

**Report of the
Permitted Interaction Group
On Proposals Relating to
Transportation**

Members:

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TRANSPORTATION PERMITTED INTERACTION GROUP REPORT

Introduction

The Transportation permitted interaction group considered a number of proposals that came before the Charter Commission. Several proposals (#14, #47 and #92) called for the establishment of a single transit agency for bus, rail and Handi-Van, One proposal #10 suggested turning control and authority of the rail project from HART to the Mayor and City Council. Other transit-related proposals (#93, #94 and # 95) submitted did not address the governance structure for public transit on Oahu.

In addition to the proposals submitted by the October 31, 2015 deadline, there was public testimony and a major amendment by the City administration to its proposal 76 as announced by the Mayor in his 2016 State of the City address. The amended proposal 76A creates and establishes a single municipal public transportation entity to manage and be responsible for the operations and maintenance of the city's intermodal public transportation system, including but not limited to bus, paratransit and rail, which is placed within the Department of Transportation Services, and under the authority of the Managing Director, Mayor and City Council. The permitted interaction group used Proposal 76A and made further amendments following its research and investigation.

The permitted interaction group was responsible for researching and investigating issues related to the operations and maintenance of Honolulu's transportation system with particular attention to governance, oversight, social equity, and the integration of rail, bus and Hand-Van.

During our deliberations, we focused on these key issues:

- Social equity and access to ensure the fair and equitable treatment for those using bus, Handi-Van and rail.
- Finding the best governance structure, on behalf of both the taxpayers and riders, with sufficient oversight to control costs.
- The role of safeguards, in the system, including citizen involvement, and oversight by the Mayor, City Council and other City departments.
- The timing of structural and governance changes so that rail, bus and Handi-Van services can be properly and efficiently integrated through advanced planning and coordination. Governance and financing for public transportation are so closely inter-related that they must be addressed together.
- Leadership is critical to changes in public transportation governance.

The permitted interaction group convened seven times and met with representatives from DTS, Corporation Counsel and HART Board Chair Colleen Hanabusa. We also examined the operational structures used by other multi-modal transit systems, including the San Francisco Municipal Transportation Agency (SFMTA), Tri-County Metropolitan Transportation District of Oregon (TriMet) (Portland, Oregon) and the Bay Area Rapid Transit District (BART).

Findings

- The permitted interaction group finds there is a sense of urgency to make major modifications to both the HART governance structure and to the assignment of operations and maintenance duties and responsibilities. It is of particular importance that a window of opportunity now exists for significant governance change and we must capitalize on it to ensure that a smooth transition to operations and maintenance takes place.

- In addition, we find there is a need for clarity regarding the financing of operations and maintenance of the multi-modal transportation system. In particular, a coordinated fare (and transfer) structure system needs to be balanced with both the service levels possible and the subsidy levels, which are within the purview of the administration and City Council and not the semi-autonomous authority.
- Finally, we find that the HART governance structure is deficient in authorities granted to the Board for conducting its oversight responsibilities, and in part prevented from doing so by the current Charter language.

This report examines the permitted interaction group findings and makes recommendations for discussion and action by the Charter Commission.

I. Recommendation with regard to Operations & Maintenance

The permitted interaction group concludes and recommends that the preferred alternative for operations and maintenance of the rail system is to change from a special purpose transit authority (HART) and replace it with a municipal transit agency (Department of Transportation Services (DTS)) as set forth in an amended proposal #76A. A municipal agency is a common governance model in mid-sized urban areas like Honolulu. Under this amended proposal, HART will continue to be responsible for rail construction, while the operations and maintenance of rail, bus and Hand-Van are placed within DTS.

The reasons behind the recommended change in responsibilities include a combination of service coordination and funding challenges. It is widely agreed that the routing and service coordination of the multi-modal system needs to be as seamless as possible. DTS is in a better position to do so, since it already establishes service levels and routing for TheBus and Handi-Van. The transition section of the charter proposal addresses the transfer of positions

from HART to DTS, because DTS will need additional staffing to conduct this broadened role and responsibility.

One of the largest issues is establishing a coordinated fare structure. Since operations and maintenance will invariably require public subsidy, the authority to set fares must be lodged within the administration and City Council so this balancing can take place. The authority for setting rail fares needs to be removed from the public transit authority along with the removal of operations and maintenance duties.

We make note that the current contract between HART and Ansaldo allows for a five-year operations and maintenance period with two possible extensions. The intent of this charter proposal is that this portion of the contract would be transferred over to the City as soon as possible, with a recommendation that it occur on January 1, 2017.

By separating construction from operations and maintenance, we are encouraging sound financial management. HandiVan riders testified that they were concerned that their service levels would be diminished if priority were given to HART capital financial challenges. If that were to happen this would set off a social equity issue and possible violations of federal environmental justice requirements. The amended proposal 76 A creates a clear separation between the operating and capital budgets.

II. Non-fare revenues

Our recommendations include the need to seek revenues from real estate and making them available to help fund operations and maintenance and thereby lower the subsidy amount. DTS should have a key role in this endeavor. We believe DTS must aggressively pursue revenue-generating opportunities used by other transit organizations.

These include:

- Increasing ridership as a means to increase revenue. Ridership should be a key performance metric.
- Creating innovative partnerships with businesses and other organizations that will contribute to transit funding.
- Increasing its own-source revenue through advertising, concessions and parking in or adjacent to transit facilities.
- Maximizing federal reimbursement for paratransit operations.
- Selling or leasing city-owned surplus land, including air rights, for transit-oriented developments. This will provide revenue for the transit system, as well as increase property tax revenues through new jobs, housing and economic development.
- Locating new development projects near rail transit stations that will financially support rail service.

III. Recommendation to form a Rate Commission

Another proposed change is the establishment of a rate commission to set fares for all modes of public transit. This would be a seven-member commission appointed by the Mayor and City Council. It would annually review the fares and make recommendations to the DTS Director taking into consideration such factors as transportation equity, accessibility, sustainability, and effect on ridership. The Mayor would transmit the recommendations to the Council, with or without amendments. The Council would actually set the rate(s) taking into consideration the same factors.

Recommendations with regard to HART Governance

The loss of public confidence in HART and the rail project is a major concern. The problems at HART are in part structural and can be improved by specific changes to the

Charter. We believe the current governance structure within HART is ineffective because the Board is limited to policy and prohibited from involvement with the administrative responsibilities of its Executive Director.

This leads to inadequate oversight, lack of transparency even for Board members, and overall dysfunction. It inappropriately separates HART from accountability expected from elected officials until a crisis emerges such as a major cost over-run. In addition, decisions that impact funding and financial responsibilities are too far removed from elected decision-makers and taxpayers. The status quo, which has real and negative consequences for almost one million people who live and work on Oahu, cannot continue. The rail project requires additional oversight, along with a commitment to openness, new ideas, and real accountability.

To improve accountability within HART, we are recommending specific changes to several sections of the Revised Charter of the City and County of Honolulu, and in particular Section 17-103 3. (g), which pertains to powers, duties and functions of the HART Board of Directors. Currently, it reads in pertinent part as follows:

“(g) Except for purposes of inquiry or as otherwise provided in this article, neither the board nor its members shall interfere in anyway with the administrative affairs of the authority.”

This restricts the HART Board of Directors from exercising necessary oversight. The proposed language will give the Board of Directors the decision-making authority to stabilize and strengthen the finances, management and operations of HART.

Final Comments and Justification

The current situation with the rail project demonstrates the need for significant and immediate change so that the City and County of Honolulu can execute a sustained effort to transform its public transportation organization. An effective, integrated public transit system is

fundamental to the civic and economic well-being of Honolulu. This plan of action will be difficult, but the alternative is far worse: an increasingly unaffordable and ineffective transit system.

Under the proposed organizational structure, DTS will be able to coordinate bus, rail and Handi-Van services to the public. The objective is, the integration of car, car sharing, bicycle use, bicycle sharing, walking, public and private transit and paratransit modes by advancing seamless payment, information and connectivity. We are confident that DTS can achieve these objectives under proposal #76A, as amended.

Nothing short of bold and urgent action is required. Without real change now, we will lose the opportunity to achieve a reliable, well-managed, cost-effective, integrated public transportation system. Our goal is to achieve an urban transportation system that provides attractive transportation choices enabling people to get to the places they need to go – safely, efficiently and affordably, now and in the decades to come. This will improve the environment by easing traffic congestion, reducing air pollution – making Honolulu a better place to live.

Our city continues to grow, and as a community, we have a choice: Do we want to shape urban growth, or do we want urban growth to shape us? To shape urban growth we must invest in public transit. Honolulu deserves a reliable, well-managed, cost-effective public transportation system and Proposal 76A, as amended, offers a plan of action to pursue needed organizational and operational reforms to achieve this important goal and is a blueprint for action.

This new governance structure will meet the specific needs and characteristics of the City and County of Honolulu. We must improve the governance structure so that we can plan, operate and maintain a 21st-century public transportation system. Marginal changes to the governance structure of public transportation on Oahu will produce little or no meaningful

improvement for those who will ride the rail project and the taxpayers. HART will continue to struggle to meet its basic mission of building a rail system that will be an essential part of a reliable public transit system for the people of Oahu.

Finally, the permitted interaction group proposes that this set of recommendations be fully vetted during the Charter Public Outreach meetings.

CHARTER COMMISSION
PERMITTED INTERACTION GROUP FOR PUBLIC TRANSIT PROPOSALS
REVISED PROPOSAL 76A + NEW RATE COMMISSION (4-21-16 ver.)
(PIG Meeting Date: May 11, 2016; Draft Date: May 13, 2016)

REVISIONS TO ARTICLE VI, CHAPTER 17: DEPARTMENT OF TRANSPORTATION SERVICES

Section 6-1701. Organization --

There shall be a department of transportation services which shall consist of a director of transportation services, a rate commission, and necessary staff. The director of transportation services shall be the administrative head of the department.

Section 6-1703. Powers, Duties and Functions --

The director of transportation services shall:

- (a) Plan, operate and maintain the city's multimodal municipal transportation system in accordance with the general plan and development plans, and advise on the development thereof.
- (b) Locate, select, install and maintain traffic control facilities and devices.
- (c) Provide educational programs to promote traffic safety.
- (d) Promulgate rules and regulations pursuant to standards established by law.
- (e) Manage and maintain all commercial parking facilities except facilities that are attached or adjacent to a building or project managed by another city agency.
- (f) Enforce the collection of fares, fees, rates, tolls and other charges for use of any and all modes of the multimodal municipal transportation system and deposit those collections into the city treasury in a fund separate and apart from any other funds of the city.

REPEAL SECTIONS 6-1704 AND 6-1705 AND REPLACE WITH THE FOLLOWING:

Section 6-1704. Rate Commission --

1. There shall be a rate commission consisting of seven members appointed as follows:
 - (a) Three members shall be appointed by the mayor without necessity of council confirmation;
 - (b) Three members shall be appointed by the council; and
 - (c) One member shall be nominated and, upon council confirmation, appointed by the mayor. The member appointed pursuant to this paragraph shall be the chair of the rate commission.

Each member shall be a duly registered voter of the city.

2. Each member of the rate commission shall be appointed to a five-year term except that:
 - (a) Of the initial members appointed by the mayor without council confirmation, one shall be appointed to a two-year term, one shall be appointed to a three-year term, and one shall be appointed to a four-year term; and
 - (b) Of the initial members appointed by the council, one shall be appointed to a two-year term, one shall be appointed to a three-year term, and one shall be appointed to a four-year term.

The term of each member shall commence on July 1 and expire on June 30 of the applicable years. A member, however, may serve beyond the expiration date until a successor is appointed and qualified. The term of the successor, no matter when appointed, shall commence on the July 1 immediately following the June 30 expiration of the predecessor's term.

When a member leaves the rate commission by other than expiration of a term, a successor shall be appointed to serve the remainder of the unexpired term. The successor shall be appointed in the same manner as the predecessor.

The council may establish procedures by ordinance for the replacement of a member who cannot serve temporarily because of illness, incapacity, or absence.

No person shall serve on the rate commission for more than two consecutive full terms or more than ten consecutive years, whichever is greater.

3. A majority of the entire membership of the rate commission shall constitute a quorum.

The affirmative vote of a majority of the entire membership of the rate commission shall be necessary to take an action.

4. Section 13-103 of this charter shall not apply to the rate commission or its members.

Section 6-1705. Powers, Duties and Functions --

1. The rate commission shall:

(a) Adopt rules for the conduct of its business.

(b) When requested by the director of transportation services, or when otherwise deemed necessary and appropriate, but in no event less frequently than annually, review the fees, rates and charges for the use of any and all modes of the multimodal municipal transportation system. The rate commission shall recommend adjustments thereto, such that the revenues derived therefrom, in conjunction with any other revenues allocated to the multimodal municipal transportation system, shall be sufficient or as nearly sufficient as possible, to support the operation and maintenance of the multimodal municipal transportation system. In making recommendations on such rates, fees and charges, the rate commission may also consider factors such as transportation equity, accessibility, sustainability, availability, and effect on ridership.

(c) Submit an annual report to the director of transportation services, mayor and council.

The rate commission shall make the recommendations authorized under this subsection to the mayor, through the director of transportation services. The mayor will transmit the recommendations to council, with or without amendments. After receiving the recommendations from the mayor, the council shall fix and adjust reasonable rates and charges for the use of any and all modes of the multimodal municipal transportation system so that the revenues derived therefrom, in conjunction with any other revenues allocated to the multimodal municipal transportation system, shall be sufficient or as nearly sufficient as possible, to support the operations and maintenance of the multimodal municipal transportation system. In setting rates and charges, the council may also consider factors such as transportation equity, accessibility, sustainability, availability, and effect on ridership.

2. Except for purposes of inquiry, neither the rate commission nor its members shall interfere in any way with the administrative affairs of the department of transportation services or the authority.

REVISIONS TO ARTICLE XVII: PUBLIC TRANSIT AUTHORITY

Section 17-102. Definitions –

For the purposes of this article and Article VI:

“Authority” and “public transit authority” shall mean the governmental unit known as the “Honolulu Authority for Rapid Transportation.”

“Board” shall mean the policy-making body, consisting of ten members of the board of directors, nine voting members and one non-voting member.

“Develop” shall mean plan, design, develop and construct.

“Executive director” shall mean the executive director of the public transit authority.

“Fixed guideway system” shall mean the minimum operable segment approved by the city council and any extensions to the minimum operable segment approved by the mayor and the city council.

“Multimodal municipal transportation system” shall mean all public transportation systems of the city including, without limitation, bus, paratransit and fixed guideway systems and associated parking and other services.

Section 17-103. Powers, Duties, and Functions --

1. The public transit authority shall have authority to develop the fixed guideway system as provided in this article.

2. To perform its duties and functions, the transit authority shall have the following general powers:

(a) To make and execute contracts, project labor agreements and other instruments requiring execution by the authority on such terms as the authority may deem necessary and convenient or desirable with any person or entity in the execution and performance of its powers, duties and functions.

(b) To acquire by eminent domain, purchase, lease or otherwise, in the name of the city, all real property or any interest therein necessary for the development of the fixed guideway system; provided however that, prior to commencing such action, the authority shall submit to the council, in writing, a list of the parcels and areas to be acquired. The authority shall have the right to proceed with such condemnation action so long as the council does not adopt a resolution objecting to the condemnation within 45 days of such notification. Alternatively, after receipt of the notice from the authority, the council may approve, upon a single reading of a resolution, such acquisition by eminent domain.

(c) To recommend to the council the sale, exchange or transfer of real property or any interest therein which is under the control of the authority. The council shall take no action to dispose of such property without the written approval of the authority, and all proceeds from the disposition shall be deposited into the transit fund.

(d) To direct the development of the fixed guideway system.

(e) To maintain proper accounts in such manner as to show the true and complete financial status of the authority and the activities and performance thereof.

(f) To prepare an annual operating budget for the authority and an annual capital budget for the development of the fixed guideway system.

(g) To make and alter policies for its organization and internal administration.

(h) To create or abolish positions within the authority and establish a pay plan for those persons holding positions in the position classification plan in accordance with Section 6-1109 of this charter.

(i) To make temporary transfers of positions between subdivisions of the authority.

(j) To adopt rules in accordance with state law, when necessary, to effectuate its functions and duties.

(k) To enter into agreements with any public agency or private entity as it deems proper.

(l) To have full and complete control of all real and personal property used or useful in connection with the development of the fixed guideway system, including all materials, supplies, and equipment.

(m) To promote and assist transit oriented development projects near fixed guideway system stations that promote transit ridership, and are consistent with the intent of the adopted community plans and zoning.

(n) To apply for and receive and accept grants of property, money and services and other assistance offered or made available to it by any person, government or entity, which it may use to meet its capital or operating expenses and for any other use within the scope of its powers, and to negotiate for the same upon such terms and conditions as the authority may determine to be necessary, convenient or desirable.

(o) In addition to the general powers under this subsection, other general or specific powers may be conferred upon the authority by ordinance, so long as the powers are consistent with this article of the charter.

Section 17-104. Powers, Duties and Functions of the Board of Directors --

1. The board shall:

(a) Be the policy making body of the authority.

(b) Determine the policies for the development of the fixed guideway system.

(c) Have the authority to issue revenue bonds under the name of "Honolulu Authority for Rapid Transportation" in accordance with HRS Chapter 49, subject to council approval.

(d) Review, modify as necessary, and adopt an annual operating budget for the authority and an annual capital budget for the fixed guideway system submitted by the executive director of the authority.

(e) Request and accept appropriations from the city, and request and accept grants, loans and gifts from other persons and entities.

(f) Appoint and may remove an executive director, who shall be the chief executive officer of the public transit authority. The qualifications, powers, duties, functions, and compensation of the executive director shall be established by the board.

(g) Evaluate the performance of the executive director at least annually; and submit a report thereon to the mayor and the council.

(h) Review, modify as necessary, and adopt a six-year capital program within six months of the creation of the authority and annually update the six-year capital program, provided that such capital programs shall be submitted by the executive director.

(i) Determine the policy for approval of arrangements and agreements with the federal government and with any public entity, private entity or utility owning or having jurisdiction over rights-of-way, tracks, structures, subways, tunnels, stations,

terminals, depots, maintenance facilities, air rights, utility lines, and transit electrical power facilities, subject to approval of the department of transportation services if such arrangements or agreements may affect the operation or maintenance of the fixed guideway system.

- (j) Adopt and enforce rules and regulations having the force and effect of law to carry out the provisions of this article of this charter, and any governing federal or state agreements or laws, including rules and regulations pertaining to the organization and internal management of the authority and allocation of decision-making responsibility as between the board and the administrative staff.
- (k) Submit an annual report to the mayor and council on its activities.
- (l) In addition to the general powers under this subsection, other general or specific powers may be conferred by ordinance upon the board, so long as the powers are consistent with this article of the charter.

2. The board shall consist of ten members, nine voting members and one non-voting member. All members shall serve part-time. The board shall be governed by the provisions of Section 13-103 of this charter, except that subsections (b) and (e) shall not apply and as otherwise provided herein.

3. Appointed members. There shall be seven appointed members. The mayor shall appoint three members. The council shall appoint three members. The six appointed and two ex officio voting members shall appoint, by majority vote, a ninth member.

The initial appointments of the seven appointed members shall be as follows: One member from each mayoral or council appointment shall be designated to serve a five-, four-, and three-year term. The ninth member appointed by the voting members shall serve a two-year term.

4. Ex officio members. The state director of transportation and the city director of transportation services shall be ex officio voting members of the board. The director of the department of planning and permitting shall be the ex officio non-voting member of the board. The ex officio members of the board shall not be subject to any term limit.

Section 17-105. Powers, Duties and Functions of the Executive Director --

The executive director shall:

- (a) Administer all affairs of the authority, including the rules, regulations and standards adopted by the board.
- (b) Sign all necessary contracts for the authority, unless otherwise provided by this article.
- (c) Recommend to the board the creation or abolishment of positions.
- (d) Prepare payrolls and pension rolls.
- (e) Maintain proper accounts in such manner as to show the true and complete financial status of the authority and the activities and performance thereof.
- (f) Prepare an annual operating budget for the authority and an annual capital budget for the development of the fixed guideway system.
- (g) Prepare and maintain a six-year capital program.
- (h) Recommend rules and regulations for adoption by the board, including those pertaining to the organization and internal management of the authority and allocation of decision-making responsibility as between the board and administrative staff.
- (i) Administer programs approved by the board that promote developments near transit stations that would increase multimodal municipal transportation system ridership.

- (j) Review development projects having significant impact on the development of the fixed guideway system.
- (k) As directed by the board, plan, administer and coordinate programs and projects of the fixed guideway system that are proposed to be funded, wholly or partially, under federal or state law and required to be transmitted to the Oahu metropolitan planning organization.
- (l) Attend all meetings of the board unless excused.
- (m) In addition to the general powers under this section, other general or specific powers may be conferred upon the executive director by ordinance, so long as the powers are consistent with this charter.

Section 17-106. Appropriations --

The authority shall submit a line-item appropriation request for its annual operating budget for the authority and its annual capital budget for the development of the fixed guideway system for the ensuing fiscal year to the council through the office of the mayor by December 1st of each year. The office of the mayor shall submit the authority's line-item appropriation requests without alteration or amendment. The council shall, with or without amendments, approve the authority's appropriation requests.

Section 17-107. Public Hearings --

The board shall hold public hearings prior to adopting a proposed budget.

Section 17-108. Receipt and Disbursement of Funds --

All moneys expended by the authority shall be disbursed with the written approval of the authority according to the procedures prescribed by the director of budget and fiscal services.

The authority shall have management and control over the moneys made available to the authority in the special transit fund established to receive the county surcharge on state tax.

The authority shall have the authority to receive and expend federal funds authorized for the development of the fixed guideway system.

Section 17-109. Bond Sales --

All bond sales shall be subject to council approval. At the request of the authority, the council may, by resolution, approve and the director of budget and fiscal services, when so directed by the board, shall sell such bonds for the acquisition and development of the fixed guideway system in accordance with the procedures prescribed by law for such sales. The proceeds from such sales shall be kept by the director of budget and fiscal services in a separate fund to be used only for the purposes for which the bonds are sold.

Section 17-114. Transit Fund --

There shall be established a special fund into which shall be transferred the county surcharge on state tax and all revenues generated by the authority, including interest earned on the deposits and all other receipts dedicated for the development of the fixed guideway system. All moneys collected from the county surcharge on state excise and use tax and received by the city shall be promptly deposited into the special fund. Expenditures from the special fund shall be for the operating costs of the authority and the capital costs of the fixed guideway system and for expenses in complying with the Americans with Disabilities Act of 1990 as it may be amended.

Section 17-121. Transfer of Property For Fixed Guideway System Operation and Maintenance --

As and when any segment of the fixed guideway system has completed its final testing and has been approved to commence revenue service, all real property and interests therein that are under the jurisdiction and control of the authority and that are necessary, used, or useful for the operation and maintenance of that segment, shall be transferred to the jurisdiction and control of the department of transportation services, whereupon the department of transportation services shall assume authority and responsibility therefor and all revenues derived therefrom.

NEW TRANSITION PROVISIONS

Transition Provisions Concerning the Operation and Maintenance of the Fixed Guideway System --

1. All civil service officers and employees holding positions with the public transit authority on December 31, 2016, whose primary responsibilities involve the operation and/or maintenance of the fixed guideway system, shall be transferred to the department of transportation services on January 1, 2017. The civil service officers and employees shall suffer no loss of vacation allowance, sick leave, service credits, retirement benefits, or other rights and privileges because of the transfer. Nothing in this subsection, however, shall be construed as preventing future changes in status pursuant to the civil service provisions of this charter.

2. All lawful obligations and liabilities owed by or to the public transit authority relating to the operation and maintenance of the city's fixed guideway system on December 31, 2016, shall remain in effect on January 1, 2017. The obligations and liabilities shall be assumed by the City through the department of transportation services.

3. Subject to Section 17-121, all records, property, and equipment of the public transportation authority that are necessary for the operation and maintenance of the fixed guideway system shall be transferred and delivered to the department of transportation services.

REPEAL SECTION 16-115, TRANSITION PROVISIONS CONCERNING ESTABLISHMENT OF TRANSPORTATION COMMISSION.

