

## Small Business Regulatory Review Board

### MINUTES OF REGULAR MEETING

February 19, 2014

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

I. **CALL TO ORDER:** Chair Shubert-Kwock called the meeting to order at 10:55 a.m., with a quorum present.

**MEMBERS PRESENT:**

- Chu Lan Shubert-Kwock
- Anthony Borge
- Barbara Bennett
- Kyoko Kimura
- Howard Lum
- Craig Takamine
- Mark Ritchie

**ABSENT MEMBERS:**

- Leslie Mullens
- Harris Nakamoto

**STAFF:** DBEDT  
Dori Palcovich

Office of the Attorney General  
Margaret Ahn

### II. INTRODUCTION OF NEW BOARD MEMBER

The newest board member, Mr. Harris Nakamoto, was unable to attend today’s meeting, but will be in attendance at the next meeting.

Mr. Mark Ritchie was introduced as one of the Board’s DBEDT-designated representatives.

### III. APPROVAL OF JANUARY 22, 2014 MEETING MINUTES

Vice Chair Borge made a motion to adopt the January 22, 2014 meeting minutes, as amended. Mr. Lum seconded the motion, and the Board members unanimously agreed.

### IV. NEW BUSINESS

A. Discussion and Action on Proposed New Rules Promulgated by the County of Kauai’s Planning Commission in the Kauai County Code, Chapter 8, Article 17, Relating to Transient Vacation Rentals

Discussion leader, Ms. Bennett, explained that representatives from Kauai’s Planning Commission were not in attendance today due to a conflict in the timing of the legislative hearing for Senate Bill 2487. Ms. Bennett had previously spoken with Mr. Ian Jung, Kauai’s Deputy County Attorney, and Mr. Michael Dahilig, Director of Planning at Kauai’s Planning Commission, and it was agreed that the amendments were complicated.

At the discretion of this Board, the members spoke with Deputy County Attorney Jung via telephone. Mr. Jung apologized for not attending the board meeting and stated there was “no time crunch” for these rules. As a result, it was agreed that the rules would be re-scheduled to be heard at the next meeting.

This agenda item will be deferred until the next board meeting.

B. Discussion and Action on Proposed New Rules being Promulgated by the County of Kauai’s Planning Commission in the Kauai County Code, Chapter 8, Interpretive Administrative Zoning Ordinance Rules and Regulations Relating to Chapters 8, 9, and 10

This agenda item will be deferred until the next board meeting (See Section IV. A.).

C. Discussion and Action Proposed New Rules being Promulgated by the County of Kauai’s Planning Commission in the Kauai County Code, Chapter 8, Processing and Review of Use Permits Concerning the Construction and Operation of Fruit and Vegetable Stands in the Agriculture and Open Zoning Districts

This agenda item will be deferred until the next board meeting (See Section IV. A.).

**V. LEGISLATIVE MATTERS**

A. Discussion of Senate Bill 2487 Relating to the Small Business Regulatory Flexibility Act – Repeals Chapter 201M, HRS, the Small Business Regulatory Flexibility Act

Chair Shubert-Kwock thanked the members for their support and for the testimonies in opposition of Senate Bill 2487. She was pleased that all of the submitted testimonies were positive, including those from the Chamber of Commerce, Hawaii Farm Bureau, Mr. Tim Lyons (Hawaii Business League), and BIA-Hawaii (Building Industry Association).

Senate Bill 2487 was passed with amendments. In summary, Senator Baker proposed a sunset date of five years for Chapter 201M, HRS, a requirement of additional, comprehensive reporting of this Board’s work, mandatory training to be conducted by the attorney general’s office, and that DBEDT must support this board. Mr. Lum believed that the outcome of this bill was exactly what it should have been as there is no reason to repeal this board, but instead to provide assistance where needed.

It was expressed that Senator Baker stated the bill was precipitated by this Board’s ineffectiveness, and the members going beyond its statutory scope. Chair Shubert-Kwock agreed that this board can do more and be more effective, and it should put together a plan of action to become more effective despite the lack of sufficient support. However, she was unaware of any complaints about this board over the past year. Ms. Bennett would like to know where Senator Baker got her information from. She fully believes a board member may have complained to the legislature; even if this is so, however, it is unknown whether the complaints precipitated the creation of this bill.

Deputy Attorney General Ahn explained that complaints about this board were around well before the present board was constituted. Chair Shubert-Kwock confirmed Ms. Bennett’s

comment that DBEDT was silent as to providing testimony on this bill, and added that at the last meeting, which included a DBEDT voting member, the board unanimously agreed to vote in opposition of this bill. Deputy Attorney General affirmed that this board has the proper delegation in place to provide testimony on this bill with amendments after “cross-over” to the House.

B. Discussion and Action on Governor’s Message No. 503, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Harris Nakamoto, for a term to expire on June 30, 2015

Ms. Palcovich stated that she confirmed with Mr. Nakamoto that he was a former owner of two small businesses.

Vice Chair Borge made a motion for this Board to submit testimony in support of this measure. Mr. Takamine seconded the motion; six Board members agreed and Mr. Ritchie abstained.

**VI. ADMINISTRATIVE MATTERS**

A. Update on Board’s Fiscal Year 2015 Supplemental Budget Request

It was reiterated that the Board’s budget request was approved by DBEDT, Budget & Finance, the Governor, and was most currently reviewed by Senate Ways & Means and the House Finance Committees. Chair Shubert-Kwock added that the questions from Ways & Means were long and thorough.

B. Discussion and Action on “final draft” report of 201M-7 Periodic Review: Evaluation, HRS

The Board members reviewed the draft report, recognizing that not much can be added to the report because it is a compilation of data received from the State agencies on existing rules that impact small business.

Mr. Takamine made a motion to approve the final draft of the report. Ms. Bennett seconded the motion; six Board members agreed, and Mr. Ritchie abstained.

C. Update on Board’s “introduction” meetings with State Agencies

Chair Shubert-Kwock reported that Director Takamine from the Department of Labor and Industrial Relations met with Second Vice Chair Mullens last month; it was conveyed that the meeting went well. Chair Shubert-Kwock stated that the meetings should last roughly fifteen minutes but are still effective because it shows this Board is available and interested in the agencies’ rules. She encouraged each member to get to know the agencies’ directors they are assigned to as a discussion leader. Further, she stated it is important to work hard to correct and improve upon a prior bad image this Board may have had.

It was noted that completed Board evaluation forms have not yet been received. Vice Chair Borge requested that DBEDT staff follow through with a thank-you email with an attached evaluation form to those attending the board meetings.

D. Update on reactivation of RegAlert, an electronic email alert system for announcement of proposed and amended administrative rules that impact small business

Chair Shubert-Kwock stated that the RegAlert committee has not met recently. However, it is essential that DBEDT provide a staff member to be part of the committee. There really is no other avenue to reach out to the stakeholders except through the RegAlert system. Vice Chair Borge recommended tabling the project for now because RegAlert will take a considerable amount of money and time, and particularly because the Board is currently dealing with other issues. He further stated that it is the committee's intent that RegAlert be fully effective, and not merely another email vehicle.

E. Discussion and Action on Proposal to Revise the Small Business Impact Statement

Chair Shubert-Kwock indicated that Ms. Mullens is interested in creating a "standard" small business impact statement form with an answer and question format due to there being no standardized form. It was recommended that a draft be made based on the statute; this item will be discussed further at the next board meeting.

F. Chair's Report – Exhibit A

Chair Shubert-Kwock discussed the activities outlined in the Chair's Report.

**IX. NEXT MEETING**

Next meeting is scheduled for Wednesday, March 19, 2014, at 9:30 a.m., in Conference Room 436, 250 South Hotel Street, Honolulu, Hawaii.

**X. ADJOURNMENT**

Mr. Lum made a motion to adjourn the meeting at 12:10 p.m. Ms. Kimura seconded the motion, and the Board members unanimously agreed.