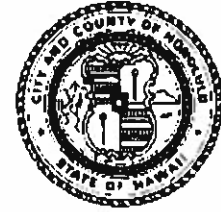


Charter Commission

CITY AND COUNTY OF HONOLULU

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



THURSDAY, SEPTEMBER 24, 2015
COUNCIL COMMITTEE MEETING ROOM
HONOLULU HALE

MINUTES

Charter Commission Members Present:

Jesse K. Souki, Chair

David W. Rae, Vice Chair

Judge Michael F. Broderick (Ret.)

Reginald V. Castanares, Jr.

Kevin Mulligan

Donna Ikeda

Paul T. Oshiro

Cheryl D. Soon

Edlyn S. Taniguchi

R. Brian Tsujimura

Governor John D. Waihee III

Charter Commission Members Absent /Excused:

Guy K. Fujimura

Nathan T. Okubo

Others Present:

Michael Formby, Director, Department of Transportation Services

Don Horner, Chairman, Board of Directors, Honolulu Authority for Rapid Transportation

Dan Grabauskas, Executive Director, Honolulu Authority for Rapid Transportation

Dawn Spurlin, Deputy Corporation Counsel, Department of the Corporation Counsel

Linda Oamilda, Executive Administrator, Honolulu Charter Commission

Mary James, Research Analyst, Honolulu Charter Commission

Norma Reyes, Secretary, Honolulu Charter Commission

I. CALL TO ORDER

Roll Call: Edlyn S. Taniguchi, Kevin Mulligan, Judge Michael F. Broderick, Jesse K. Souki, Cheryl D. Soon, John D. Waihee III, David W. Rae, Donna Ikeda, R. Brian Tsujimura, Paul T. Oshiro

With a quorum present, Chair Souki called the meeting to order at 4:00 p.m.

III. EXECUTIVE ADMINISTRATOR'S REPORT

- *Future Meeting Schedule*

The EA reported that, based on the poll of the Commissioners, the next meeting will be October 1, 2015, to hear from the Police and Fire Commissions. Other tentative meeting dates to gather information are October 15th and 28th. The EA reminded the Commissioners that the deadline to submit proposals is October 31st and meetings to review the proposals are tentatively scheduled for November 6, 16, 23, and 30, and December 10 and 17, 2015. These meetings will begin at 3:30 p.m.

- *The Budget*

The EA is working on the cost estimates for Olelo telecasting of the November and December meetings based on the length of previous meetings.

- *The Status of Proposals*

The EA reported that no new proposals were received since the last report. She is working on additional publicity ideas. Staff is also following up on the Chair's request to review proposals from previous Charter Commissions. The Commission requested that the EA summarize all of the proposals that the staff has received.

A question was raised regarding deadlines for proposals which are self-imposed by Commission rule. It was noted that a super majority is needed to amend the rules. Chair Souki asked the Commissioners to read the rules noting that any amendments they would like to make should be made before October 31st.

- *Rules*

The EA was asked to provide the Charter Commission Rules to all of the Commissioners. The Chair again asked the Commissioners to review the Rules for any new amendments and to have all of the amendments adopted by October 31, 2015.

III. BRIEFING ON PUBLIC TRANSPORTATION

Representatives from HART and DTS will discuss:

- *The City Charter provisions that established HART*
- *Other transportation-related topics*

The speakers did not present presentations, but were there to respond to questions from the Commissioners. Don Horner, Chairman of the Board of the Honolulu Authority for Rapid Transportation (HART), testified that the HART Board has not taken a position so he is not authorized to speak for the Board, however, the Board formed a permitted interaction group (PIG) to look at possible improvements to the Charter. Personally, he has noted that there is an ambiguity in who controls the budget and noted that Corporation Counsel rendered an opinion under which HART operates. He feels that whoever is the elected official should control the money. He also feels that there should be one primary policy authority for one seamless system that includes both rail and bus. Mr. Horner noted that the Board will address the issue of an interim opening at their meeting today. He said he is reluctant to have an interim opening because of the expense it will cause the taxpayers at that point.

Michael Formby, Director, Department of Transportation Services (DTS), testified that the level of decision-making for operations of the HART system will be vastly different from that of the constructing authority. He feels that one of the problematic areas is that there is no bright line between construction and operations. He agrees with Mr. Horner that there should be one agency in authority with involvement by the Mayor and the Council.

Chair Souki asked for a description of an intermodal operation and maintenance agency. Mr. Formby explained that it means that passengers would be able to move from one mode of transportation to the next on one fare card. Mr. Horner added that they now have intermodal committees that didn't exist before this administration. He envisions that the contract with Ansaldo will be similar to the DTS contract with TheBus where there will be separate unions.

Commissioner Mulligan shared his concern regarding the time element for the transition from construction to operations and questioned why an "Authority" is needed. He noted that an "Authority" is usually designated for multiple jurisdictions when in this case there is only one jurisdiction in our system. Mr. Horner believes that it's a matter of finding a system to integrate rail and bus without duplication. Mr. Horner asked that, if the Commission intended to establish an entity to generate Rail, the Commission consider establishing a board or commission to evaluate the possibility of consolidation, but to evaluate over a two-year term.

Dan Grabauskas, Executive Director, HART, commented that he sees his role as "implementer", to carry out the decisions made by the Board and the voters, which hopefully will be mindful of the entities involved, the process and the timetables. He cited his background as the General Manager of the Massachusetts Bay Transportation Authority (MBTA), the oldest transit system in America, a multi-modal, semi-

autonomous "Authority." He compared his position with MBTA to his present position, citing differences in funding and service areas. He suggested that Honolulu would probably have a unique system and cautioned that timing would be a significant challenge.

Mr. Grabauskas noted that under the Charter, HART is more semi-connected than autonomous, citing connections such as Corporation Counsel and human resources. He mentioned that salaries are a challenge for hiring people from the mainland with expertise in areas that do not exist here. Also, as the chief procurement officer for HART, he has greater flexibility than DTS which will enable HART to move forward on the intermodal side of the project. Mr. Horner emphasized that the number of staff will be minimal at the time that the system is operational, especially since Ansaldo/Hitachi will be handling operations.

Chair Souki inquired about the contract language, specifically any clause which requires Ansaldo to provide operational plans to the City. Mr. Grabauskas responded that the bid required a pro forma of their operational plans. They have been in negotiations on exactly how that will work.

Chair Souki inquired whether there are others considering the operational phase after construction. Mr. Formby stated that he regularly discusses with Roger Morton at TheBus the different governance models, suggesting the Commission may want to hear from him. Mr. Horner added that the HART Board is also involved in the execution of operations as they will be approving operating contracts and agreements and negotiating with Ansaldo. The HART Board is also meeting with the Oahu Transit Services (OTS) Board to discuss integration.

Commissioner Broderick inquired whether HART will be recommending Charter amendments, and Mr. Horner was not sure if the PIG would recommend any.

Commissioner Mulligan inquired about Mr. Formby's response to Mr. Horner's and Mr. Grabauskas' comments. Mr. Formby felt that there were valid points, and that he has discussed the issue of flexibility in semi-autonomous agencies relating to such things as procurement and hiring. However, he noted that in the years that he has been with the administration, he has not had any problems working with the City Council on DTS issues, and sees the Council as a valuable resource for his position. Ideally, he would like to have direct reports for TheBus, Handi-Van, rail, and planning, naming OTS and Ansaldo as the operating experts. Mr. Formby then went on to explain the background of OTS, how the OTS Board is appointed and its responsibilities and duties, and how it operates in relation to DTS. He is now in the process of going through procurement to negotiate a new management agreement that will be a term management agreement. Mr. Horner felt that a suitable system for the City would be somewhere between the

OTS and HART structures. Both Mr. Formby and Mr. Horner discussed the differences in the relationships between DTS and OTS where OTS is a nonprofit organization versus HART and Ansaldo/Hitachi which is profit-oriented as well as the different business structures on decision-making and DTS oversight of OTS versus HART oversight of Ansaldo.

Chair Souki asked if the same metrics are used to measure the success of bus and rail operations. Mr. Grabauskas felt that they could be. He then commented on the previous discussion, and added that he felt that he also has had a good relationship with the City Council over the years that he has been in Hawaii and that in his previous experience, it was advantageous for the many cities and towns to have one entity with which to negotiate. Mr. Horner, in addressing the question on metrics, added that he felt that the recovery ratio for rail is higher than bus due to the lack of a driver and the number of passengers per bus, and the increased service hours.

Commissioner Rae inquired whether Board members should have specific backgrounds or experiences.

Mr. Formby offered his thoughts on the issue of measurements, adding that there are additional issues to consider in measuring bus performance such as, traffic, change of routes, gas and diesel, and greater opportunity for customer service issues. Chair Souki asked if the similarities or dissimilarities affect the framework. Mr. Formby answered that he felt that the level of engagement in the systems, the number of policy decisions to be made and the frequency of those decisions have a greater effect.

Commissioner Mulligan asked if the administration would be submitting any proposed Charter amendments. Mr. Formby said he thought they would.

Mr. Horner expressed his confidence that the HART Board would come up with a plan that will be reasonably similar to any plan developed by the Administration. He personally believes that, despite things being dynamic and subject to constant change, he has confidence in the political leadership; he feels that the success of the system depends on the individual leaders and the amount of work they are willing to do.

Commissioner Tsujimura expressed his concern over the timing of the project. He asked whether HART would have any problem if the Commission proposed an amendment similar to the one proposed by DTS. Mr. Formby cautioned that it would depend on how the question is worded because the voting bus riders in the Ewa side are passionate about their bus.

Commissioner Rae suggested an alternative of a trigger to the question when operations start. Commissioner Tsujimura suggested that the HART Board PIG consider the phrasing of the question very carefully and justify that phrasing to the Commission.

Governor Waihee inquired about the role of the executive in HART's budget process. Governor Waihee expressed concerns that section 17-106 of the Revised Charter of Honolulu currently does not give the Mayor the authority to amend the HART budget or have any oversight other than transmitting the budget to the Council. Governor Waihee found this troubling especially given that the City was responsible for any HART shortfall. Mr. Grabauskas explained that staff recommends a budget to the HART Board Finance Committee, and it is then submitted to the Mayor who transmits it to the City Council. Governor Waihee noted that the Charter language does not require a detailed budget. Mr. Grabauskas confirmed this explaining that the money is federal and state money which can only be used for construction. Governor Waihee expressed his concern that the Charter language will remain the same even after the money is spent. Mr. Horner explained that the State, in approving the extension of the .05% tax, also specified that it could only be used for construction. Governor Waihee shared his concern regarding accountability, noting that HART's budget is larger than the City's and there is no review of the actual item expenditures. Mr. Grabauskas clarified that as a matter of course, HART does present a line item detailed budget to the City Council, and follows the budget process as every other department does. Governor Waihee suggested that the Commission may want to explore the possibility of a Charter amendment to align the language in the Charter to the actual process.

Commissioner Soon felt that the major issue is the fares and the subsidy and that the responsibility for these falls on the City Council through the budget process. She said the fare structure for rail and bus needs to be in one place with one authority and set by the Council.

Commissioner Mulligan returned to the issue of qualifications of HART Board members and felt there could be a balance without having to name qualifications for each and every Board member but some expertise should be required, such as with the San Francisco Municipal railway. He liked the requirement that they had to ride their public transportation system. Mr. Grabauskas informed the Commissioners that the MBTA Board consists of representatives of various geographic service areas and certain interest groups.

Commissioner Ikeda noted that initially, a transit oriented development (TOD) planner was part of the group, but was moved to the Department of Planning and Permitting. She felt that such a person would have been helpful to control the land around the stations to maximize revenue from the development in that area. She asked about their thoughts on where a planning person should be. Mr. Formby felt that the issue of

TOD is not within HART's jurisdiction, but a state, city and private issue. While HART does have a TOD Committee, it is mostly for collaborative purposes. Mr. Horner agreed with Commissioner Ikeda's position about leveraging the financial return in the TOD areas, but said that the planning process will provide for improved property values and make the corridor more livable. He said it's now up to the Mayor and the City Council to create the enterprise zones around these areas.

Commissioner Tsujimura explored the idea of creating a subsidy from the increased property values around the rail stations, but Mr. Grabauskas clarified that the Charter does not give HART that authority. Commissioner Soon noted that the core concept of TOD was to create development around stations to create ridership. Mr. Horner pointed out that the subsidy needs to consider the load removed from other transportation modes, the property value appreciation, the creation of jobs, and the economic vitality of the project among other things.

Commissioner Mulligan raised the issue of the decision to not purchase land as a revenue source when the system was developed to help with the subsidy and wondered if there would be any opportunity in the future to do this. Mr. Grabauskas noted that there is no budget for that and that the current Charter only allows acquisition of lands for the rail system. Mr. Horner added that HART's funding is not for that purpose.

IV. DISCUSSION

Commissioner Soon compared the multimodal transit operation to the State Department of Transportation, which runs the airport, harbors, and highways. She suggested that it might be helpful to invite Roger Morton to an informational briefing or when the Commission starts reviewing proposals on transportation.

Commissioner Mulligan noted that the cities of San Jose and Long Beach each have an independent police auditor. He is concerned about the checks and balances over people that have the authority to take people's lives. Commissioner Mulligan cited the recent Honolulu Police Department matter involving the wrongful arrests of the two hikers as a basis for a need to authorize the Police Commission to discipline the officers.

Commissioner Rae raised the question of the necessity of the Police, Fire, and Liquor Commissions and wondered why the Mayor couldn't assume their functions. Chair Rae further inquired whether these commissions were governed by statute or were purely Charter-based.

Deputy Corporation Counsel Dawn Spurlin suggested that if the Commission considers the potential for granting disciplinary authority to a board or commission, that the Commission include someone from the Department of Human Resources in the discussion. She also noted that the Police Commission is required by state law and will check on whether the Fire Commission is also required by state law. She announced that the Corporation Counsel passed out opinions in August and September regarding the Mayor's reorganization, and offered copies if any of the Commissioners did not receive any of them.

V. ANNOUNCEMENTS

Chair Souki announced that the next Charter Commission meeting will be October 1, 2015, at 3:30 P.M.

VI. ADJOURNMENT

With no further business, Chair Souki adjourned the meeting at 6:07 P.M.