

September 23rd, 2009 - Minutes of Regulatory Fairness Board Meeting

Present: Eliot Stanley, Linda Snyder, Ed Phillips, Van Perry. SPO Staff present: Thomas Merrill.

10:09am – Stanley calls meeting to order with quorum of Phillips, Perry, and Snyder.

Start off with any particular comments to the agenda that has been distributed: no concerns = approved

Look at minutes from previous meeting. Stanley: concern of reporting schedule with the fact that the group was organized July 31st, yet tasked with issuing reports by Feb. 15th – instead of rushing to do a year's worth of work, try to do an interim report stating that we are working on certain things, with a schedule of hearings. Previously, reports have been filed explaining that there have been no meetings, and to "consider this a report". So, no extreme rush to hold hearings this fall. Helpful for today to set order of goals for things to do.

Snyder agrees that no need to cram everything into 3 months.

Phillips suggests John Doyle, lawyer in town who used to attend meetings, could advise on administrative practices act. There are problems with one group providing discipline on another group.

Snyder says RFB is advisory board, but Phillips says the RFB could draft legislation that could be adopted by a legislator.

Stanley proposes we invite Doyle for this afternoon's meeting, if not, invite for a time in the future.

Snyder moves to accept meeting minutes from last meeting, Stanley seconds, all in attendance in favor of acceptance.

Three meetings required per year, these direct courses of actions for the Board. Hearings are separate, and even if only one member can preside, once the hearing is announced to the public, it must be held.

Concern about missing matters of business from previous meetings. Had spent time looking for matters of regulatory activity, thought we were gathering a substantial file of information, but has not come forward to present staff in a form that is usable by us in some review capacity. Material is fragmentary, paper notes and spotty electronic files.

We may even want to ventilate issues to agencies on the federal level where there is an effect on Maine business.

Snyder asks, are we chasing issues, or waiting for people to bring them to us? Stanley explains that many don't know of our existence. We read something in the newspaper, we should look into it. Our jurisdiction is flexible enough that even a federal agency, like SBA, would have an interest in RFB work. RFB is not stopped from looking at adverse impacts of federal regulation. In broader sense, should be interested in viability of the State. Phillips recalls that RFB should be proactive.

Snyder says it is critical to have guidance for proactivity for a charter, defining our purview, or else the RFB may run wild on tasks.

Perry says many people go directly to chair of BRED that may not be big enough to go to bill, but may be within the bounds of RFB – should establish a relationship with BRED to exchange information like this. Stanley asks what can BRED recommend/suggest for RFB. Phillips says BRED does not have time to research many issues, but RFB can look into the issues that affect Maine business workers.

Stanley says: Consider the costs, threshold problems, of starting a business in the state.

Snyder says: Consider state fire Marshall's office, which Snyder says uses federal guidelines which prevent uses of Maine businesses that could otherwise be used.

Perry: Address commonality of building codes – every municipality has different building codes.

Stanley – local zoning and planning boards have much to do with problems/process of starting a business. Does RFB have the authority to address small business issues on the local scale? Perry says many local rules are based on state guidelines that direct the local ordinances. Local can, however, be more restrictive than the state. How difficult is it for small business to get started and survive, and what are we doing from the state-> local level that impedes that.

Members of the old RFB will look for older information. Useful to find old files from former staffer Joyce Benson's files as well which have been fragmented.

Stanley: let us move forward to begin discussion with Cathy Renault, DECD to talk about composites and other issues that DECD may have to address.

DECD is working on a project, aligned with RFB: BRED passed 1176 that asked DECD to look at specific industry cluster and identify regulatory barriers, but no resources to do so, so otherwise cursory review. The work was done over the summer by a college intern. Seven targeted tech sectors exist, and DECD decided to look at composites & advanced materials sector. There has been much Maine investment throughout the years, including through UMaine with renewable engine wind turbines, and DOL grant to Maine (Northstar alliance) for workforce training in composites area. It would be a shame if there were regulatory barriers in the way of these advances. Ship/boat building, wind energy work, tidal energy work – composites has its fingers in many areas of Maine. DECD asked to form working group to receive input. Many members of the sector had already planned meeting, so piggy-backed. Intern met with eleven folks in the sector, mostly CEOs, business owners, trade associations – to ask for issues that could be brought to attention. No results is still considered a result – could not get any specific complaints or specifics holding the sector back in Maine. Discussed with BRED – this is common that many people raise their hands with issues, but when pressed, they either lack credibility or lack specifics. No desire to press results from composite, as there are likely issues in other sectors. Stanley asked if the interviewees were reluctant to report, but Renault assured that cooperation was not an issue.

Renault would like RFB to consider aquaculture. Sebastian Bell, Maine Aquaculture Association, just completed year-long strategic planning with regulatory issues. Retail sector, convenience stores, feel they have excessive permitting regulations.

Perry asks about environmental issues in the composites/renewable energy sector. Renault mentions synching with Feds as most of this is federal regulation. Also mentioned was the recent trade mission to Europe to bring in construction operation to build on our resource chain. There is an issue of accessibility with agency requirements, and it is difficult for business to know what is required of them. Other states can be models for how to publish/make accessible information needed for businesses to follow regulation.

Renault suggests that some problems are more taxed-based than regulatory based. Taxes can be difficult to navigate, and change frequently.

Perry: Does Matt Jacobson, Maine & company, have resources for attracting business to Maine help find regulatory and tax information? RFB would like to ask how does he approach the business community that is trying to move to Maine, or that Maine is trying to attract, and what is he finding from businesses that have been able to move to Maine?

Stanley asks, if Composites is not the sector to look into, what are the others in the group of 7 that would be beneficial:

- IT: mostly tax issues
- Biotech: largely federally regulated
- Composites and advanced materials: no specific regulatory complaints
- Precision manufacturing: very broad, hard to specify

- Environmental and energy: mostly consultants, so not particularly regulations
- Aquaculture: leadership in this sector already doing work
- Forestry and agriculture: mostly well-documented environmental issues.

Snyder is looking back at composites: if we have people who cannot identify problems, problems are not going away. We should stick with what has already been identified.

Stanley asks Snyder, what can be done differently to find issues from industries who are having a hard time identifying specifics: issues should be discussed with experienced people who understand the issues. Perhaps as college intern cannot ask the right questions of an industry representative while somebody with more experience could.

Stanley: Perhaps reps would not like to speak in public, so individual RFB members could go meet with them.

Snyder: It's not that they do not wish to discuss, it's that they need assistance in defining issues.

Stanley: Have two members report on findings from a fact-finding subcommittee interviewing composites representatives by the middle of December for a meeting at which we could contribute to DECD's composites report.

Renault continues: Composites is regulated by clean air, but most regulation is generic – permitting, site, local ordinances.

Stanley: Aquaculture may be well enough equipped to handle their own, so RFB should continue the DECD study to see if composites needs help that was not identified earlier. Transportation and related would need expenses covered – will this be approved through sub-committee from the same RFB budget? Snyder will be in charge of this, and Perry will assist when available. It makes sense to work on composites in this short session, RFB's own identified sector of need, despite Renault's suggestion to steer towards aquaculture.

Stanley starts a discussion of the trade mission to Spain to encourage wind power growth in Maine. Portland Press Herald article says Spain's use of wind is a success story with 11% electricity from wind. Spain's regulatory system was credited with encouraging stability and predictability of the industry.

Snyder suggests that arguments against wind are health/environmental, and view. Are there more? We have to make decisions if we want wireless and instant access, etc, and so these arguments are less about regulation.

Snyder suggests writing articles that would be passed through the media, after collaboration with all board members. Present members discuss their openness to members of the business community who have issues they would like heard.

Stanley: Would RFB like to be contacted personally on these issues? Email is an appropriate method of contact, and members responsible for certain areas. We can make a "fan page" on Facebook, but should also mirror content on the SPO-RFB web pages.

11:56am: Stanley suggests adjourn until 1:30pm.

1:35pm: reconvene: Stanley asks for any more comments concerning fundamental challenges of RFB.

Phillips asks if RFB has any more obligations to help DECD with the composites sector report that they have put together per LD1176, but RFB is not responsible for any more than what DECD asks.

Stanley proposes next meeting to occur the middle of December, and to hear from the members who are involved with collecting more data on composites.

Phillips suggests that before we plan for walk-in hearings, we need start working with Chambers, etc to build interest.

Stanley proposes a general regulatory hearing half-day meeting in the BRED hearing committee room, either in the morning or afternoon with the RFB meeting during the remaining half of the day. Merrill will pursue a date during the week of December 14th when the room is available, and then RFB will seek outlets for publicity and raising interest.

List of people to invite to come as a witness, or simply as an advisor to the committee:

- John Doyle, Doyle and Nelson
- Matt Jacobson, Maine & Company
- Lisa Martin, Manufacturer's Association of Maine
- Steve Von Vogt, Maine Composites
- Janine Cary or Wade Merritt, MITC

What will the cost of having the tapes transcribed from previous meetings?

Merrill will need to look into the vendor numbers for the RFB members for reimbursements.

2:30: Nancy Smith, co-chair BRED, address RFB.

Stanley asks Smith for ideas for RFB roles that would be supportive or productive. Phillips suggests that RFB needs to set a course of action.

Smith: history of RFB: business owners are more comfortable talking with business owners than legislators. Hope for creation and empowering of this group is for a more consistent way of dealing with constituent requests – should be a conduit from business committee to BRED committee. In the past, RFB has been in a reactive mode, leading to a narrow focus. RFB will hear complaints from businesses, but no specifics. Business community deserves consistent regulatory environment, and it is frustrating and counterproductive when rules change mid-way. Community doesn't mind regulations if they're clear and with a purpose, but redundancies are unwelcome. Improvements have been made to make regulatory environment more bearable, but BRED hopes RFB is in a position to hear more examples of how to streamline. RFB needs broad enough advertising for a broad range of business representation. The more RFB brings to BRED, the more BRED can do.

Business programs benefit small businesses more than big businesses. When there are cuts in programs (which is inevitable for this upcoming session), BRED needs to know where cuts should occur in programs to maintain maximum benefit. There is a need to hear from small businesses from their broad range. Anything that RFB can provide from the members' own experience, and from what they hear, will be essential to the BRED committee this session. Businesses need to be heard, and RFB needs to document their testimonies, even if the issues are outside the scope of state regulation.

There is currently an inventory, 2006 OPEGA report, but it has errors, does not provide all the answers. This is an unbiased source, but not a complete source.

RFB discussion: Startups, growth from recruiting, or growth from within: where to focus?

Concerning MITC: Invite somebody from MITC to come talk to RFB. There are many small businesses involved in international trade, but almost all of international trade is by one large company, suggests Stanley. Small businesses benefit more from the programs than the big businesses, so how should MITC, for example, direct its resources?

Stanley asks Smith about composites: Composites is one of the great successes that we've got with UMaine composites lab, boat building successes, and innovation going on. Linda Snyder will try to enlist Mike Meisner, RFB, in a project reviewing composites industry members identifying regulatory challenges of the industry.

Phillips asks Smith why the Office of Administrative Law Judges legislation was not adopted. Smith will bring it to cloture.

Perry: interested in redundancy. If FAME and DECD have two different programs that do that same thing, why can't they combine? RFB should ask the business owners which programs are important to you and which ones are not.

3:32: motion to adjourn approved unanimously.

Summary:

- Approval of previous meeting's minutes.
- Agreement to plan on interim report for February report deadline with plan for in-depth report later in the year.
- Discussed administrative practices act, John Doyle, and legislative proposal on regulatory policing.
- Discussed whether RFB should be hearing complaints or actively seeking issues and RFB's role in non-state regulatory concerns (local, federal, environmental, etc)
- Cathy Renault, DECD, joins the meeting to discuss DECD's composites sector report and potential areas of study and provides list of knowledgeable business community members for further RFB study.
- Plan for next meeting in middle of December with half-day hearing – RFB members will invite representatives from chambers of commerce and other business-oriented organizations to present statements/testimony for RFB consideration. Acknowledgement that a successful hearing needs to be well-advertised to encourage more public attendees.
- Linda Snyder will undertake in the period between the 9-23 meeting and the mid-Dec meeting a project to interview a number of the composites sector representatives that DECD had identified. Linda will be assisted in this project by Van Perry, and possibly Mike Meisner once Linda can contact him
- Rep. Nancy Smith, Co-Chair BRED, joins meeting to discuss RFB direction and involvement with BRED. Smith explains that the more issues and concerns heard by RFB, the better equipped BRED will be to make decisions regarding inevitable budget cuts this session.