGISLATIVE MATTERS

- A. Discussion and Action on Bill No. 140, “An Ordinance Amending Chapter 20, of the Hawaii County Code 1983 (2005 Edition, as Amended), by Adding a New Article Relating to Reduction of Polystyrene Foam “Styrofoam” Food Containers and Food Service Ware,” promulgated by the Department of Environmental Management, County of Hawaii

Mr. Yamanaka explained that Bill No. 140 was introduced a few months ago, was heard by the County Council, voted 4-4, and was sent to the County of Hawaii’s Environmental Management Department. In speaking with Council member Ms. Margaret Wille, Mr. Yamanaka was told that a second draft is currently being worked on. Mr. Yamanaka heard from the impacted business owners who indicated that major concerns of this bill are the costs associated with the proposal and not having a comparable alternative; another concern is that some of the restaurant and store owners believed they are being targeted.

Testifier, Mr. Dexter Yamada, President of KYD, Inc., a packing company located in Kalihi, requested that this Board oppose Bill No. 140. He explained that Styrofoam is a brand name by Dow and a non-compliant food-grade material, and the food container product used by his company, polystyrene, or PS foam, is a food-grade material and approved by the FDA. In regards to the impact on his business, on a production level it would reduce the size of employees by approximately fifty percent, and because most of the employees offer limited skills it would be difficult for them to find outside employment.

Ms. Melissa Takaaze of Hawaii Food Industry Association provided oral testimony in opposition of this bill. Her involvement began in February when the bill was first introduced. At that time, Ms. Takaaze went to Hilo and met with various food-related single establishment small businesses and franchisees. Many of the owners would be impacted by the ordinance because English is not their first language; this would result in a distinct barrier to understanding the implications of the bill as well as its existence. In regards to supermarkets, there is an issue as to whether or not packaging of eggs, meats, and other perishable items is required based on the proposed measure.

Mr. Yamada explained that moisture, bacteria, and oxygen are needed to break down litter and because the polystyrene foam is insulated, it will not break down. Ms. Takaaze added that in regards to landfills, which are designed not to have oxygen, items left there will shift or collapse, not decompose, and are also subject to fire due to the mix of the different gases and oxygen. Further, in regards to “biodegradable” containers, it is only “biodegradable” under certain conditions and in certain facilities; the State of Hawaii does not have such a facility.

Chair Borge acknowledged that this Board also received testimony from Yummy Restaurant Group in Honolulu opposing the proposed ordinance. He stated that although a number of years ago, in an attempt to conserve trees, paper was changed to plastic, this has become a big problem due to littering, and resource management and recovery. The County of Hawaii appears to be targeting only a small segment of the industry, which is not a correct solution without looking at the implications of the proposed results and ignoring alternatives; the small businesses impacted by this measure would largely be the food servicing industry. Although the need for a “total approach” was expressed, this bill does not appear to be that approach. The overall problem should be addressed on a bigger scale as the bill does not solve environmental concerns and it specifically affects small business.

Mr. Yamanaka made a motion, in response to the County of Hawaii’s Department of Environmental Management’s request, that this Board oppose Bill No. 140 due to the financial implications to small businesses and the absence of addressing litter management concerns. In addition, rather than taking a micro-approach, this Board recommends that a macro-approach be taken that would incorporate meaningful solutions to the educational process to the public regarding the environmental issues and proper management of landfills that are aligned with the responsibilities of businesses and individuals. Ms. Atmospera-Walch seconded the motion, Chair Borge, Mr. Yamanaka, Ms. Kimura, and Mr. Kwock agreed, and Mr. Cundiff recused himself due to a potential financial conflict of interest with his business; the motion passed.

B. Status on the following:

- a. House Bill 774, HD1, SD1, "Relating to Small Business" – Makes an appropriation to the Department of Business, Economic Development and Tourism for the Small Business Regulatory Review Board to hire additional staff

Chair Borge explained that this bill is now "tabled" because funds for this Board are presently in a separate line item in DBEDT's budget request. The State's budget bill is currently in conference committee; the House has approved the current \$50,000 request and the Senate has reservations.

DBEDT staff will provide the members with names of the House and Senate committee conferees so they may approach them and ask for assistance in getting this budget request approved.

- b. Governor's Message No. 663, "Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Kyoko Kimura, for a term to expire June 30, 2020"

Ms. Kimura's nomination to this Board has been confirmed.

- c. Governor's Message No. 738, "Submitting for Consideration and Confirmation for the Small Business Regulatory Review Board, Gubernatorial Nominee, Nancy Atmospera-Walch, for a term to expire June 30, 2020"

Ms. Atmospera-Walch's nomination to this Board has been confirmed.

IV. ADMINISTRATIVE MATTERS

- A. Discussion and Action on Draft "2016 Periodic Review: Evaluation Report," in accordance with Section 201M-7, HRS

This report is a compilation of information received from the State agencies in accordance with the statute's requirements.

Mr. Kwock made a motion to accept the report, pending the updated "Message from the Chair;" Ms. Kimura seconded the motion, and the Board members unanimously agreed.

- B. Follow-up and Action of this Board's Upcoming Advocacy Activities and Programs in accordance with the Board's "Powers" under Section 201M-5, HRS

Mr. Cundiff stated that he and Vice Chair Nakamoto discussed various options in regards to this Board utilizing the \$10,000 funds offered by DBEDT within the current fiscal year ending June 30, 2016. Incorporated into the options were several challenges, the lack of awareness and name recognition within the small business community and legislature, State agencies driving the SBRRB's agenda as opposed to small businesses coming in front of the Board, and the lack of understanding this Board's perceived value toward Hawaii small businesses.

Options and opportunities that were discussed in utilizing the funds include:

- 1) Upgrade support staff's computer system (approx.. \$2,200);
- 2) Purchase computer tablets/notebooks for SBRRB members - in an attempt to move to a paperless communication board;
- 3) Hold a small business forum to reach out to the small business community with subject matter experts to discuss topics such as laws, safety, etc. (approx. \$3,500);
- 4) Update/revamp the SBRRB website to be more interactive and small business-driven (approx.. \$1,800);
- 5) Contract with local television shows such as Tiny Tadani's, "Tiny TV," on OC16, and Reg Baker's ThinkTech show (approx. \$2,500);
- 6) Review and amend the Board's statute, Chapter 201M, HRS – in an attempt to add value to its mandate and purview.

Mr. Cundiff explained that the outcome of these opportunities would allow this Board to connect with small businesses so they would be aware of the Board and its website, and it would encourage small businesses to proactively present agenda items to the Board. Through regularly scheduled forums, it would educate small businesses on specific topics that impact them and it would help them to understand the value of this Board. In addition, it will help to create momentum for this Board to play a larger role. It was suggested that changing the Board's name may make it easier for the businesses to remember it.

Chair Borge stated that he is in conversation with DBEDT's director's office regarding the use of these funds. He believes the best way for this Board to expand on its outreach is through the communication medium; i.e., the internet, the website, and social media. It was noted that the website of Wisconsin's small business regulatory review board encourages small businesses to grow. One feature on its website allows small businesses to download a form describing a rule or regulation negatively impacting its business and to provide examples of how the rule or regulation could be changed to lessen the impact. Chair Borge also stated that having a forum for the small business community is something to plan on, or at least, to start the dialogue with DBEDT and with potential sponsors for the near future.

Chair Borge further stated that Mr. Reg Baker has a weekly live-stream broadcast, called "Business in Hawaii" every Thursday at 2:00 p.m., on ThinkTechHawaii.com; it currently has a small customer base but it is growing. This Board was extended an invitation to be on the Thursday, May 19th show, as well as potential future tapings where there may be controversial rules; Chair Borge, Vice Chair Nakamoto, and anyone else on the Board is welcome to be part of the May 19th broadcast.

Chair Borge made a motion to request from DBEDT approval to utilize the \$10,000 as follows: 1) computer system for this Board's staff; 2) updating of the Board's website; 3) procuring a small business forum; 4) computer tablets for members of this Board; and to authorize Mr. Cundiff and Vice Chair Nakamoto to interact outside a board meeting, in accordance with Sunshine Law, to assist in pursuing and accomplishing these items. Ms. Atmospera-Walch seconded the motion, and the Board members unanimously agreed. Chair Borge will first approach the director's office for approval.

- V. **NEXT MEETING** – The next meeting is scheduled for Wednesday, May 18, 2016, in Conference Room 436, 250 South Hotel Street, Honolulu, Hawaii, at 1:00 p.m.
- VI. **ADJOURNMENT** – Ms. Kimura made a motion to adjourn the meeting and Mr. Kwock seconded the motion; the meeting adjourned at 2:36 p.m.