

Charter Commission

CITY AND COUNTY OF HONOLULU

Honolulu Hale • 530 South King Street • Honolulu, Hawaii 96813



TUESDAY AUGUST 4, 2015

3:00 P.M.

RECONVENING OF MEETING RECESSED ON

JULY 31, 2015

COMMITTEE MEETING ROOM

HONOLULU HALE

MINUTES

Charter Commission Members Present:

Jesse K. Souki, Chair
David W. Rae, Vice Chair
Judge Michael F. Broderick
Reginald V. Castanares, Jr.
Guy K. Fujimura
Donna Ikeda
Kevin Mulligan
Cheryl D. Soon
Edlyn S. Taniguchi
R. Brian Tsujimura
John D. Waihee III, Governor

Charter Commission Members Absent/Excused:

Nathan T. Okubo
Paul T. Oshiro

Others Present:

Derek T. Mayeshiro, Deputy Corporation Counsel
Gary Takeuchi, Division Head, Department of the Corporation Counsel
Linda Luli Nakasone Oamilda, Executive Administrator, Honolulu Charter Commission
Mary James, Research Analyst, Honolulu Charter Commission

I. CALL TO ORDER

Roll Call

With a quorum present, Vice Chair David Rae reconvened the meeting at 3:02 p.m.

II. BRIEFING ON PLANNING AND ENGINEERING FUNCTIONS BY THE EXECUTIVE BRANCH: CONTINUATION OF JULY 31, 2015, AGENDA

The Vice Chair introduced Honolulu Authority for Rapid Transit (HART) Deputy Executive Director Brennon Morioka (Deputy) who gave HART's presentation. The Deputy explained that the Executive Director was on personal leave on the mainland and sends his regrets at being unable to attend this meeting.

Honolulu Area Rapid Transit

The Deputy briefed the Commission on the history of the establishment of HART and some of the responsibilities of HART, the HART Board, and HART's Executive Director. The Honolulu City Council approved the Charter amendment proposal creating HART on December 15, 2009. It was approved by 68.6% of the voters in the following election in November 2010. It created a semi-autonomous transit authority and established the powers and responsibilities of HART, including to:

- Develop, operate, maintain, and expand the fixed guideway system
- Award contracts and enter into agreements
- Acquire property by purchase, lease, or eminent domain
- Establish fares, fees, and charges
- Establish budgets and maintain proper accounting of funds
- Establish policies and administrative procedures
- Promote, create, and assist transit-oriented development (TOD) projects

The Board of Directors (Board) was created to:

- Determine policy for planning, construction, operations and maintenance, and expansion of the system
- Oversee management's administration of the agency
- Adopt operating and capital budgets
- Adopt a six-year capital program
- Appoint and evaluate the Executive Director for HART

The Executive Director's roles and responsibilities are to:

- Administer the agency's day-to-day business affairs
- Implement policies, rules, and regulations adopted by the Board
- Conduct procurements and sign contracts
- Develop and recommend budgets and policies to the Board

- Develop administrative procedures and practices
- Ensure proper accounting of funds
- Manage human resources

The HART Business Plan Vision Statement includes five areas:

- **Mobility:** Improving mobility for all residents, visitors, and businesses on Oahu particularly in the densely populated and congested corridor along the urbanized southern shore of the island
- **Reliability:** Improving reliability of travel in the corridor by offering a travel choice that will not be subject to at-grade-level traffic congestion
- **Land-Use:** Supporting the City's land-use policies and development policy by providing access to an area targeted for development of a new urban center and helping create TODs along the rail line
- **Equity:** Providing people who are dependent on public transportation with an improved means of accessing economic and social opportunities and activities
- **Sustainability:** Providing a more sustainable role in providing transportation services for the motoring public and the environment in general and lessening dependence on non-renewable fossil fuels

Chair Souki asked if there were any questions.

Commissioner Mulligan inquired about the qualifications of the Board finding no such provisions in the Charter. He noted that the San Francisco Municipal Transportation Agency, MUNI, specifically states that directors must "possess significant knowledge of, or professional experience in one or more of the fields of government finance or labor relations and at least two of the directors must possess significant knowledge of, or professional experience in, the field of public transportation." In addition, MUNI directors are required to ride MUNI at least once a week. No such qualifications are in the Honolulu Charter. Commissioner Mulligan asked if such changes should be made to the composition of the Board since these positions are a huge responsibility.

The Deputy said that was a very valid question and concern, but he couldn't comment on why there are no requirements. He knows that the deliberations by the City Council and the Mayor, who make the appointments, include many of those aspects and are used in their decisions about who would best represent the people on the Board. So far, the Board has included members with a diverse knowledge of government, transportation, labor issues, construction, and finance who have served the community well. He agreed that, moving forward, the question is very valid, and ripe for discussion.

Commissioner Rae asked the Deputy what the unique qualities of an authority are, versus a department, that allow it to do what the people have voted several times for it to do. The Deputy answered that the value of HART being a semi-autonomous authority, that is solely focused on planning, building, and then ultimately operating a fixed guideway rail

system, provides HART with the greatest flexibility and focus. Other departments have many other issues to consider whereas for the rail project, that is the sole issue HART deals with. Rail is the largest CIP in Hawaii's history. He noted that if it were a department, there would be many distractions taking the HART away from the ultimate mission which is to build the rail and get it into service as quickly as possible. The challenges of such a massive design which already includes an expensive construction project with many moving pieces, and having to deal with other issues such as testing the rail cars and putting them into operation, would just create additional distractions which, he concluded, people would not want rail personnel to be focusing on.

Commissioner Soon had two questions. First, she noted the Charter does not use the term "semi-autonomous." The Deputy agreed that it's just a term often applied to HART and not meant to reflect what the Charter is saying. Commissioner Soon asked the Deputy to explain what HART is autonomous about or from. The Deputy explained that the term is used because, although not directly connected to the City Council or the Executive Branch, they are indirectly connected because both the City Council and the Executive Branch appoint the Board members and many functions are guided upon having to work with and within the city structure. HART has many issues that it reports to and works with and takes guidance from the City Council as well. Therefore, he explained he didn't consider HART to be autonomous as much as semi-autonomous in that HART, as an agency, reports to the Board and not necessarily to one of the other branches of government. Commissioner Soon pointed out that HART is part of the City government, and in the Honolulu Charter. Therefore, HART isn't autonomous from the people or even from City government. She explained that the Commission has been exploring the relationship of all boards and commissions to the City, whatever form that takes and discussing whether it needs to be strengthened, etc.

The second question Commissioner Soon had was HART's definition of "planning," explaining that the Commission had a long discussion with the Department of Design and Construction (DDC) and when the planning functions reside with the departments or with the Department of Planning and Permitting (DPP) it seems to be large planning issues, while DDC defines the word "planning" in the context of planning for a specific project. The Director said that his definition of the word is "project specific." Commissioner Soon concluded therefore, that, in discussions on possible extensions, HART would not be semi-autonomous but rather working with the rest of the City. The Director explained that Charter section 17-119 states that the Charter already applies to the locally preferred alternative or the 27 miles from West Kapolei into Kalaeloa down to UH Manoa. Therefore, he explained that HART is currently building the first 20 mile section from East Kapolei to Ala Moana Shopping Center. The additional few miles on each end are not necessarily considered extensions as much as a part of the current project for locally preferred alternative. Any deviation from that requires City Council approval but he thinks that, because of the nature of the project and the sensitivity of the communities, HART is going through the city planning process in their regional development plans. Even the extended portions of the locally preferred alternative beyond the 20 mile portion,

should and will have discussions at the Executive level as well and the City Council level. That will require a much larger discussion when the time comes.

Commissioner Soon mentioned the presentation that the TOD Administrator gave the Commission and the fact that “TOD” is included in questions of the Charter referring to public transit authority. She asked if he could explain HART’s position. The Deputy stated that in terms of TOD, HART views itself as a support agency. Even though TOD could happen without rail, rail is the impetus to optimize the opportunities of TOD. Therefore, HART works closely with DPP and the TOD group, trying to ensure that what is done at the stations will enhance the community around the area so that TOD “can happen appropriately” and, when it does happen, the connectivity to the stations is already there and planned. Therefore, HART views itself more as a vehicle for TOD but not the implementers of TOD.

Commissioner Soon commented about Charter Commission discussions on how rail will change Honolulu and that the answers to the questions she asked are most important in relation to how these changes can occur. Therefore, some on the Commission doubt the use of the term “semi-autonomous” when it comes to issues widely and meaningfully experienced and shared. She asked if the Deputy could add to this. The Deputy said that HART personnel try to incorporate and communicate to other city agencies and elected officials what they do the best they can so that HART’s actions are done in coordination with other City operations and planning for future developments in and around Honolulu. He thinks HART is very integrated within the City structure. Commissioner Soon asked if it were possible under the current wording in the Charter for a different set of people to act differently than HART is acting right now and, if so, “what’s the cross check?” The Deputy replied that the biggest cross check is the ability for the Executive Branch and the City Council to appoint appropriate representation on the HART Board. The HART staff, including both the Executive Director and the Deputy, are there to implement the direction of the HART Board. The HART Board sets policy and the HART staff implements the policy and decisions. This ties into Commissioner Mulligan’s point about the qualifications of those on the Board to ensure the people on the Board are vetted and have the appropriate experience in all the various aspects of building the rail and ultimately operating the rail. The Director stated that he thinks there are some checks and balances as well as provisions in the Charter which outline when HART needs approval from the Executive Branch or City Council.

Commissioner Rae followed up on the question of “semi-autonomous” emphasizing accountability and doing the will of the people and ensuring that these are happening as opposed to hoping they are. The City Council and the Mayor have the obligation as elected representatives to pass laws directing what HART can and cannot do and have the Mayor sign them. He asked both the Deputy and the Deputy Corporation Counsel who works with HART whether there’s anything in the current Charter language which would be inconsistent with this.

Commissioner Tsujimura noted that there's no fundraising ability for the Commission in the Charter. The Director said that HART does have some abilities to raise funds, "even though it's very clear where those receipts go to on a daily basis, we are supposed to deposit all receipts collected every day into the City Treasury." However, he explained, HART can enter into concession agreements in and around the stations and other revenue aspects include advertising in the stations and in rail cars. They are exploring other revenue-generating opportunities, whether naming rights, etc., but other than fair collections at the gates, there is no other major revenue source of income for HART. Once in operations, HART will be able to seek general fund subsidies from the City.

Commissioner Tsujimura explained that his idea of semi-autonomous would be an agency that could sustain itself without City help. But since HART doesn't have actual fund-raising authority, it will remain dependent on the City to make up any deficits that occur. The Deputy agreed. Therefore, Commissioner Tsujimura continued, HART is not semi-autonomous, it's "stuck" to the City. He asked the Deputy what would happen if the Mayor and Council refused general fund money for HART. The Deputy answered that they would be forced to scale back their operations. Commissioner Tsujimura concluded then that HART is not actually semi-autonomous. The Deputy agreed and said that they use the term loosely because HART doesn't report directly to any one entity unlike other departments that report directly to the executive branch.

Commissioner Tsujimura continued saying that HART needs to have a more integrated process with the other departments such as the Department of Transportation Services, TheBus, DPP, and all of the infrastructure agencies, such as the Board of Water Supply (BWS), to ensure that what HART may propose is actually possible given the infrastructure surrounding the stations, etc. The Deputy agreed. Commissioner Tsujimura asked the Deputy if it would be objectionable to HART if such statements were included in the Charter, that is, requiring HART to integrate. The Deputy said he couldn't comment on that. That would need to be a position taken by the HART Board. The HART Board hasn't put any such discussion on an agenda yet, but he understands there will be such discussions in upcoming meetings.

Commissioner Tsujimura noted that HART is in the construction phase and after completion will eventually move to the operation phase. He asked, when HART gets to the operation phase, if the members of the Board would need different qualifications to look at revenue streams, fundraising, and redevelopment opportunities as opposed to just general business experience. The Director agreed that such expertise would be valuable to the agency. Commissioner Tsujimura asked if there would be a problem if the Commission put such requirements into the Charter. The Director said he couldn't answer that question.

Commissioner Broderick asked if the HART Board would be proposing Charter amendments. The Deputy said he could not speak to that but knows they haven't put any such formal discussion on an agenda on possible Charter amendments, but he feels they

will be discussing these issues and, if they do, they will forward their proposals to the Charter Commission. Commissioner Broderick asked if the Deputy or the Director anticipate making any recommendations to the Board about changes to the Charter. The Deputy answered not at this time.

Commissioner Mulligan asked if, once the project is completed, there will be two transit agencies. He noted that the Director of the Department of Transportation Services (DTS) said there have already been discussions between HART and DTS and TheBus regarding a transit pass that would be compatible for both modes of transportation. But he asked if the City really needs two different transit agencies, especially when there is only one jurisdiction, unlike the Bay Area. The Deputy said he could not comment on whether a single transit agency would be better or not, but said that there have been discussions and proposals to merge the bus and rail. There have also been some joint meetings between the HART Board and the Oahu Transit Services (OTS) Board primarily to start the discussion on overlaps of centralized services that could be shared, thereby providing cost savings to both. But there is an opinion by many that HART should focus on rail during this period of construction. After that, the discussion of the results of merging will be needed since there are pros and cons on both sides of having a singular transit agency. The benefits of a separate authority now is its ability to focus solely on the construction of the rail without additional distractions.

Commissioner Mulligan asked about developing a revenue stream pointing to the development and redevelopment around the transit stations in San Francisco. They apparently lost revenue related to development immediately adjacent to the transit stations. He emphasized that no transit system can rely on its own revenues and must have government subsidies. Without subsidies, fares would be prohibitively high. He would like to see discussion of revenue sources from TOD to support rail from an operational standpoint once construction is completed. The Deputy explained that HART is unlike other transit agencies across the country, some of which own significant amounts of land around their stations and are able to generate additional revenue from them. Often these agencies are viewed as developers and landlords instead of solely a transit agency. In the case of Honolulu, the decision was made upfront that the project would acquire as little land as needed to control costs. Therefore, many of the land acquisitions are simply strips of land, frontages of properties, rather than large parcels. Therefore, HART's ability to generate revenue from lands surrounding the project is almost nonexistent, except in a couple areas. However, there is value in the lands surrounding the project and discussions have focused on the before and after values of these lands that can be anticipated to increase property taxes. This may bring about a discussion of how to use benefits brought about by rail and to supplement rail subsidies. Those discussions are very preliminary. The Deputy concluded that, ultimately, these will become policy issues for the City Council and the Mayor to determine.

Governor Waihee asked a number of questions about semi-autonomy. He noted practical differences between HART and other agencies. He first asked about how HART budgets

are formed, if HART submitted a budget to the Mayor's Office and subsequently to the Council that gets approved in the process. The Deputy explained HART's budget process. The HART agency submits the budget to the HART Board. After Board discussions, they approve an appropriation request that is then submitted to the Mayor's Office. The Mayor's Office must then submit it, unamended, to the City Council. The City Council can then approve the request, with or without amendments, and then transmit it back to the HART Board for final approval of the budget for the next fiscal year.

Governor Waihee noted that the City Council can add or subtract from the original request but the Mayor cannot change it. The Deputy said that is the way the Charter reads. The Governor continued, asking if the request details specific items or is just for a specific amount of money. The Deputy explained that the budget request provides a lump-sum request with an itemized breakdown of what all the expenditures are for, set by the HART Board.

The Governor then inquired about the process for hiring HART employees, especially if they have to go through civil service or human resources review. The Deputy explained that the HART Board authorized 139 full-time positions. The majority of HART employees are "personal service contract employees" who are exempt/excluded from civil service – because HART will be transforming from a pure planning agency into a planning, design, construct and ultimately an operating agency. The position types that they currently have will quickly change in terms of expertise needed for the project. In the beginning, planners were needed. Then they transitioned to designers and currently they have many construction engineers and construction managers, inspectors, and construction support staff. The dynamic of the type of the HART employee has quickly changed over the course of time and will continue to do so until HART moves into operations. Through that process, they try to identify positions which will likely remain throughout the development and into operations and these will be changed from exempt/excluded into the civil service system. Governor Waihee asked if these decisions are made by the HART Board without approval or disapproval of any other agency. The Deputy affirmed this and said they are consulting with various city agencies and unions as part of the process of developing an additional transition plan. They will meet with HGEA, which will be HART's primary labor representative and have their guidance on how to go through the transition, which will be very significant because of the process and the requirements. Governor Waihee asked who will be responsible for making those decisions. The Deputy said the HART Board will ultimately make those decisions but the HART Executive Director and staff will implement it. HART will conduct most of the conversations between the agencies and HGEA.

Governor Waihee asked who negotiates with the labor union with regard to HART employees. The Deputy explained that the employees are subject to the bargaining units to which they belong, if they are civil service. In addition, there are executive directives from the Mayor on how to deal with certain exempt/excluded classes. Governor Waihee noted that TheBus, for example, has a labor representative that is not one of the traditional

public worker unions representing their workers. He wondered if HART was dealing with non-public worker unions in terms of its employees. The Deputy answered “No, for today’s situation.” He explained that as a city agency, employees will fall under all the rules and regulations that apply to other departments as well. Therefore, the city employees with HART will be bound to whatever bargaining unit they are required to be a part of. OTS employees will have a non-government employee labor union to represent them because OTS is a private contractor which operates TheBus system on behalf of the City. This is similar to the contract with Ansaldo. Governor Waihee asked if the Deputy anticipated that the operation of the system would be privatized, similar to TheBus system, separate from the governmental parts of the rail transportation system. The Deputy affirmed this, explaining that HART would be responsible for the management and operations of the rail system but the contractor, Ansaldo, has a design, build, operate and maintain contract for five years once the system is in revenue service. HART is still responsible for that but Ansaldo will be HART’s contractor that implements the maintenance of the cars, operates the system, etc.

Governor Waihee asked who the chief procurement officer (CPO) is for HART. The Deputy said HART’s CEO is the CPO as well. Governor Waihee interpreted this to mean that the HART Board is responsible for budgeting, employee designation, and procurement services through its CEO, completely separate from any other organization in the City. The Deputy agreed.

Commissioner Tsujimura noted that section 17-107 of the Charter says that HART must hold public hearings prior to affixing or adjusting rates and adopting a proposed budget. He asked if that refers to the budget that HART submits to the Mayor, etc. The Deputy affirmed this saying that the public hearing is considered to be their monthly board meeting during which they propose their budget to the HART Board. Commissioner Tsujimura asked if those meetings were so advertised and the Deputy affirmed that, explaining that they abide by the Sunshine Law and meetings are now on Olelo.

Commissioner Tsujimura continued, noting that section 17-106 provides that the Mayor cannot adjust HART’s budget request and asking if that provision should remain or be amended to allow the Mayor to change the budget request. The Deputy said it was not up to him to say, but it was probably a policy matter for the HART Board. Commissioner Tsujimura explained that it seemed incongruous for the Council to be able to adjust the budget but not the Mayor. The Deputy said he could pose the question to the HART Board to see if they would have a position on that. Commissioner Tsujimura explained that he was interested in consistency and if the Mayor is going to be responsible for certain HART issues, perhaps he should also have the ability to adjust the budget as much as the Council would.

Commissioner Tsujimura noted that HART’s legal counsel is Corporation Counsel but HART may hire an outside attorney. He asked who makes the decision to hire an outside attorney. The Deputy asked the Deputy Corporation Counsel to respond. The Deputy

Corporation Counsel assigned to HART noted that the language is similar to the provisions for BWS in the Charter. It reads that Corporation Counsel provides most of the legal services required by HART. But when specialized expertise is needed, for certain kinds of legal matters or complicated litigations, Corporation Counsel can assist in the procurement or to bring in through the HART procurement office special outside counsel. Commissioner Tsujimura explained that, as a former Deputy Attorney General, he understands that but he noted that the way the section is worded, HART could hire its own counsel without any discussion with Corporation Counsel. He would like to tighten this up so that it has to go through Corporation Counsel so that the process accurately reflects the provisions in the Charter. Commissioner Tsujimura reiterated that he was just trying to preclude potential adverse situations.

Commissioner Soon asked about HART Board's ability to obligate the City. She wanted to know if HART pays for everything it uses, for example the services of Corporation Counsel, assistance from Central Purchasing, etc. The Deputy replied that they do. Chair Souki asked the Deputy Corporation Counsel to come to the microphone. Commissioner Soon noted that it seems that section 17-110 of the Charter makes HART civil service employees eligible for pension – which she assumes are the Employee Retirement System benefits. She asked the Deputy if HART pays these costs, and if so, how. The Deputy answered that HART pays the costs, but is unsure of the vehicle, whether an invoice or otherwise. He said they fund Corporation Counsel positions but is unsure of the method. There is a billing process to pay for services and fees and charges incurred by HART including employee benefits. The Deputy Corporation Counsel interjected that it's his understanding that the yearly budget includes funds for employer contributions but is unsure how that's administered. In terms of Corporation Counsel, HART appropriates funds for services rendered by it and perhaps by other city departments. That money goes as a revenue to the City and the City Council in turn funds these departments backed by these revenue sources. Commissioner Soon noted that the Department of Environmental Services (ENV) was very clear when testifying before the Commission because they have an Enterprise Fund from which they pay for a certain number of positions at DDC, at Corporation Counsel, and at the Budget and Fiscal Services Department (BFS). The Deputy says that their proposed budget is very detailed and itemized but he's uncertain about the actual mechanism for those payments being made to the City but it is all accounted for in the HART budget and identified.

Commissioner Soon asked how the fares will be divided if the bus and rail systems are combined and rail is in the operations and maintenance stage, assuming there's a blended fare as has been discussed. The Deputy said that exact discussion is occurring right now in terms of the fare policy and the distribution of the revenue collected. HART will have a combined fare collection between bus and rail. Commissioner Soon asked who is involved in these discussions. The Deputy answered the HART Board and DTS. Commissioner Soon asked if the Council would need to concur. The Deputy explained that what HART typically has to take to the Council is intergovernmental agreements with other governmental bodies like the State or Federal Government. Commissioner Soon

pointed out that DTS doesn't have the authority to change fares, only the Council does. DTS can recommend but can't make the final decision. The Deputy agreed and explained that the HART Board has the authority to set rail fares so ultimately, once they get to the stage where HART can make recommendations on setting and blending fares and consolidating the collections and distributing the revenues collected, based on certain equations, then both the HART Board and the City Council will have to come to agreement because the City Council sets the bus fares. It will become a much larger conversation including two rate-setting transit entities trying to provide a single fare collection system for the benefit of the passengers.

Commissioner Rae wondered if there were anything that should be changed in the Charter or if two different fare structures can be combined by ordinance.

Commissioner Tsujimura suggested moving all fare decisions, both rail and TheBus, to the City Council. Commissioner Tsujimura said he found the idea of HART and the Council negotiating what the fares will be somewhat ludicrous. That decision should be made by the Council since they are the final elected decision-making body, not the HART Board.

Governor Waihee asked the Deputy Corporation Counsel what would happen if there were a dispute between the Council and HART. He wanted to know who would be Corporation Counsel's client. The Deputy answered that, speaking for himself and not the Department, he would think that, if Corporation Counsel couldn't set up a wall to keep conflicts from spilling over within the Department, then they'd have to get outside counsel, presumably for HART but he was uncertain about this. Governor Waihee suggested outside counsel for both. He pointed out that Corporation Counsel is the primary counsel for many agencies, yet they deal with subjects that could easily have strong differences of opinion.

Commissioner Mulligan wanted to clarify Governor Waihee's question. He explained that few of the HART employees that are on personal services contracts are excluded. Most are covered under their respective collective bargaining agreement and Unit 13 specifically. Hopefully over time their personal services contract status will change to civil service explaining that the process is not something that HART can do on its own, as it will also involve the Department of Human Resources that will make the determination and establish the appropriate classification and compensation for the respective classes.

Commissioner Ikeda said she was surprised that HART owns very little of the land around the stations. She understands the practical reason for not using eminent domain yet TOD continues to plan the development around the stations. HART's powers and responsibilities include promoting, creating, and assisting TOD projects but in doing so, obviously density will be increased and land will be up-zoned to commercial from what may have been residential. Therefore, the value of the land will be increased but because HART doesn't own any of the land so the windfall will go to the private sector – to

whomever owns the land. The Deputy answered that the City owns some of the land already and that the State is actually one of the larger landholders around nine of the 21 stations so there are opportunities for government entities to develop some of their own properties. However, the private landowners will make the determination of how to use their own lands once the TOD zoning is completed, providing for additional flexibility in TODs.

Commissioner Ikeda explained that her line of questioning is based on the information that no transit system has been able to operate financially independently. The assumption is that this system will be no different and will be dependent on City subsidies and perhaps subsidies from the State. Currently, HART is being funded by a tax increase and in all probability it will continue to be funded that way even when it's in operation. She asked if any thought has been given for HART or the City to let the income from the City-owned land accrue to system's operations or expenses. The Deputy said that he understood that as landowners built on the lands and the property values increased, there would also be an increase in property tax revenue. Commissioner Ikeda suggested there could be a large gain if the lands were sold once the value goes up and the owner would take the profit. She would like to see more thought given to the value the system is generating and how to get some of that value back. The Deputy noted that the issue of "value capture" is being discussed, not necessarily by HART since that's not in its purview but by others. He didn't want to take a position on the policy issue but agreed those were very valuable questions going forward because those development and financial opportunities will become valuable in the future. Commissioner Ikeda inserted that she calls these "windfalls" because at some point they will become windfalls for somebody and now is the time to consider how to recapture some of that to apply to the expense of the system. The Deputy agreed. Commissioner Ikeda noted that a solution to this might not be in a Charter amendment but the discussion is important at this time.

Commissioner Fujimura commented that the Deputy's job and function were created in the Charter and the contradictions pointed out by various Commissioners are also in the Charter. He said he thinks it's inadequate to simply comment on the good job HART is doing, in terms of resolving those contradictions and working together to develop fare schedules and deciding how to share revenue. However, he thought that the Charter can be amended later after the focus has changed from construction to operation to avoid these contradictions. He thought that having HART's current focus on building the rail has had its advantages. He noted that this is the time for the Board to consider amendments to the Charter which will address the issue of how to move forward into operations once the rail has been built. They should consider whether HART should be dissolved and a new model created or even whether DTS should remain as is. The Deputy said he can take that suggestion back to the Board.

Chair Souki asked the Deputy how he would define "transit-oriented development." The Deputy said it's difficult to define and, in his opinion, it's not the same for everyone. For some, it means high rise condominiums, such as in Kakaako, but it can also be 2-3 story

developments. He said in his opinion it's a change in philosophy, away from a suburban development model to a model where more connectivity and accessibility is achievable. It is a way that more services, destinations, and attractors can be provided in a much shorter reach, whether by bus, walking, biking, etc. and even by car. Services are much more accessible in a shorter distance so the footprint is more confined. The development needs to provide the same residential, commercial, and recreational demands versus providing those same demands on a much larger acreage.

Chair Souki stated that TOD is development that leverages ridership. There will be people riding rail and TODs will make use of that ridership. The Deputy explained that it doesn't necessarily have to be rail, it's more about accessibility and mobility – whether it's walking there, biking, catching the bus or rail. Connectivity makes it far easier for a person to make different choices for transportation alternatives rather than just getting in a car and having to drive to the transportation mode. Chair Souki pointed out that it's in the interests of HART to have TODs that make use of the public's very large investment in rail. However, subsection 17-103(n) of the Charter talks about promoting, creating, and assisting TOD projects, etc. Chair Souki emphasized "create", saying that promoting and assisting are possible for HART but HART doesn't have the development or redevelopment authority in the Charter for that. Whenever the Charter talks about construction, maintenance, repair, and operation, it's in the context of the rail system. There seems to be the impression that the Authority is going to do development or redevelopment like a redevelopment authority from the 1960's but HART is really just an engineering firm that's building rail. He inquired whether it should just be a program under DTS, or should HART have redevelopment rights to actually do this kind of TODs. He added that perhaps, as Commissioner Fujimura was saying that now is not the time to change everything right in the middle. But considering Sound Transit and BART that have the authority to develop, they multitask with both developments and extensions. In addition, the question of qualifications of Board members is very complex.

Chair Souki concluded his discussion by saying that the Commission will wait for HART's proposals. He questioned if TOD should even be in the Charter provisions for HART at this point. He asked if the inclusion of TOD in the HART provisions detracts from HART's actual purpose to build the guideline. The Deputy said he doesn't see inclusion of the TOD provisions as a contradiction because without an effective TOD surrounding the stations, the use of the rail system would not be optimized. It is to the benefit of HART to ensure that whatever developments occur in and around the stations are meant to provide direct and easy connection to the rail stations to make it easy to choose rail as an alternative transportation choice. If HART didn't have TOD as part of the process, then HART would fail in providing the seamless transition from the stations to the neighboring communities. He doesn't see it as a distraction but rather as an issue that needs to be considered in addition to how well the stations connect and fit in the design for pedestrian flow, bike facilities, and bus drop-offs. He said TOD needs to be part of HART's makeup but not the main focus. However, he stressed it needs to be there. Chair Souki asked if perhaps TOD is the wrong term to use. It seems to be more "inter-

modal integration” not TOD since HART isn’t going to build mixed-use developments along the rail route.

Chair Souki noted that there is no HART Board voting member who’s a planner even though there are three ex-officio members. Of the ex-officio members, one is the Director of State Transportation, another is from the City’s Department of Transportation, both of whom are voting members, but the third one, the City Planning Director cannot vote. He asked the Deputy why. Chair Souki explained the question is not aimed at the current HART methods but it’s aimed at ten years from now, looking to improve the Charter now to improve it for use over the next ten years. The Deputy didn’t know why the DPP Director was established as the non-voting ex-officio member. He explained that there are ten Board members so they needed a way to get to an odd number to avoid a tie vote.

Chair Souki said that something needs to be added about integrating with DTS. It’s good that the conversation is ongoing but it’s a systemic critical issue such as “multi-modal integration” for the project and should therefore be stated somewhere. The Deputy said that DTS and HART are very integrated in the way they look at the stations and the interconnectivity of the stations to the point where the DTS Deputy Director leads HART’s working group for pedestrian/bike connectivity to the stations. He has led the walk audits/working groups that look at the issues at the station location itself and surrounding areas that lead to the station that need improvements, whether on a city street, within the plaza itself, or on a State road. He said he feels that DTS, as well as DPP and other city agencies as well as state agencies are fully integrated into HART’s team efforts. He noted that although HART is a City agency, building a City project, they go through every gamut of land, property, and ownership. The Deputy said that everybody has a stake in this so they include everyone the best they can including the University of Hawaii, Department of Transportation, Navy, etc.

Chair Souki asked about oversight relating to the different types of governance models. HART is a traditional semi-autonomous model similar to other municipalities’ projects. Currently, the project has an FMOC (Financial Management Oversight Contractor) and a PMOC (Project Management Oversight Contractor) looking at the project. In addition, the Mayor has hired another person to look at the project, which translates to three audits of the project plus the Council’s auditor looking at it. The Deputy added that HART also does an annual audit. Chair Souki asked if an additional audit would help or is it just that the project is so costly, mentioning the recent article by the HART Deputy published in the paper that talked about the high expense of the project and the overruns that are historically common in such large projects. However, the Deputy said the project hasn’t had large overruns. Chair Souki asked if there was anything to put into the Charter to help. The Deputy said there are already enough audits by themselves and others who are willing to share any information needed. Lack of oversight is not a problem. Chair Souki asked if there were internal performance metrics tied to the project. The Deputy noted that their primary parameters for performance are the full-funding grant agreement with the government which sets the budget under which they are supposed to operate and the

requirement to deliver full revenue service which includes the number of paying passengers, the number of cars, the wait time between cars at stations. These are part of the contract with the Federal Government. They've talked about issues about meeting the requirements of the FFGA (full funding grant agreement) and that's actually what they're in discussion about now – how to mitigate some of those issues. That is the primary reason HART went back to the State Legislature to seek the extension of the GET surcharge - to help fund what will be an overrun of the overall project budget. The Deputy concluded that all of that is documented in reports and audits and reports back to the FTA (Federal Transit Administration). That's what HART's performance is measured against and they are struggling to meet some aspects of that.

Commissioner Broderick noted that earlier in these meetings, both the HART Director and the Deputy said that they did not intend to recommend proposals to amend the Charter to the HART Board. Commissioner Broderick expressed his hope that that decision would be revisited based on today's discussion. The Deputy assured him it would.

Commissioner Mulligan noted earlier testimony stating that in developing the project there was a decision not to purchase a lot of land around the stations in an effort to reduce the cost of the rail project. He asked if there are still rights-of-way to be purchased or negotiated. The Deputy answered that there is very little land left to be purchased. Commissioner Mulligan stated that he had hoped for a different response so that additional land could be purchased by the City to gain the windfall that he and Commissioner Ikeda spoke about earlier to generate additional revenues on the operations side of the project.

Commissioner Ikeda asked how TOD interfaces with the rail project. She understood that initially it was with HART. When DPP gave their presentation, the flowchart showed that TOD was on the side by itself, not really interfacing with anything else. In fact, it seemed like an afterthought and not part of the major planning process. Yet, the Director of Planning and Permitting is an ex-officio non-voting member of the HART Board. She wondered if it was realistic to have TODs included within HART's powers and responsibilities. She noted that TODs are not just there to interface with various transportation methods but rather focused on complete development. If this were true, perhaps the TOD responsibility should be removed from HART and become a major part of DPP instead. The Deputy responded, as he mentioned earlier, that HART views its relation to TOD as a support agency and DPP is the lead on TOD for the City. HART participates in many of DPP's TOD discussions. There is a weekly Subcabinet meeting with members of all the departments whose services have an impact on empowering TOD to occur and everybody sits at the table every Tuesday. The TOD Administrator runs the meetings and everybody is there to support those efforts in determining the priorities and what the departments can do to support it. HART is also there as a support agency, trying to make sure they understand what's being built and developed around the stations so that the stations can be designed and constructed so that they have a true interconnection with the community around the stations so people don't have a difficult time deciding to choose

to ride the rails. He emphasized that HART isn't in the TOD business as much as they are there to support TOD.

Commissioner Ikeda asked if TOD is essentially an ancillary part of HART. She said that perhaps it belongs in DPP. She asked, once the rail is built and the trains are running, who will be in charge. The Deputy answered that DPP will be in charge. It has the zoning and subdivision authority. Commissioner Ikeda concluded, based on that, that the Charter provision should be reworded. She explained that as it is now, it seems that TOD is a major part of HART.

Commissioner Fujimura reiterated that the Charter Commission's mission is to look at possible structural changes and how the City runs. He surmised that the challenge the Commission is wrestling with is looking forward, not just in thinking how the City's operating now or in the near future but looking beyond that, almost changing the paradigm. He said that looking at how things are being sold, like TOD and Kakaako development, etc., he could see that many people think of the rail as a means to get everyone else off the road so each of them can have clearer highways and be able to drive better and faster. He called it a NIMBY-type issue. But it should be looked at as the intermodal systems and how people think of the bike lanes and TheBus as a means to get people to work and play. The traffic may not diminish that much but the system may become more efficient, allowing people to get to places within a reasonable time. The challenge is that if the roads remain clogged and the drivers are still expected to subsidize the rail, and they haven't changed their paradigm, they will remain very critical. The rail and the TODs will affect generations, considering the range of choices for transportation. The concept in the future will be entirely different, it won't be just driving. But to get to that point, this Commission is looking at what can be done to facilitate this future. The Deputy assured the Commissioner that HART will take his comments to heart and give serious thought and discussion to the kinds of proposals they might be able to make.

The Deputy Corporation Counsel brought up the discussion about "semi-autonomous" explaining that the term existed as early as the Charter amendments that created HART. The question to the voters on the ballot was: "Shall the City Charter be amended to create a semi-autonomous public transit authority,...." He continued saying that was the concept from the beginning.

Chair Souki explained that the terms "semi-autonomous" and "attached agency" get thrown around without being defined.

Chair Souki thanked the Deputy for his time

Richard DeConti, a member of the public asked to testify on the HART issues. He said that the constancy of purpose is the first concept of quality management. Constancy of purpose means that you knew what you were doing in 2006. He said he's been following this issues since then. In 2008, he became an active participant. He stated that he feels HART is dysfunctional. He cited a column written by Mr. Hamayasu, the general manager

of the City's Rapid Transit Division, entitled, "Public Input a High Priority for Rail Project." Dan Grabauskas replaced Mr. Hamayasu and now Grabauskas is being replaced. Referring to Commissioner Mulligan's comments, he said he's from San Francisco and knows HART and BART. BART does not go on an elevated guideway over Market Street. In Boston, the Big Dig has no elevated guideways anymore – all of those were torn down. He predicted that the City will have a "Big Dig" in front of Aloha Tower and in terms of transit-oriented development what he said before – "constancy of purpose" – how did this all start. It was not about moving many people quickly from the East to the West and back and forth. He said, when Commissioner Soon talked about some of the concerns she had, he said he thinks it's our culture that's at stake. He has many documents he would like to submit to this Commission which he finds absolutely excellent. He said he'd been in this room dozens of times before the Council Budget Committee and before the Transportation Committee and said the same thing which coincided with the Commission's concerns. He said he found being in front of the Commission listening to the Commissioners was magnificent. He hoped he was a pragmatic fallibilist which means he makes mistakes but is pragmatic. There have to be consequences to the benefit of the people. He counseled the commissioners to forget about the money, think about pono, aloha because that's what it's all about. He thanked the Commission for giving him the time and having the meeting and he said he appreciated it.

Seeing no questions for the testifier, Chair Souki introduced the Board of Water Supply.

Board of Water Supply

Ernie Lau, Manager and Chief Engineer of the Board of Water Supply (BWS), introduced Ellen E. Kitamura, Deputy Manager and Chief Engineer, who gave a slide presentation.

BWS was established in 1925 and made semi-autonomous in 1929. BWS has the power to:

- Issue revenue bonds
- Acquire land by eminent domain
- Collect and expend funds
- Manage and control and operate the waterworks

The purpose of giving BWS semi-autonomous status was to:

- Create a business-like administration in the operation and management of the municipal water system
- Provide greater efficiency in long-term decision-making and strategic planning
- Operate as an enterprise fund with all revenues collected through water rates and sales and fees, used solely to operate and maintain the water system

The Board is made up of seven members of which five are appointed members from the community and two are ex-officio members, one of these the Director of Facilities Management and the other the State Director of Transportation. The Mayor appoints the community members who are confirmed by the City Council. All members serve staggered terms of five years and may not serve for more than two consecutive terms. The Board sets policies and appoints the manager and chief engineer. BWS is among the fiftieth largest water utilities in the United States.

The BWS Vision is “Ka Wai Ola” or “Water for Life”, which stresses the critical need for water and how it’s the basis for all life. Water Hawaii is a public trust, central to everything we do. The Deputy passed out copies of the BWS Strategic Plan for 2014-2017. Currently, BWS has approximately 170,000 customer accounts.

BWS recommends no changes to the Charter related to BWS.

Chair Souki asked if there were any questions for BWS.

Commissioner Soon asked about section 7-104 of the Charter which says the State Director of Transportation is an ex-officio member of the Board. She thinks that this position is an ex-officio member of at least ten boards including HART, the Tourism Authority, and others. She explained that at one time the State Department of Transportation (DOT) was, and may still be, BWS’ largest customer which is probably why that position is on the Board. However, she wondered how much attention the person in that position can give BWS. In addition, perhaps it would be better to have the Department of Health represented on the Board, or, she continued, is a state agency even needed on the Board. The Manager noted that a benefit of having the Director of Transportation on the Board is that there are many pipelines in the highway rights-of-way and that presence of the Director of Transportation helps in resolving issues on replacement of infrastructure and coordination with the highway projects. Commissioner Soon asked if there weren’t established agreements with DOT already on how to handle right-of-way issues. The Manager noted that DOT does not grant BWS an easement but provides a use and occupancy agreement (UOA). He said they were currently in discussions on a master UOA with DOT. Commissioner Soon asked if that issue hasn’t been resolved after so many years. The Manager said they are getting much closer to resolving that issue now and actually have a draft document.

Commissioner Mulligan asked about an area of concern that came up during the briefing by the Department of Information Technology (DIT). Specifically, under DIT’s Charter provision, section 6-1202, DIT is “charged with maintaining and operating information technology and telecommunications systems for the city government, excluding those systems maintained by the board of water supply and other semi-autonomous agencies created by ordinance.” Commissioner Mulligan’s concern was that information technology should be standardized across all city agencies. He questioned the idea of an exemption because that type of infrastructure should be centralized for a variety of reasons

including cost efficiency, maintenance, billing system, etc. He wanted to know the reason for exemption from DIT. The Manager introduced the head of their information technology who has been working collaboratively with DIT, meeting on a monthly basis with Mark Wong. The head of the BWS IT Division said he understands the concerns about consistency but pointed out that some of the challenges of running a utility is that they have to have certain systems in place and kept up to date as needed. For example, they have the ability to control and monitor all their pumping stations, reservoirs and booster stations across the island from one central location. This is no longer needed because they have over 350 discreet facilities around the island and that's all that's needed to provide reliable water service to our community. That was one of the early ventures of BWS – being able to do its own IT. In addition, over thirty years ago, BWS implemented a computerized billing system and for over thirty years BWS has also been doing the billing for the Wastewater Department in the Environmental Services Department (ENV), which is on BWS's bill as a service to them. He said he understands the point about consistency but some of the challenges include the need to move as quickly and efficiently as possible if there's a good business case for a system to go in, such as a maintenance management system to track corrective and predictive maintenance work orders that need to go out to maintain the water system. The billing system became a time-keeping system before the rest of the City, called Chronos, because of the efficiencies. They also implemented a financial management system based on J & D Edwards, helping BWS to automate their financial books rather than using big ledgers. BWS looks for opportunities to collaborate but they need the ability to move forward in a timely manner to benefit the customers and create more efficient operations. BWS wants to maintain that opportunity.

Commissioner Mulligan asked if there should be anything explicit in the Charter about conservation of water because of the limited supply available, such as not watering during the day. In the past there were voluntary restrictions but Commissioner Mulligan said he could see a time when that will need to go into effect on a regular basis because the island can support only so many people without depleting the water supply or going to something very expensive like desalinization. Chair Souki asked if the Manager could also talk about reclamation and reuse in his answer. The Manager explained that BWS owns and operates the Honouliuli Water Recycling Facility which treats waste water to a higher level to allow it to be used for irrigation on golf courses, parks, and greenways. In addition, it treats some water with reverse osmosis to provide industrial customers such as the Hawaiian Electric Kahe power plant and some of the refineries in Campbell Industrial Park. They want to continue to recycle and reclaim as much as possible including setting up a new recycling system for the Ala Wai Golf Course which now uses 200,000 gallons potable water daily compared to single family home use averaging approximately 500 gallons a day, with about half of that in dry areas going to outdoor usage. He explained that BWS has a very aggressive water conservation program and they are going to continue to improve it even though it hurts BWS revenue to maintain and operate the system. But conservation is extremely important because the supply is limited and vulnerable to climate changes and rising sea levels. Conservation also helps customers lower their bills. He continued that the watershed plans, mauka to makai, are important

because the watershed is the source of our water. BWS plans to invest more to collaborate with the State and the private sector, the watershed partnerships, to help to maintain and enhance these watersheds.

Commissioner Mulligan asked if it would be helpful or necessary to put a provision into the Charter to make conservation more explicit. He explained that it seems like BWS is working on the issue very seriously but perhaps a statement of public policy in the Charter could help. The Manager appreciated that. Currently, the entire island except for the Waianae Coast is a Groundwater Management Area under the State Water Code. The State Water Commission is also concerned with protecting this resource and works with BWS to ensure that. They issue water use permits limiting how much water can be taken out of the watershed without endangering it, staying within the sustainable yield. Commissioner Fujimura was part of the early Water Commission efforts, the State Water Code Efforts. The Manager emphasized that BWS has a trust and stewardship responsibility to protect and sustain the resource and to use it wisely and not waste it and to ensure that the resource remains available forever for our community.

Chair Souki emphasized the importance of Commissioner Mulligan's concerns. A policy focused on reclamation and reuse would modernize the Charter for the 21st Century and beyond. It's an extremely important issue for the State,

Commissioner Rae asked the Manager if semi-autonomy is the best model for efficiently and accountably doing what's in the public interest. He asked why not combine the water system and the sewer system into one public works. He continued, asking about the Board in terms of qualifications of Board members as simply members of the general public. He asked if that were the best way or given that they are moving into more sophisticated methods, such as methods for reclamation and deciding where the pipes go, including the timing and cost of these issues, should there be minimum qualifications for Board members. Finally, he noted the discussion of financial self-sufficiency and asked if BWS uses any general revenues, etc.. The Manager responded that BWS does not use any property tax revenue. BWS has the full authority to adopt water rates and improve the operating and capital improvement projects (CIP) budgets. BWS is required to submit their CIP budget to the Director of Planning and Permitting and to consult with the Department of Planning and Permitting (DPP) every year. Otherwise, the Board has full authority to implement their CIP budget. He continued that as to the qualifications of the Board members, the current members are very qualified as business people, legal people, people with Native Hawaiian Water Rights expertise, etc.. Commissioner Rae asked if that was by luck or by mandate. The Manager answered that it's not by mandate but the Mayor is very careful selecting the members and open to suggestions from the Manager and wants to ensure a good, strong, capable Board. He pointed out that BWS has been in operation since 1929 and the requirement for community members has worked well throughout its history, with a few bumps in the road. He pointed out that the Manager is required to have a minimum amount of experience which is important since the Board

relies on the Manager to handle the day-to-day issues and help with long-term planning of the maintenance of the water system. He thinks it has worked over his 30 years there.

Commissioner Rae asked if working on water reclamation means working with the sewage treatment facilities. The Manager pointed out that they are only taking a portion of their flows for reuse. Commissioner Rae asked if ENV should be moved over to BWS. The Manager answered that he would defer to the Mayor on whether the water system and the wastewater system should be incorporated. The Manager said that currently he's focusing on the fundamentals of BWS and getting its business program strong, with no major challenges or issues. However, he noted that the national conversation is for total water management, looking at water in all forms. In the western states, facing a drought for many years, direct potable reuse of wastewater for drinking is a new approach. He noted that BWS is committed to continue to work closely with ENV.

Chair Souki asked if other municipalities combine their wastewater system with their water system and, if so, whether that leads to better management. The Manager said that there are various combinations on the mainland, in some cases even including electricity and storm water. He said that the bond rating agencies look for the "semi-autonomous" model as a governance model that insures adequate efforts and resources that are placed on maintaining the water system, and rates that are raised appropriately to keep the system running and not let it fall into disrepair. BWS wants to avoid an EPA consent decree situation. They want to be able to proactively plan and maintain compliance with all federal requirements.

Commissioner Tsujimura appreciated BWS' remarks on the total water issue. He asked if there are things that the Charter Commission can do to help BWS to get to its vision. This chance only comes once every ten years so if there are things that can be done now, let the Commissioners know. Otherwise, everything will have to be done by ordinance until the next Commission meets in ten years. The Manager said he would consider this carefully and get back to them. Commissioner Tsujimura explained that they could do fundamental changes such as combining wastewater with BWS or perhaps there are interim steps that would help that could be foreseen over the next ten years. That's something that the Commissioners could discuss.

Commissioner Tsujimura continued, noting that the Charter basically states that "there shall be no free water." He asked the Manager if there was anyone getting free water. The Manager said that everyone pays including the Department of Education, State Parks, and the Ala Wai Golf Course. Commissioner Tsujimura pointed out that as a taxpayer he's paying these costs, including for the golf course. Commissioner Tsujimura suggested that some of these costs shouldn't be borne by the public. Chair Souki agreed, saying that the public sector especially should cover water costs. The public sector should lead the way in conservation. The Manager mentioned that one of the expansion areas for the water conservation program is working closely with government agencies to help them do

water audits – to look for ways to reduce leakage and waste because water and sewer charges effect their bottom line as well.

Commissioner Rae asked if the sewer bill was based on water consumption. The Manager explained that a component of it is based on water usage but the larger component is for recovery of fixed costs. Commissioner Rae asked if that formula is a disadvantage for agricultural concerns. He was curious to know if the water used for watering lawns and crops was part of the sewer fee. The Manager explained that ENV recognizes that issue and allows for “submetering” that’s an honor system allowing each customer to report how much water went through a submeter for irrigation which can reduce their sewer bill. He also noted that subsidized water rates for agriculture have been in effect for decades to encourage diversified agriculture on Oahu, since no other source of water is available on the island for farming.

Commissioner Ikeda pointed out the Charter’s authorization for bonds. The Manager affirmed this saying they have floated revenue bonds and last year they refinanced old bond debt to a lower interest rate and they took part of the old debt and refinanced with State revolving funds (SRFs) from the Department of Health. It was about \$150 million with which they refinanced the revenue bonds which will save customers \$19 million in interest costs over the remaining life of those bonds. BWS continues to look for such opportunities. They issue their own bonds but have to work with the Budget Director from BFS, as provided in the Charter. In addition, they have worked closely with Commissioner Taniguchi.

Commissioner Ikeda asked about the total amount of bonds outstanding. The Manager responded it’s a little over \$200 million. Commissioner Ikeda continued, pointing out the independence of BWS and in the recent past there has been a push to make BWS a department. She explained that she thinks that was because of the major increase in fees that came all at once. She asked why that increase was not anticipated and worked into a “stepped up” fee program to help the consumer and she wanted to know why BWS should remain autonomous. The Manager explained that the fees were increased to pay for the CIP program and the increase in operating expenses. Commissioner Ikeda replied that BWS knew that was going to happen. The Manager explained that prior to his working with the Board, the goal was not to increase water rates, which he said was unfortunately not a good practice. Smaller increases over time that would allow BWS to meet infrastructure and resource needs would be preferable for customers. He emphasized he couldn’t explain what happened in the past but when he became Manager, he proposed doing a 30-year plan, looking at CIP needs and the financial needs over a longer term to establish what the rates might be over time. But BWS also has to look at the first five years of funding in detail while still taking the long view of maintaining the water system. He hoped that the 30-year plan would achieve a better outcome for their customers of a slower steady increases to the rates. Commissioner Ikeda said she hoped this would work. She pointed out that overnight rate-doubling is a “major hit.” Even though it was done prior to his taking over, it was a definite sign of poor, poor planning. The Manager

explained further that over the 80 plus year history of BWS, a period of no rate increases wasn't a common occurrence. The rates were raised to meet the needs over time. Commissioner Ikeda agreed that was best for customers but pointed out that doubling the rate when it went from a bimonthly bill to a monthly bill for the same amount was difficult. The Manager explained that if BWS sent out bills with just the water portion on them, there would be no need to go monthly but because for over 80 percent of BWS customers the bill is combined with wastewater charges which are increasing much more rapidly and "the size of the bill is becoming more difficult" they agreed with ENV and the Council to convert the billing to monthly. Commissioner Ikeda pointed out again that the timing of the billing is less important than the amount and that when the billing went monthly, the amount doubled. The Manager agreed that the billing charge component of the bill doubled – about \$5 per bill. Commissioner Ikeda asked if ENV paid their portion of the billing charge component. The Manager affirmed this. He returned to the question of whether this was a good model. He expressed that with his nearly 30 years in the water business, he found the ability to do long-term planning and policies very important, especially when it comes to water, because water is essential for life and the economy. Long-term planning is essential for resource issues – planning for climate change is a long-term option so they need a governance model that allows BWS to do that without certain expediencies that are driven by short-term desires. He said he believes in the semi-autonomous model as do the rating agencies.

Commissioner Ikeda asked about the recent fiasco with the leaking fuel tanks. She found it very troublesome and understood it to be multi-jurisdictional. But that shouldn't be a reason for not finding a solution. She wanted to know where the BWS falls in that hierarchy and, if it is the lead agency, why hasn't more been done. The Manager said that the regulatory authority for the situation, the Navy's Red Hill tanks at Red Hill Moanalua, built in 1943, were over 70 years old. The regulatory authority rests with DOH under the Solid and Hazardous Waste Branch, under the Underground Storage Tank regulations. EPA delegated its authority over this to the State. Therefore, DOH is the lead agency to address this issue. BWS is a major stakeholder, relying on the resource, advocating since last year for the protection of this resource and to encourage the Navy and regulators to do the right thing. Currently, an administrative order of consent is in draft form for which BWS submitted formal comments which are on the BWS website. BWS believes this needs to be addressed to protect the resource. The facility overlies a drinking water aquifer. Commissioner Ikeda pointed out that a major portion of households in the state rely on that aquifer. The Manager added that the Navy relies on that aquifer to supply 24 percent of Joint Base Pearl Harbor-Hickam's water demands. They have a drinking water source about 3,000 feet away from the tanks. The Halawa shaft is about 5,000 feet away.

Commissioner Fujimura explained that the question about the model is a much longer-term question. In the immediate route, in terms of refinancing, etc., and in terms of conservation, the BWS funding model depends upon volume, to which the Manager agreed. The Commissioner continued that the more water used, the more money BWS takes in. That money then supports the administration and infrastructure and the

infrastructure has a timeline. When there's a major development, all of the pipes are going to be due for replacement at about the same time. Therefore, the future may bring larger infrastructure issues than faced today. He pointed out that the Charter makes BWS self-sustaining, getting its funding from the water rate and its charges. In terms of a possible amendment to the Charter, as conservation of the resource becomes more of an issue, BWS takes on more of the resource responsibility. When the Commissioner was on the BWS, there was a Commission on Water Resource Management. The Commission was intended to be a statewide body that dealt with protection and management of the resource. The water departments were to deliver clean, potable water to the customer. Commissioner Fujimura pointed out that the owners of private wells don't pay anyone except they need a drilling permit and a pump permit. Therefore, large agricultural operations can affect the aquifer. He concluded that therefore all water issues are not totally under the control of BWS. He asked the Manager if the Charter should be amended to include conservation and long-term planning further into the future. Conservation measures are cutting into BWS revenues. Even with the innovative ways to sustain these revenues that BWS has instituted, the Commissioner asked if there will be a time in the future when BWS will need another way of doing business. The Manager answered that they are looking at the property they own across the street at Beretania for possible redevelopment. This site is approximately six acres, four of which could be redeveloped. They might be able to create revenues in partnerships with developers or otherwise. The authority to seek such other sources of revenues to help supplement their needs to maintain the water system is not clear in the Charter.

Chair Souki pointed to section 7-109 of the Charter which talks about rates, revenues, and appropriations and opined that it could be interpreted to mean anything, not necessarily rates from service or revenues related to water. It could be any asset BWS has to help subsidize the program. The Manager said that's what they're doing currently, encouraged by Councilmember Kobayashi. He continued that they have other properties, though many of those are watershed lands – thousands of acres, including Haiku Stairs which is a major liability that they would be willing to give up to any other government agency.

Chair Souki noted that after a quick search, BWS is the only self-supporting entity in the Charter. In considering HART and how other transit authorities are self-supporting, he noted that HART doesn't have the authority to develop or redevelop lands, and asked the Manager if BWS has that authority. The Manager answered that it wasn't clearly spelled out in the Charter. Chair Souki pointed out that it provides broad authority. The Manager said that in discussions with their attorneys, they found it broad enough. Most important is that it has to be of benefit to BWS customers. But he thought they were possibly moving into a grey area of authority.

Commissioner Fujimura asked if any dispute over redevelopment authority would be over how direct the benefit had to be. He asked if it could be an indirect benefit or if perhaps the Charter should be amended to provide broader authority. The Manager answered that he wanted to be careful since BWS isn't in the business of redevelopment like HHFDC.

Commissioner Tsujimura noted that if their project is questionable, BWS could get challenged for lack of authority. He said it would be better to make certain the authority was specific rather than remain ambiguous. He also asked the Manager what their current bond rating is. The Manager answered that it's AA+ and AA2. Commissioner Tsujimura suggested that could also be a gauge to measure BWS. The Manager said BWS considers it a performance metric and they want to maintain their bond rating at a high enough level but they remain aware that if they go for a AAA rating, it might cause them to have larger reserves with money not being used.

Commissioner Tsujimura noted that the Charter does not include performance standards for BWS. It simply requires BWS to be self-supporting. The Commissioner suggested that the bond rating would be a good measure. He noted that he remembered the time when rates were not raised and that was because of political reasons, not business reasons. The Commissioner wants to ensure that BWS is operating as it was intended to which is for the people of the City and County of Honolulu, not for politics. Commissioner Fujimura commented that people complain about the cost of water from a hose but will pay for bottled water which is way more expensive.

Chair Souki asked if language could be added to the Charter to prevent the rates from being determined solely for political purposes. For example, a condominium board is required to keep a certain amount of reserve but still have to upkeep the facilities. He asked if this could be done. Commissioner Tsujimura agreed that there should be some control to prevent that from happening such as the cost of living index or other measurement. The Manager suggested perhaps the 30-year master plan should be updated on a regular basis. His intent is to have the Water Board adopt the long-term plan to ensure some continuity. Every future Manager will have to get Board approval for any changes to the plan. The strategic plan is Board-adopted, the long-term master plan will be Board-adopted. Hopefully the plan will maintain the 30-year look ahead. He noted that section 7-112 of the Charter, relating to reserve funds, could be looked at to insulate the reserves from being "raided" in the future by others.

Commissioner Tsujimura emphasized his concern for a performance metric for BWS. Because BWS is autonomous, not just semi-autonomous, the Manager is appointed and the members are elected, it is important to have a metric to assure the public that BWS is meeting a management goal other than just the knowledge that it is self-supporting.

Governor Waihee remained concerned over the meaning of "semi-autonomous" and asked if BWS submits a budget to the Mayor or Council. The Manager explained BWS must submit its budget to the Water Board for their approval and then it is administered by BWS. Governor Waihee asked if there were a "draw-down provision" and the Manager answered there was none. BWS works with the Finance Director to issue bonds, as required by the Charter. But the BWS controls expenditures of funds in the budget. The Waterworks Controller position oversees the Finance Division and an Executive Support

Office helps to put together the budget. Management is ultimately accountable to the Board and the Manager serves as the pleasure of the Board.

Governor Waihee asked if there was any way that any other executive could affect BWS appropriations. The Manager said not in terms of the budget but certain fees could be charged for services that the City provides to BWS. In addition, BWS pays a case fee to the City for human resources and legal services. Governor Waihee continued by asking if they are required to follow all of the civil service rules. The Manager affirmed this, saying that they are City employees who fall under the collective bargaining process. In addition, they have to contribute to ERS and EUTF. Governor Waihee asked if BWS could do whatever they want with the positions as HART can. The Manager answered that they can use personal services contracts (PSCs) and do so. Currently, there are about 100 permanent position vacancies in the department so in the interim, they use PSCs to operate the Water Department. Governor Waihee asked if the use and sale of BWS lands is subject to Council approval. The Manager affirmed this and noted a proposed sale of a reservoir site in Sunset Beach that will need Board and Council approval.

Governor Waihee noted that he felt that ENV seemed more chaotic than BWS and perhaps wastewater and sewage responsibilities could benefit from the stability of an agency like BWS. He asked the Manager what the advantages of being autonomous are. The Manager answered that it allows them to make decisions that are in the best interests of the community and the infrastructure and resources without political interference.

Commissioner Soon pointed to another significant difference between BWS and ENV - that Wastewater operates completely under a consent decree whereas BWS's mission and function are not under a consent decree. Governor Waihee noted that both of these agencies have called for long-term planning and conservation, etc. He asked how difficult it would be to combine the two. The Manager noted that life depends on water and that removal of waste is a health and safety issue in the environment. He would like to focus on BWS's mission completely. If they were to merge the two, both sides will be crippled. BWS and ENV are working together to get their plans in place and are moving on major initiatives but a merger now would be very challenging. Commissioner Rae observed that that the Manager's point was reasonable but the Commission is looking at the total system. The Manager agreed that in the long-term that's where things will go. The Commissioner suggested looking at interim steps to accomplish the final unification. The Manager was aware of this reasoning and the merger was in a previous Charter provision for a short period of time and then undone. It's not an easy challenge and with the large consent decree under which ENV is operating currently, meeting the requirements of the federal Clean Water Act puts great pressure on them. Commissioner Rae agreed but pointed out that they got themselves into that.

Commissioner Mulligan followed up on Commissioner Fujimura's questions about a metric and the bond rating. He asked what the bond-rating agencies look for when establishing the bond-rating, allowing BWS to float their bonds. He wanted to know if

there were metrics in that evaluation process. The Manager answered that they used both Fitch and Moody's in the last few years and both have come out with criteria to look at for their evaluations to issue a bond rating. He said he could look at those reports to see if they contain metrics that might work in a Charter provision to evaluate BWS. He assured the Commission that he would get back to them on that.

Chair Souki asked if the bond ratings are based on BWS's mission as well as its financial rigor. He noted that "financial rigor" might not be in the best interests of the mission. The Manager explained that the rating agencies look at a number of factors including stability of the customer base, stability of the resources that are depended upon – especially with the drought in the Western U.S. - long-term planning, compliance with the Safe Drinking Water Act, adequate reserves to provide enough financial stability to the utility and the ability and willingness of the Board to increase rates as necessary.

Commissioner Ikeda asked if the ex-officio members of BWS are voting or nonvoting members. The Manager said they are voting members.

Seeing no further questions, Chair Souki asked if there was any public testimony. There was none.

DISCUSSION

Commissioner Soon asked if, after the presentation on Thursday, there will be a number of months before the close of the proposal period. She noted that there are about a dozen topics that are high on their interest list. She asked if they could start writing them out, discussing them, and perhaps even inviting certain entities to discuss them further with the Commission. She noted specifically planning and some HART issues. She sees good reason to continue to meet, even if discussion is the only item on the agenda but also the sooner they get to those discussions, the sooner they may find issues that need to be researched. There were a number of issues that testifiers said they'd get back to the Commission on. She wondered if anyone was keeping track of those. She felt that generating additional research on how things are done or could be done is probably high on their list to make good use of the next two months.

Chair Souki explained that staff is probably keeping track of these issues. The Commission might want to consider setting up a permitted interaction group to consolidate all of the issues, returning this to the Commission. He suggested that staff could do it and the Commission consider the issues. Commissioner Soon noted that she could write a few paragraphs on topics that continue to come up that could use more discussion. It's not so much discrete questions as the big picture issues. She commented on the BWS Manager's testimony about this type of planning – looking into the future. She feels that some of the testifiers who have come before them haven't thought of some of the topics. Chair Souki said he was considering how that plan could work within the framework of the Commission. They could do it in meetings but would need something

on the agenda. A general discussion wouldn't be focused. He thought another way to do it would be to look at the list of issues and individually give staff some proposals that they might want to target and then have staff put a list on the agenda to discuss as a Commission. Once these are discussed, staff could get more information on the topics and set up meetings focused around those discussions. Commissioner Soon emphasized that the discussion topics are what they've all been taking notes on and thinking about.

Governor Waihee brought up a third area - that of the receipt of proposed changes from the Mayor's Managing Director to put through the culling process. Chair Souki noted that the Commission should receive proposals from those who are going to submit them and he said it sounds as if the Administration is going to submit a package before October 31, 2015. Governor Waihee asked if the agenda could include a designation for the "Administration Packet." Chair Souki agreed but said that it seemed that Commissioner Soon wanted some discussion prior to that. Commissioner Soon responded that, for example, the planning issue has come up in so many forms - whether it's in the individual departments. She was curious when the long-range thinking will take place. She wondered if all of those who need to put long-range planning into effect properly are in place to do so. Commissioner Soon then mentioned the other issue that keeps coming back about HART. That is what happens when rail get to the operation and maintenance phase and has to consider a new plan. And, she said, rail will be in its operation phase within approximately five years, well before the next Charter Commission. It is urgent that this be discussed currently and not wait until that phase begin.

Chair Souki noted that Governor Waihee mentioned they will get proposals which will give them agendaized items to discuss and act upon and set up meetings around. Or, he said there could be pre-meetings around topics but we'd need to decide what those topic areas should be and get them onto an agenda for discussion. Commissioner Rae said that he agreed with Commissioner Soon that there seems to be clusters of issues. One cluster is departmental organizations around roads and planning, etc. Another is quasi-autonomous boards and commissions, and accountability, and whether some of them exist and some not. The Commission will also receive additional proposals from the public, plus those from the Legislative Branch and the Mayor. There will doubtless be overlap but there will be topic groups.

Governor Waihee suggested that the staff put together the three or four themes for the Commission's consideration. And then the individual Commissioners could talk to staff to make sure certain items are included and put them on the agenda - the four or five themes - under the discussion section of the agenda.

Chair Souki suggested that staff put together the comments that the Commission has received and send it out to the Commissioners and they can then comment directly to staff about what the top priorities are and what the Commission should consider. Staff can put together a skeleton agenda which Chair will review and then send to the Commissioners to review. That way they can come to an agreement on what they'd like to focus on -

perhaps five items – for a meeting. During that meeting, the Commissioners can discuss what the next step in information-gathering will be.

Commissioner Mulligan asked if emailing their ideas to staff and copies the Chair will meet the Sunshine requirements. Chair Souki said not to copy him, just send it to staff and he will work with them to set the agenda.

Commissioner Ikeda said she liked the idea of discussions on the basis of topics because they aren't hemmed in by the written word. She would prefer that the submittals from the Mayor's Office take precedence because she thinks those could be misleading as she expects they will be sanitized. The people running various departments have their own concerns which may not make the list from the Mayor's Office. Chair Souki emphasized that they have to treat all proposals equally. He said it's the Commission's prerogative to make it all make sense and present the issues to the voters so that they can understand and support the ones they agree with. Commissioner Ikeda said she wasn't too concerned about the voters at this point because what the Commission puts together will be comprehensible at the end but getting to that point is important. She doesn't think any one entity should have the ability to direct the Commission, formally or informally.

Governor Waihee reflected that he'd just like to balance Sunshine with Freedom of Speech.

III. ANNOUNCEMENTS

The next meeting will be at 3:00 p.m. on August 6, 2015, in the Committee Meeting Room at Honolulu Hale.

IV. ADJOURNMENT

The meeting was adjourned at 6:00 p.m.