

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

June 24, 2015

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

- I. **CALL TO ORDER:** Chair Borge called the meeting to order at 9:30 a.m. with a quorum present.

MEMBERS PRESENT:

- Anthony Borge
- Kyoko Kimura
- Robert Cundiff
- Nancy Atmospera-Walch
- Phillip Kasper
- Garth Yamanaka
- Mark Ritchie

ABSENT MEMBERS:

- Harris Nakamoto
- Barbara Bennett

STAFF: DBEDT
Dori Palcovich

Office of the Attorney General
Margaret Ahn

II. APPROVAL OF MAY 20, 2015 MINUTES

Mr. Cundiff made a motion to accept the May 20, 2015 minutes, as amended. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

III. NEW BUSINESS

- A. Discussion and Action on Proposed Amendments to HAR, Title 3, Chapter 70, Rules of the Stadium Authority, promulgated by the Department of Accounting and General Services

Chair Borge introduced Mr. Scott Chan, Manager of the Aloha Stadium, who explained that the proposed amendments are the result of Aloha Stadium facing increased costs and repairs as the facility ages. He noted that 1,100 stalls were eliminated due to construction of the Stadium's infrastructure and property. The last increase in the rental charges was five years ago; the proposed rents incorporate both outside (i.e., parking lot), and inside the Stadium.

The total estimated amount the stadium expects to collect from the increased rent will depend on the number of events held at the facility. Based only on the UH football games, parking revenues are expected to increase by approximately fifty percent; these funds will be used towards operations, repairs, and maintenance of the facility;

the rent increases do not pertain to the swap meets. Overall, the increase is considered reasonable compared to comparable venues.

Mr. Chan also stated that the Stadium is more than “UH football;” it is viewed as a “gathering place.” He noted that UH is no longer charged a rental fee for use of the Stadium, but only the ushers’ pay and the electricity are charged to UH when hosting games; the high schools are also not charged by the Stadium. He discussed the demand versus vacancy rates and stated that he would like to see an increase in demand as 1.8 million visitors come to Pearl Harbor.

Mr. Charles Toguchi, Chair of the Aloha Stadium Authority, explained that, like the members of this Board, he is a volunteer and makes decisions for the Stadium. The Stadium’s operation is self-funded; thus, no general funds come from the legislature. Only funds for CIP projects are provided by the legislature, which is coordinated with DAGS. He reiterated that the Stadium Authority is currently struggling with the Stadium’s age, which is 40 years old, and that the Stadium is more than a UH get-together. Chair Borge agreed that the proposed fee increases are not unreasonable, particularly when the fees are the only source of revenue.

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

B. Discussion and Action on Proposed New Chapter 7A, Pertaining to the Housing Policy for the County of Kauai, under the Kauai County Code, promulgated by the Kauai County Housing Agency

Chair Borge explained that the proposed rule will be used to implement Chapter 7A, which establishes workforce housing requirements for residential and resort developments. Under this chapter, a developer would be required to commit a percentage of their residential or resort development to workforce housing, thereby, benefiting the overall housing inventory for Kauai. Fees that are collected under Chapter 7A are designated for the development of affordable housing for Kauai.

Ms. Kanani Fu, Assistant to the Director of the Kauai County Housing Agency, clarified that Ordinance 806 established Chapter 7A of the County Code, which is intended to clarify “gray” areas in the law. In regards to the impact on small business, “contractors” would likely fall under the category of businesses with fewer than 100 employees; the rules would apply to resort development if it goes over ten units.

Ms. Fu stated that the County opened up discussion for public commentary on the rules with the potential impacted business prior to public hearing. Also, the Kauai Chamber of Commerce disseminated the proposed Chapter 7A to its members, which include Kauai realtors, contractor associations and other business organizations. It was noted that if the resort projects exceed ten (10) units, an independent, economic analysis is required. Public hearing is scheduled for July 21, 2015.

Mr. Cundiff made a motion to support the new rule to go to public hearing. Mr. Yamanaka seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Proposed Amendments to Rules and Regulations of the Liquor Commission of the Department of Liquor Control at the County of Hawaii, Part I through VI, promulgated by the Hawaii County Department of Liquor Commission

Discussion leader, Mr. Garth Yamanaka, thanked Mr. Gerald Takase, Director of Hawaii County Department of Liquor Control, for attending the meeting and noted that the last time the rules were amended was in 2006; the purpose of the amendments is mostly for updating to comply with the law and housekeeping measures.

Mr. Takase confirmed that the rules are intended to update the language and to add some of the practices developed with the licensees. Prior meetings were held with the licensees, which were made up of retailers, dispensers, restaurants, and others that resulted in the culmination of the proposed amendments. Any impact to small business would likely be construed as positive, with the exception of the fee increase to caterers. Caterers are a separate and distinct class whose proposed fee has been increased from \$120 to \$600 per annum; however, the increase will be in-line with other similar licensees, and it is expected that the amendments will make it easier for caterers to do business.

In response to a question regarding condominium hotels, Mr. Takase explained that condominium hotel licensing was passed by the legislature two to three years ago. However, the only known condominium hotel is Ala Moana Hotel, which not only operates as a hotel but also has private owners owning individual units; the County of Hawaii is merely adopting this classification.

Mr. Yamanaka made a motion to support the proposed rule amendments to proceed to public hearing. Ms. Atmospera-Walch seconded the motion, and the Board members unanimously agreed.

IV. ADMINISTRATIVE MATTERS

A. Discussion and Action to Appoint Board Members for “Discussion Leader” Assignments for the State Departments and Counties Administrative Rule Review

Board members were assigned as discussion leader for the following agencies:

- **Chair Borge** – Office of the Governor, Department of Accounting & General Services, Department of the Attorney General
- **Vice Chair Nakamoto** – Department of Health, Department of Human Resources Development, Department of Human Services
- **Second Vice Chair Bennett** – Public Utilities Commission
- **Ms. Kimura** – Department of Commerce & Consumer Affairs, Department of Labor & Industrial Relations, Department of Transportation
- **Ms. Atmospera-Walch** – Back-up for Department of Health, Back-up for Department of Human Services
- **Mr. Robert Cundiff** – Department of Agriculture, Department of Hawaiian Home Lands, Department of Public Safety

- **Mr. Phillip Kasper** – Department of Budget & Finance, Department of Defense, University of Hawaii
- **Mr. Garth Yamanaka** – Office of the Lieutenant Governor, Department of Education, Department of Taxation
- **Mr. Mark Ritchie** – Department of Business, Economic Development & Tourism, Department of Land and Natural Resources

Chair Borge noted that the newly elected officers and new members of this Board were announced in the online *Public Business News*, “People on the Move.”

Mr. Kasper mentioned that while researching the Forbes website, he found under “business friendly states,” that Hawaii ranks 50 out of 50 states in both the “regulatory environment” and the “expense of doing business” categories. Because he does not believe that all the Hawaii State legislators are aware of these rankings, he is personally on a mission to try to bring the message that there are enough rules and regulations and that Hawaii needs to promote growth in small business by having less rules, regulations, and taxes in order to create a better environment in Hawaii. Chair Borge concurred, stating that the more the Board members can do to educate the legislators within the members’ respective districts, the better it would be to help generate growth in the economy.

- V. NEXT MEETING** – The next meeting is scheduled for Wednesday, July 15, 2015, in Conference Room 436, 250 South Hotel Street, Honolulu, Hawaii, at 9:30 p.m.
- VI. ADJOURNMENT** – Ms. Kyoko made a motion to adjourn the meeting and Mr. Ritchie seconded the motion; the meeting adjourned at 11:25 a.m.