

**HILLSBOROUGH TRANSIT AUTHORITY  
AND  
TAMPA HISTORIC STREETCAR, INC. BOARDS  
TASK FORCE FOR THE RENEWAL OF THE OPERATOR’S AGREEMENT  
FOR THE TECO LINE STREETCAR SYSTEM  
MEETING MINUTES  
Monday, August 11, 2011 at 1:30 p.m.  
1201 E. 7<sup>th</sup> Avenue, Tampa, FL 33605**

**HART Board Members Present**

(2)

John Byczek  
Steven Polzin

**Staff Members Present**

Sylvia Berrien  
Katharine Eagan  
Philip Hale

**THS Board Members Present**

(3)

Michael English  
Santiago Corrada  
David Mechanik

Rickey Kendall  
Brenda Mowen  
Lena Petit  
Steve Rosenstock  
Marco Sandusky  
Ken Wagner

**Others Present**

Charles Fletcher, HART General Counsel  
Richard Schlosser, THS General Counsel

**CALL TO ORDER**

Director John Byczek called the meeting to order at 1:39 p.m.

The Pledge of Allegiance followed.

**APPROVAL OF MINUTES**

*Director Steven Polzin moved and Director Santiago Corrada seconded approval of the Task Force Meeting Minutes of July 18, 2011. All members present voted aye. The motion passed unanimously.*

**PUBLIC COMMENT**

No one requested an opportunity to comment on the agenda items.

**DISCUSSION ITEMS**

Mr. Richard Schlosser, THS Board General Counsel, reported about the collaborative effort of HART General Counsel, staff and himself on review of the Streetcar Operator’s Agreement and Operations and Maintenance Plan (O&M Plan). He indicated that five issues remain outstanding and are to be discussed by the Task Force members. Mr. Schlosser referred the members of the Task Force to page 6 of the Streetcar Operator’s Agreement. He noted that in both Paragraph G – “Risk of Loss” and Paragraph I – “Damages” the risks are allocated to THS. Mr. Schlosser pointed out that this is a change from the prior version of the agreement.

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Director Michael English said he would not support the proposed change.

Mr. Charles Fletcher, HART General Counsel, said it is not an uncommon provision where an entity responsible for a system, THS, contracts with an operator and the operator has an obligation to maintain the property, while the entity is in charge of the system. He remarked that the City of Tampa and HART have separate obligations under the tri-party agreement, however, they are not a subject within the streetcar Operator's agreement.

Director David Mechanik referred to the history of creation of THS, when HART and the City of Tampa agreed to jointly build the system. He said the contract with an operator of the system came after that decision was made. Director Mechanik mentioned that the initial agreement was that HART will supply the rolling stock and the City of Tampa will supply right of way for the streetcar system, and later on, it has been decided to create an entity that will independently oversee operation of the system. He added that THS acts as a management entity and an oversight board, not an owner of the system. Director Mechanik stated that it would not be consistent with the original concept of THS for this agreement to create liability for THS to replace the equipment.

Director Polzin asked how HART would deal with a situation of damage to a HART asset.

Mr. Rickey Kendall, Manager of Risk & Environmental Safety, stated that HART carries property insurance for such cases. He added that HART has an outside vendor insurance for the streetcars including the Birney car.

Director Polzin asked if a share of the insurance costs is incorporated into the annual operating budget.

Mr. Hale, HART Interim Chief Executive Officer, replied that the costs for insurance are calculated in HART billing rate to THS.

Director Byczek asked about the limits on insurance replacement.

Mr. Kendall responded that it is at the cash value added.

Mr. Schlosser clarified that the first 5-year operator's agreement did not have this specification about THS obligations, the second 5-year contract contained this language. He suggested this language be revisited. Mr. Schlosser asked about how extensive the shut down time will be for the streetcar system in case of a hurricane or natural disaster.

Mr. Hale responded that it would depend on a category of a hurricane. He indicated that a category three to five hurricane would damage the overhead catenary and cause the system shut down for a couple of years, however, Mr. Hale added, such damages would be covered by FEMA.

Mr. Schlosser restated his concern that the THS is in a difficult financial situation and this could be a potential unfunded liability.

Director Corrada suggested deleting the last sentence in the paragraph "G". He noted that the first sentence of the paragraph refers to issues that are in control of the operator.

Director English said THS cannot afford to bare those costs. He indicated that HART owns the equipment as a large transit agency and is in the position to assume the responsibility.

Director Polzin said he would be comfortable with this as long as it is understood that the costs would not be coming from bus service.

Director Polzin suggested that the language be revised to substitute "will be included in each Annual Operations budget..." for "can be included in each Annual Operations budget..." in the agreement.

Mr. Schlosser suggested to use the language as a model for paragraph "I", too.

### **Page 7 "m" Use of Restored Streetcar**

Mr. Schlosser said that he was not sure if the Tampa & Ybor City Street Railway Society, Inc. has the Birney car properly insured.

Mr. Kendall said the Birney car is covered through HART policy, with the current year's premium is \$1,200.

Mr. Fletcher said that there is a separate agreement with the railway society providing more details on this insurance.

### **Page 11, section 3b "Insurance Obligations"**

Mr. Schlosser noted that this paragraph has conflicting language in it. He said historically, the ability for the TECO Line streetcar system to have railway liability insurance was challenging. Mr. Schlosser explained that this provision was put in the very first version of the operator's agreement to protect against a case when the THS would not be able to obtain insurance elsewhere. He asked if it would be THS Board preference to keep the mandatory insurance provision or make it optional. Mr. Schlosser said that currently THS has a separate insurance.

Ms. Sylvia Berrien, HART Staff Attorney, said HART's preference would be to have this as an optional situation. She indicated there are many available insurance options on the market.

### **Page 25 of the O&M Plan**

Mr. Schlosser said it is important to consider how much support THS receives from HART staff for marketing, sponsorship, and advertising programs. He noted that THS does not need any support with sponsorship arrangements due to a commission agreement in place. Mr. Schlosser said HART participates in negotiations of sponsorship contracts as an owner of a vehicle; however, such matters are handled at a Board level with the General Counsel's assistance. He pointed out that historically a lot of support was given by HART general marketing staff and a concern was raised by HART that the full cost is not captured. Mr. Schlosser said that capturing costs associated with the pure advertising program was never memorialized to be fair to both parties. He provided an example of the current verbal agreement that THS would participate on a task order basis within HART existing contract with marketing and advertising contactor HDR. Mr. Schlosser suggested a definitive way is to be agreed upon to record HART and THS roles in marketing, sponsorship, and advertising programs.

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Ms. Brenda Mowen, HART Chief Administrative Officer, explained that the HART proposed bill rate includes \$50,000 in marketing support and \$30,000 in advertising support annually. She indicated that HART prepares marketing and advertising budget on an annualized basis which is not always synchronized with the THS annual budget adoption process. Ms. Mowen reported that this year, the THS Marketing Committee reviewed and approved the marketing spending plan. She suggested that HART would present marketing and advertising budget along with the marketing and advertising plan as a part of the annual budget adoption process. Ms. Mowen added that HART could configure a bill rate, and the marketing and advertising plan would be executed throughout the year with the expectation that the fully burdened staff rates would be billed against it as expenses occur. She pointed out some unique opportunities to provide revenue to THS at no cost to THS.

Director Mechanik asked if \$80,000 is built in the next fiscal year budget.

Ms. Mowen stated that HART will be reporting back how we bill against those moneys.

The task force agreed with the staff proposal.

Ms. Mowen said the Marketing Committee will be approached on recommendation on the marketing and advertising spending plan.

Director English requested that the marketing committee recommendations on the spending plan be brought to the full Board for their review and approval.

Ms. Mowen noted that the annual operating budget adoption process would set a tone on how to facilitate this process.

Mr. Schlosser recommended that this provision should be treated in the agreement, but money should be handled through the annual budget process.

Director Polzin asked if any advertising impacts are anticipated in conjunction with the 2012 Republican National Convention event.

Director English mentioned that there is not enough information available to understand how the streetcar will work during this event in town.

Mr. Steve Rosenstock, HART Manager of Marketing and Community Relations, stated that the current contractor, Direct Media, have national experience in advertising on other streetcar systems. He reported that since beginning a contract with Direct Media, sale of ad space on buses has considerably increased.

Ms. Katharine Eagan, HART Chief Operating Officer, stated that the intent is to define marketing support for THS in the Operator's Agreement enabling the \$30,000 to be allocated elsewhere.

Ms. Mowen stated that Direct Media has a larger advertising network than HART staff does.

Ms. Mowen commented that the Operator's Agreement will be presented to the THS and HART Boards for approval on August 17 and August 22, respectively. She sought direction from the Task

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Force on presenting the Operator's Agreement for approval in the form of a red-lined version or a final agreement with the changes incorporated in it.

Director Mechanik requested that the Operator's Agreement be presented to the full THS Board as a red-lined version of the previous 5-year agreement, with a summarization of the more significant changes.

Director Mechanik asked if the changes to the O&M Plan reflect the current activities of the streetcar operations.

Director Polzin requested to receive the final version of the documents prior to advancement to the full Boards.

The meeting adjourned at 2:41 p.m.