

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

March 20, 2013

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

I. **CALL TO ORDER:** Mr. Borge called the meeting to order at 9:35 a.m., with a quorum present.

MEMBERS PRESENT:

- Chu Lan Shubert-Kwock
- Leslie Mullens
- Howard Lum
- Barbara Bennett
- Kyoko Kimura
- Anthony Borge
- Mary Alice Evans

ABSENT MEMBERS:

- None

STAFF: DBEDT
Dori Palcovich

Office of the Attorney General
Margaret Ahn

II. ELECTION OF A TEMPORARY CHAIR

Mr. Lum made a motion for Ms. Shubert-Kwock to be the Temporary Chair for today’s board meeting. Mr. Borge seconded the motion, and the Board members unanimously agreed.

III. APPROVAL OF FEBRUARY 20, 2013 MEETING MINUTES

Ms. Evans made a motion to accept the February 20, 2013 minutes, as amended. Ms. Mullens seconded, and the Board members unanimously agreed.

IV. OLD BUSINESS

- A. Small Business Statement After Public Hearing for Hawaii Administrative Rules (HAR) Title 17 Chapter 1722.3 Basic Health Hawaii; Chapter 1725 Assets; Chapter 1727 QUEST; Chapter 1739.1 Authorization, Payment, and Claims in the Fee-for-Service Medical Assistance Program for Non-institutional Services (Department of Human Services (DHS))

Ms. Aileen Befitel, Program Specialist at DHS’s Med-QUEST Division, stated that three people attended the public hearing with no written or oral testimonies. Ms. Evans indicated that since DHS did not receive any requests to change the proposed rules, it is recommended this board accept the after public hearing report.

Ms. Evans made a motion that the rules proceed to the Governor for adoption. Mr. Borge seconded the motion, and the Board members unanimously agreed.

V. NEW BUSINESS

A. Proposed Amendments for Kauai County Code Chapter 10 Section A, Lihue Town Core Urban Design District (County of Kauai – Planning Department)

Ms. Marie Williams, representing Kauai County Long-range Planning Division, stated that the Planning Department's Director apologizes for being unable to attend this meeting. In his absence, she reviewed with the members a power point presentation that outlined the proposed rule amendments of the Lihue Town Core Urban Design District; this is a landmark plan that was passed approximately three years ago. The presentation described the Lihue town core boundaries; rationale of the plan, which is to revitalize Lihue in order to attract visitors and other sources of business; and the plan's vision, which is intended to be a welcoming destination that is "green" and "beautifully landscaped" to exemplify a pedestrian-friendly environment that embraces business and community development.

It was explained that the goals of this plan are expected to foster civic pride, develop Lihue as Kauai's main urban center, improve public facilities, and support multi-modal transportation. The design requirements encompass building materials and building colors. Specifically, light earth tones and colors commonly found in the Lihue town core will be used for new and existing development; brighter and darker colors will be used for accents, trim and other architectural features; the project is being funded by the State. Mr. Lum requested a copy of the power-point presentation; it will be forwarded to DBEDT staff for distribution. Ms. Bennett noted that the proposed rules have been heard by several local business organizations such as the Lihue Business Association, and that it was a very good presentation of Kauai.

Ms. Bennett made a motion to send the proposed rules to public hearing. Ms. Kimura seconded the motion, and the Board members unanimously agreed.

B. Proposed HAR Title 18 Chapter 231 Administration of Taxes (Department of Taxation (DoTax))

Mr. Borge explained that these rules are "temporary" rules, which have lapsed; therefore, this proposal is to request that the rules become permanent. There are two additional amendments being proposed to clarify the processes of issuing a "cease and desist" citation 1) for failure to keep and produce adequate books and records, and 2) for failure to record transactions. The amendments also remove the abatement section of the law and will clarify when a fine is commensurate with a violation.

Ms. Alicia Burnham, Supervisor of DoTax's Special Enforcement division, stated that it is important that everyone is on the "same playing field" in regards to knowing what processes are required in order to pay business taxes. She distributed a "special enforcement" summary relating to paying one's fair share of taxes. Also distributed was a document entitled, "*Does your Business Involve "Cash" Transactions,*" which is translated into several different languages. It was noted that this is DoTax's attempt at helping the small business owner to be in compliance with the State tax laws.

Temporary Chair Shubert-Kwock stated that although the rules are fair, due to cultural barriers, the processing of the forms should be more user-friendly to assist the vendors. Mr.

Lum concurred, and noted that if DoTax was more proactive and accessible to provide informal instructions, it might help to avoid misunderstandings, and in return, generate more income for the State. Ms. Burnham stated that tax information packets are no longer available or provided, and although there is an online website, many of the vendors do not have internet accessibility. However, when a business owner goes into the tax office, a DoTax representative will sit down with them and instruct them on how to sign up online.

Ms. Mullens noted that the fines appear quite large, questioned whether DoTax offered a repayment plan and, if not, what would be the consequences to the vendors. In response, Ms. Burnham stated that the first time someone is not in compliance they are given a warning in order to allow them the opportunity to comply. The second time they are fined \$500, and the third time they are cited, the fine is \$1,000.

Mr. Borge made a motion to proceed to public hearing. Temporary Chair Shubert-Kwock seconded the motion, and the Board members unanimously agreed.

VI. LEGISLATIVE MATTERS - UPDATE

1. Governor's Message No. 526, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Anthony Borge, for a term to expire June 30, 2015

Temporary Chair Shubert-Kwock explained that all of the Governor's Messages for this board were approved. Specifically, she stated that this measure was recommended by the Committee on Economic Development, Government Operations and Housing "to advise and consent to the nomination." Mr. Borge reminded the members that they are not fully approved until their nominations are ratified by the Senate.

In regards to funding this Board, Mr. Lum noted for the record that while the legislators receive a salary, some acknowledgement should be made to provide board members with bottles of water, coffee, or items of that nature. Ms. Evans explained that even if this Board had a budget, it would be subject to the Department of Accounting and General Services' rules of procurement and expenditures.

2. Governor's Message No. 527, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Barbara Bennett, for a term to expire June 30, 2014

This measure was recommended by the Committee on Economic Development, Government Operations and Housing to advise and consent to the nomination.

3. Governor's Message No. 528, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Chu Lan Shubert-Kwock, for a term to expire June 30, 2016

This measure was recommended by the Committee on Economic Development, Government Operations and Housing to advise and consent to the nomination.

4. Governor's Message No. 529, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Howard Lum, for a term to expire June 30, 2014

This measure was recommended by the Committee on Economic Development, Government Operations and Housing to advise and consent to the nomination.

5. Governor's Message No. 530, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Kyoko Kimura, for a term to expire June 30, 2016

This measure was recommended by the Committee on Economic Development, Government Operations and Housing to advise and consent to the nomination.

6. Governor's Message No. 531, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Leslie Mullens, for a term to expire June 30, 2015

This measure was recommended by the Committee on Economic Development, Government Operations and Housing to advise and consent to the nomination.

VII. Administrative Matters

- A. Election of a Board Chair; pursuant to Section 201M-5(d), and Election of Vice Chair and Second Vice Chair

Ms. Kimura recommended that the election of a board chair be deferred until there is a full board; the board members agreed.

In addition to the statutory requirement for two more members, it was noted that one of the members is to come from the Big Island. Mr. Borge offered to contact the Big Island Chamber of Commerce and some of his Big Island customers for potential board members. Temporary Chair Shubert-Kwock noted that having a member to represent the agricultural industry is very important. Ms. Bennett will contact past board member, Mr. David De Luz, Jr., for assistance in any recommendations from the Big Island.

- B. Leslie Mullens to facilitate discussions on: 1) Meeting etiquette; 2) Guiding principles and values as an advisory; and 3) Questions to consider in decision-making

Ms. Mullens apologized and stated that she has to defer this agenda item until the next meeting because she had a "last minute" that she has to do by 11:30 a.m. today. Therefore, this agenda item is deferred until the next board meeting.

VIII. ADJOURNMENT – Ms. Bennett made a motion to adjourn the meeting at 10:40 a.m. Mr. Borge seconded the motion, and the Board members unanimously agreed.

IX. NEXT MEETING – Scheduled for 9:30 a.m., Wednesday, April 17, 2013, Conference Room 436, 250 South Hotel Street, Honolulu, HI.