

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

November 16, 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
- Garth Yamanaka
- Mark Ritchie

ABSENT MEMBERS:

- Harris Nakamoto
- Nancy Atmospera-Walch

STAFF: DBEDT
Dori Palcovich

Office of the Attorney General
Dawn Apuna

II. APPROVAL OF OCTOBER 19, 2016 MINUTES

Ms. Kimura made a motion to accept the October 19, 2016 minutes, as presented. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

III. NEW BUSINESS

- A. Discussion and Action on Proposed Amendments to HAR Title 4, Chapter 143, Standards of Coffee, promulgated by Department of Agriculture (DoAg)

Discussion leader Mr. Cundiff stated that the proposed DoAg amendments, which will help to support and enhance small business, were generated from the coffee business owners. The changes extend some of the quality standards another three years, from 2017 to 2020, with no additional fees incurred.

Mr. Cundiff made a motion to move the amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

- B. Discussion and Action on Proposed Amendments to HAR Title 16, Chapter 77, Contractors, promulgated by Department of Commerce and Consumer Affairs (DCCA)

Ms. Candace Ito, DCCA Executive Officer and Mr. Rodney Tam, Deputy Attorney General, explained the history of the proposed amendments to Section 34, "Work Incidental and

Supplement,” which began in 2006 in district court and resulting from a 2013 ruling of the Hawaii State Supreme Court. As not all the affected businesses are aware of the Court’s decision, by amending the rules it is expected that those businesses impacted by the changes will only need to refer to the administrative rules, and not have to go to different sources and documents to find the changes.

Deputy Attorney General Tam provided the members with an example as to how the changes would work in the real world. It was noted that the changes are not exact, but similar to the Court order, which shows, in part, that incidental and supplemental is work in other trades that is “subordinate to” . . . “work of greater importance that is within” the scope of the licensee’s licenses “(i.e., the primary work the specialty contractor is licensed to perform).”

In regards to Chair Borge’s concern regarding the small businesses’ involvement, it was stated that in addition to the general public being invited to DCCA’s board meetings, oral arguments and testimonies were received during the litigation and legislative processes. It was added that stakeholders will also be apprised of the changes during the upcoming public hearing process.

Ms. Kimura made a motion to send the amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Proposed Amendments to HAR Title 19, Chapter 135, Periodic Safety Inspection of Mopeds, promulgated by Department of Transportation (DOT)

Mr. John Lovsteadt, DOT Highway Safety Manager, explained that the primary purpose of the proposed changes is to implement Act 200, SLH 2016, which requires mopeds to be registered, to have annual safety inspections, and to be issued a license plate. There will also be an electronic inspection program form similar to automobiles. Prior to the changes, moped owners registered the mopeds one time, similar to registering a bicycle. Drivers’ licenses are also required for moped drivers, which may be either a regular motor vehicle license or a moped license, i.e., Class 1 license.

Discussion leader, Ms. Kimura, stated that the changes bring added flexibility to when the moped inspectors can be open for inspections. In the past, inspections were limited to Monday through Friday, but now inspections are available on Saturdays as well. DOT has been encouraging businesses to register as moped inspectors in an attempt to eliminate long inspection lines as a high level of activity is expected for at least the first year the rules are implemented.

Although businesses would not incur extra charges for becoming certified, a business owner must pass a test. While no classes are offered for the test, those taking the test are provided a handbook and a copy of the administrative rules. The inspectors will receive the bulk of the fees for the inspections but a significant amount of the monies received will come from repairing mopeds. It was noted that businesses renting out mopeds are required to be insured while individual moped drivers are not.

Ms. Kimura made a motion to send the amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

IV. ADMINISTRATIVE MATTERS

A. Discussion and Training on Board Member I-Pads

Mr. Carl Nagasako, ASO Administrator at DBEDT, explained that he has been looking into various software packages to purchase so the members would be able to highlight and place notes onto the i-pads' uploaded documents. The members discussed having the whole packet uploaded on the i-pads rather than individual documents, placing the packets into a drop-box, thumb nailing the documents, sending the packets to a member's individual gmail account, and using readers on Adobe Acrobat.

It was decided that more research will be done until the members are clear on how the members would like to receive the monthly agenda packets. In the meantime, DBEDT staff will continue to upload the documents on the Board's website in the calendar section.

I-pad cases for the devices were ordered and have been delivered; they will be distributed at the next board meeting.

B. Update on this Board's Fiscal 2017 and 218 Budget Requests

The Department of Budget & Finance did not approve this Board's proposed budget request for the upcoming legislative session; it is expected that DBEDT will appeal this decision.

C. Action and Voting on Board's Second Vice Chair

Chair Borge announced that Second Vice Chair Barbara Bennett resigned from this Board after the last board meeting due to the constraints of her small business.

Mr. Yamanaka made a motion to nominate Ms. Kyoko Kimura as Second Vice Chair. Mr. Cundiff seconded the motion, and the Board members unanimously agreed.

D. Update on this Board's Upcoming Advocacy Activities and Programs in Accordance with the Board's Powers, under Section 201M-5, HRS

Chair Borge announced that this Friday's *Pacific Business News* will feature an article on this Board that was submitted by the Chamber of Commerce of Hawaii. The article outlines the Board's mission and the newly created Regulation Review Card, which has yet to be utilized by small business owners. Chair Borge mentioned that he attended the Chamber of Commerce business advocacy committee last week and believes that in order for this Board to be effective, it is very important to advocate its mission on a regular basis.

V. LEGISLATIVE MATTERS

A. Update on Proposed Amendments to Chapter 201M, HRS

Deputy Attorney General Apuna attended the Governor's review of DBEDT's proposed bill amendments last month and noted that the Governor's office was not amenable to increasing the number of board members from nine to eleven due to the difficulty in finding members to join this Board; there were no other noted concerns with the proposed changes.

VI. NEXT MEETING – The next meeting is scheduled for Wednesday, December 7, 2016, in Conference Room 436, 250 South Hotel Street, Honolulu, Hawaii, at 1:00 p.m.

VII. ADJOURNMENT – Ms. Kimura made a motion to adjourn the meeting and Mr. Yamanaka seconded the motion; the meeting adjourned at 2:20 p.m.