

BARNWELL INDUSTRIES INC
Form DEF 14A
January 20, 2005

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

Barnwell Industries, Inc.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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- No fee required.
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 - (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
 - (4) Proposed maximum aggregate value of transaction:
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- Fee paid previously with preliminary materials.
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 - (3) Filing Party:
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BARNWELL INDUSTRIES, INC.

Notice of Annual Meeting of Stockholders

To the Stockholders of

BARNWELL INDUSTRIES, INC.:

NOTICE IS HEREBY GIVEN that the Annual Meeting of Stockholders of BARNWELL INDUSTRIES, INC., a Delaware corporation, will be held on March 7, 2005, at 9:30 a.m., Central Standard Time, at the Clarion Shreveport Hotel, 1419 East 70th Street, Shreveport, Louisiana, for the purpose of considering and acting upon:

- (1) The election of a Board of Directors to serve until the next Annual Meeting of Stockholders and until their successors shall have been elected and qualified; and
- (2) Any and all other business which may properly come before the meeting or any adjournment thereof.

Only stockholders of record at the close of business on January 10, 2005, are entitled to notice of and to vote at this meeting or any adjournment thereof. The Company's Annual Report to Stockholders for the fiscal year ended September 30, 2004, which includes consolidated financial statements, is enclosed herewith.

We will be pleased to have you attend the meeting. However, if you are unable to do so, please sign and return the accompanying Proxy in the enclosed addressed envelope.

By Order of the Board of Directors,

/s/ Russell M. Gifford
RUSSELL M. GIFFORD
Secretary

Dated: January 20, 2005

BARNWELL INDUSTRIES, INC.

1100 ALAKEA STREET, SUITE 2900

HONOLULU, HAWAII 96813

PROXY STATEMENT

SOLICITATION AND REVOCATION OF PROXIES

The following information is furnished in connection with the Annual Meeting of Stockholders of Barnwell Industries, Inc., a Delaware corporation (the Company), to be held on March 7, 2005 at 9:30 a.m., Central Standard Time, at the Clarion Shreveport Hotel, 1419 East 70 Street, Shreveport, Louisiana.

The accompanying Proxy is solicited by the Board of Directors of the Company, and the Company will bear the cost of such solicitation. Solicitation of proxies will be primarily by mail. Proxies may also be solicited by regular employees of the Company by telephone at a nominal cost. Brokerage houses and other custodians, nominees and fiduciaries will be requested to forward soliciting material to the beneficial owners of Common Stock (as defined below) and will be reimbursed for their expenses. All properly executed proxies will be voted as instructed.

Stockholders who execute proxies may revoke them by delivering subsequently dated proxies or by giving written notice of revocation to the Secretary of the Company at any time before such proxies are voted. No proxy will be voted if the stockholder attends the meeting and elects to vote in person.

This Proxy Statement and the accompanying Form of Proxy are first being sent to stockholders on or about January 20, 2005.

VOTING AT THE MEETING

Only stockholders of record at the close of business on January 10, 2005 (the Record Date) will be entitled to vote at the annual meeting and any adjournment thereof. As of the Record Date, 1,356,510 shares of common stock, par value \$0.50, of the Company (the Common Stock) were issued and outstanding. Each share of Common Stock outstanding as of the Record Date is entitled to one vote on any proposal presented at the meeting. With respect to abstentions, the shares will be considered present at the meeting for a particular proposal, but since they are not affirmative votes for the proposal, they will have the same effect as a vote withheld on the election of directors or a vote against such other proposal, as the case may be. Brokers and nominees may be precluded from exercising their voting discretion with respect to certain matters to be acted upon, other than the election of directors. Thus, if you do not give your broker or nominee specific instructions, your shares may not be

voted on these matters. Shares represented by such broker nonvotes will, however, be counted for purposes of determining whether there is a quorum.

ELECTION OF DIRECTORS

At the meeting all ten directors of the Company are proposed to be elected, each elected director to hold office until the next annual meeting and until his successor is duly elected and qualified. The persons named as proxies in the enclosed Proxy are executive officers of the Company and, unless contrary instructions are given, they will vote the shares represented by the Proxy for the election to the Board of Directors of the persons named below. The election of directors will require a plurality of the votes cast at the meeting. The Board of Directors has no reason to believe that any of the nominees for director will be unable to serve; however, in the event any of the nominees should withdraw or otherwise become unavailable for reasons not presently known, the persons named as proxies may vote for other persons in place of such nominees.

DIRECTORS AND NOMINEES TO THE BOARD OF DIRECTORS

The following table sets forth, as to the directors and nominees for election: (1) such person's name; (2) the year in which such person was first elected a director of the Company; (3) such person's age; (4) all positions and offices with the Company held by such person; (5) the business experience of such person during the past five years; and (6) certain other directorships, if any, held by such person.

Name	Director Since	Age	All other Present Positions with the Company and Principal Occupations
Morton H. Kinzler	1956	79	Chairman of the Board of the Company since 1980, President from 1971 to December 2002 and Chief Executive Officer since 1971. Mr. Kinzler is the father of Alexander C. Kinzler, President, Chief Operating Officer, General Counsel and Director of the Company.
Alan D. Hunter(1)	1977	67	Partner, Code Hunter LLP, Calgary, Alberta (attorneys) since December 1, 2001; Partner, Gowling LaFleur Henderson LLP, Calgary, Alberta (attorneys) from July 1, 2000 to November 30, 2001; Partner, Gowling, Strathy & Henderson, Calgary, Alberta (attorneys) from January 1, 2000 to June 30, 2000; Gowling, Strathy & Henderson merged with LaFleur Brown effective July 1, 2000.
Erik Hazelhoff-Roelfzema(1)	1977	87	Investor
Martin Anderson(1)	1985	81	Partner, Goodsell Anderson Quinn & Stifel LLP, Honolulu, Hawaii (attorneys); Trustee, Hawaii Pacific University; Director, Bishop Street Funds; Trustee, Oceanic Institute (scientific research facility).
Murray C. Gardner, Ph.D.(1)	1996	72	Independent consultant and investor
Alexander C. Kinzler	1999	46	President and Chief Operating Officer of the Company since December 2002. General Counsel of the Company since December 2001 and Executive Vice President from December 1997 to December 2002. Mr. Kinzler is the son of Morton H. Kinzler, Chief Executive Officer and Chairman of the Board of Directors of the Company.
Terry Johnston	2000	63	Investor
Russell M. Gifford	2003	50	Secretary of the Company since December 2002. Executive Vice President since December 1997, Treasurer since November 1986 and Chief Financial Officer since August 1985.
Diane G. Kranz(1)	2003	64	Senior Partner, Kranz & Co., LLP (certified public accountants), since 1970.
Kevin K. Takata(1)	2004	48	Deputy Prosecuting Attorney, City and County of Honolulu since 1987; Trials Division Chief since 1997.

The Board of Directors has a standing Compensation Committee, a standing Audit Committee, and a standing Executive Committee. It has no standing nominating committee and there is no nominating committee charter. The Board of Directors believes that it is appropriate for the Company not to have a nominating committee because a majority of the Board of Directors is currently independent, and, therefore, a nominating committee is not required to keep the nomination process independent. Potential nominees are recommended by members of the Board of Directors and each director on the Board of Directors participates in the consideration of all director nominees. If a stockholder wishes to recommend a nominee for director, he or she should follow the

(1) This director is independent as defined in Section 121(A) of the American Stock Exchange listing standards.

same process as when sending communications to the Board of Directors, as described on the following page. Such nominations must be received no later than the required date for receiving stockholder proposals as discussed on page 9 of this Proxy Statement under Stockholder Proposals .

The members of the Compensation Committee are Mr. Hunter, Chairman, and Messrs. Anderson, Gardner, Johnston and Morton Kinzler, with Mr. Morton Kinzler being a non-voting member. However, Mr. Morton Kinzler is not present for deliberations or voting on his compensation. The Compensation Committee (i) determines the annual compensation of the Company's senior officers; (ii) recommends, if appropriate, new employee benefit plans to the Board of Directors; (iii) administers all employee benefit plans and (iv) makes determinations in connection therewith as may be necessary or advisable. During the fiscal year ended September 30, 2004, the Compensation Committee held one meeting.

The members of the Audit Committee are Ms. Kranz, Chairperson, and Messrs. Gardner, Anderson and Hunter. All of the members of the Audit Committee are independent (as independence is defined in Section 121 (A) of the American Stock Exchange listing standards). The Board of Directors has determined that the Audit Committee has at least one financial expert (as financial expert is defined in Item 401(e) of Regulation S-B), namely Ms. Kranz, who is a financial expert based on her being a certified public accountant, as well as independent. The Board of Directors has adopted a written charter for the Audit Committee. The Audit Committee reviews the services of the independent accountants employed by the Company to audit the consolidated financial statements of the Company. The Audit Committee reviews periodically major issues regarding accounting and auditing principles and practices, the adequacy of internal controls that could affect the consolidated financial statements as well as all related party transactions and potential conflict of interest situations. During the fiscal year ended September 30, 2004, the Audit Committee held five meetings.

The Board of Directors has a process for stockholders to send communications to the Board of Directors. Stockholders may send any communication to the Board of Directors, as a whole, or individually, by mail to the Company's address listed on page one of the Proxy Statement, to the attention of Russell M. Gifford, Secretary. All such communications will be forwarded to the Board of Directors or individual directors as appropriate. The Company strongly encourages its directors to attend the Annual Meeting. Two members of the Board of Directors attended the 2004 Annual Meeting of Stockholders of the Company.

REPORT OF THE AUDIT COMMITTEE

The Audit Committee has reviewed and discussed the audited consolidated financial statements with management, and the Audit Committee has discussed with KPMG LLP, the independent registered public accounting firm, the matters required to be discussed by Statement on Auditing Standards No. 61 (Codification of Statements on Auditing Standards, AU § 380), as such may be modified or supplemented. The Audit Committee has also received the written disclosures and the letter from KPMG LLP that are required by Independence Standards Board Standard No. 1 (Independence Standards Board Standard No. 1, Independence Discussions with Audit Committee) as may be modified or supplemented, and has discussed with KPMG LLP the independent registered public accounting firm's independence. Based upon its discussions with management and with KPMG LLP, the Audit Committee has recommended to the Board of Directors that the audited consolidated financial statements be included in the Company's Annual Report on Form 10-KSB for the fiscal year ended September 30, 2004.

Audit Fees

The aggregate fees billed to the Company by the Company's independent registered public accounting firm for professional services rendered by the independent registered public accounting firm for the audit of the annual financial statements included in the Company's Form 10-KSB and review of financial statements included in the Company's Form 10-QSBs or services to the Company in connection with statutory or regulatory filings or engagements for the fiscal year ended September 30, 2004 totaled \$179,100 and for the fiscal year ended September 30, 2003 totaled \$151,950.

Audit-Related Fees

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For the fiscal years ended September 30, 2004 and September 30, 2003 the Company's independent registered public accounting firm did not bill the Company for assurance and related services that are reasonably related to the performance of the audit or review of the Company's financial statements.

Tax Fees

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The aggregate fees billed to the Company by the Company's independent registered public accounting firm for tax compliance, tax advice and tax planning for the fiscal year ended September 30, 2004 totaled \$67,500 and for the fiscal year ended September 30, 2003 totaled \$68,800.

All Other Fees

For the fiscal years ended September 30, 2004 and September 30, 2003 the Company's independent registered public accounting firm did not bill the Company for other than Audit Fees and Tax Fees.

The Audit Committee believes that the provision of non-audit services during the 2004 fiscal year does not affect the accountants' ability to maintain independence with respect to the Company.

Pre-approval Policies and Procedures

The Audit Committee pre-approves any services provided to the Company by the independent registered public accounting firm through the following policies and procedures: (1) the Audit Committee reviews with the Company's independent registered public accounting firm its audit plan and report thereon, including estimated Audit Fees, Audit-Related Fees, Tax Fees and Other Fees; (2) upon review of such audit plan and estimated fees, the Audit Committee may pre-approve the provision of such products and services and the payment therefor; and (3) at subsequent meetings of the Audit Committee, the Committee reviews the status of the provision of all products and services from the Company's independent registered public accounting firm to the Company and payment therefor, and may pre-approve the provision of additional products and services as necessary.

Audit Committee

Diane G. Kranz, Chairperson

Murray C. Gardner

Martin Anderson

Alan D. Hunter

The members of the Executive Committee are Mr. Morton Kinzler, Chairman, and Messrs. Anderson, Hazelhoff-Roelfzema, Gardner and Alexander Kinzler. The Executive Committee is empowered to exercise all of the authority of the Board of Directors, except for certain items enumerated in the Company's By-Laws. During the fiscal year ended September 30, 2004, the Executive Committee held three meetings.

The Board of Directors held two meetings during the fiscal year ended September 30, 2004. Except for Erik Hazelhoff-Roelfzema, who attended one Board meeting and two Executive Committee meetings, all directors attended at least 75% of the meetings of the Board of Directors and of the Committees of the Board on which each of them served. The independent directors met out of the presence of management during the fiscal year ended September 30, 2004.

EXECUTIVE OFFICERS OF THE COMPANY

The following table sets forth the names and ages of all executive officers of the Company, their positions and offices with the Company and the period during which each has served.

Name	Age	Position with the Company
Morton H. Kinzler	79	Chairman of the Board since 1980 and Chief Executive Officer since 1971. President from 1971 to December 2002.
Alexander C. Kinzler	46	President and Chief Operating Officer since December 2002 and General Counsel since December 2001. Executive Vice President from December 1997 to December 2002 and Secretary from November 1986 to December 2002. Director of the Company since December 1999.
Russell M. Gifford	50	Secretary since December 2002, Executive Vice President since December 1997, Treasurer since November 1986 and Chief Financial Officer since August 1985. Director of the Company since March 2003.
Warren D. Steckley	48	Vice President Canadian Operations since December 1998. President of Barnwell of Canada, Limited, a wholly owned subsidiary of the Company, since December 1998. Employed by Barnwell of Canada, Limited since June 1998.

EXECUTIVE COMPENSATION

Summary Compensation Table

The following summary compensation table sets forth the annual compensation paid or accrued during the last three fiscal years by the Company to the Chief Executive Officer and to executive officers whose annual compensation exceeded \$100,000 for the fiscal year ended September 30, 2004 (collectively the Named Executive Officers):