

**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, July 18, 2011 at 10:30 a.m.
1201 E. 7th Avenue, Tampa, FL 33605**

HART Board Members Present (0) Staff Members Present

Sylvia Berrien

THS Board Members Present (3)

Katharine Eagan

Michael English

Philip Hale

Santiago Corrada

Martha Milligan

David Mechanik

Brenda Mowen

Lena Petit

Marco Sandusky

Others Present

Charles Fletcher, HART General Counsel

Richard Schlosser, THS General Counsel

Thomas Kongerslev, ATU

CALL TO ORDER

Director David Mechanik called the meeting to order at 10:38 a.m.

The Pledge of Allegiance followed.

APPROVAL OF MINUTES

Director Michael English moved and Director Santiago Corrada seconded approval of the Task Force Meeting Minutes of June 15, 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 General Counsel, stated that the versions of the Operator's Agreement and Operations and Maintenance Plan (O&M Plan) provided to the Task Force in the meeting packet contain his comments to all iterations prepared by HART. He has discussed these documents with Mr. Charles Fletcher, HART Board General Counsel, who joined the process at a late stage and has not had the opportunity to provide his comments. Mr. Schlosser said the changes are a combination of updates in attempt to streamline the agreement. He gave a brief history of the first two revisions of this document, which were prepared by Mr. Clark Jordan-Holmes, former HART Board General Counsel.

Mr. Schlosser stated the agreement currently under discussion will be signed for the period of five years and updated to reflect current operating parameters.

Mr. Fletcher noted that large sections were removed from the original document and a significant number of issues remain open related to capital assets and the parties' responsibilities regarding maintenance of capital assets. He said HART staff would like to review and research these areas more closely and provide additional comments.

Ms. Brenda Mowen, HART Chief Administrative Officer, said the major issue is to identify parties responsible for capital improvements. She stated HART has not had the opportunity for discussions with representatives from the City of Tampa.

Mr. Philip Hale, HART Interim Chief Executive Officer said the process was delayed due to recent HART staffing changes.

Ms. Mowen stated Mr. Rickey Kendall, HART Risk and Environmental Safety Director, will conduct a comprehensive review of risk factors and insurance-related questions.

Ms. Mowen said that a large section was added on advertising and promotions addressing HART's assistance in maximizing revenues. The language reflects comments received from several past THS meetings and needs review by HART Marketing and Communications Department. Ms. Mowen said HART would like to update some verbiage in the document to ensure its consistency. Ms. Mowen stated that there are several references to the initial start-up of the streetcar system that should be revisited and possibly deleted as they do not appear to have current application.

Ms. Mowen complimented Mr. Schlosser for the tremendous effort made in preparing the current draft version of the Operator's Agreement and O&M Plan. She asked that HART have the latitude to absorb all of the suggested revisions. She commented that the most substantive issue appears to be the Tri-Party Agreement and its possible impact to the Operator's Agreement.

Director Mechanik asked if there are any issues staff needs to discuss today. He said HART staff and the THS attorney need to meet to come to an agreement about certain issues. Director Mechanik noted that due to the provisions in the Tri-Party Agreement, the City is a critical party in the process and a legal backstop for the costs of operating the streetcar system. He asked whether or not the agreement appropriately addresses the reporting of all revenues collected by HART and credited to THS.

Ms. Mowen stated that the City of Tampa is currently performing a streetcar system performance audit. She stated HART received a briefing last week and one of the questions the auditors raised involved the methods of collecting and reporting revenues. Ms. Mowen said the auditors are performing a comprehensive review of that process and are currently compiling data.

Director Corrada suggested the current draft be checked for grammar and numbering errors.

Ms. Mowen stated that while a reference is made in several sections of the O&M Plan that performance goals and other measures are to be set on an annualized basis, there is no consistency

about the timeline for setting those parameters. Ms. Mowen complimented Mr. Schlosser in marking placeholders for information HART is to provide and suggested anchoring them to a timeline such as the annual budgeting process.

Mr. Fletcher stated that staff needs to revisit the O&M Plan to ensure they are sustainable and applicable for the next five years and to determine if any of the items that have been removed should be re-inserted in the document. He noted the need to address capital assets issues with the City of Tampa. Mr. Fletcher stated a paragraph should be added to the document spelling out the process of transitioning into the next fiscal year.

Director Mechanik suggested that all of the outstanding issues be presented for discussion and resolution at the next meeting.

Ms. Mowen said the timeline to execute an approved agreement is October 1. She added that the process to attain approval from both the HART and THS Boards would take nearly a month. Ms. Mowen suggested that the Task Force meet again in the next seven to 10 days, and a final draft be presented to the THS Board of Directors at the August 17 meeting. She expressed the necessity in staff meeting with the City of Tampa to discuss capital issues with the Tri-Party Agreement.

Mr. Fletcher said that it could take three to six months to amend the Tri-Party Agreement.

Ms. Mowen indicated the current audit by the City of Tampa is to clearly understand streetcar operations and the parties' responsibilities. She expects the auditors will present a draft report within the next 30 days. Ms. Mowen said that resolving capital issues would require more time than the October 1 deadline.

Director Mechanik stated the Operator's Agreement must be executed before September 30, 2011. He pointed out that the Tri-Party agreement, which is the governing document, could not be revised by that date. He stated that long-range changes can be identified and applied to the Tri-Party Agreement in the future. Director Mechanik noted that the parties are not precluded to updating the Operator's Agreement and the O&M Plan every five years. He indicated that the immediate objective is to focus on what can be executed by the end of September 2011.

Mr. Fletcher concurred that the renewed agreement needs to be approved and finalized before the current agreement expires, and the new agreement should be consistent with the Tri-Party Agreement. He noted an option to extend a status quo for a period of time, and that it would be a management-level decision.

Mr. Schlosser said there are two threshold issues: capital expenditures and accounting for revenues. He said that if the process cannot move forward from HART's standpoint without resolution of these two issues, an option would be to execute an interim extension for a few months. He noted that this agreement could be amended any time within its five-year life. Mr. Schlosser suggested a meeting be held within seven to 10 days between the two attorneys and Ms. Mowen to work through the issues and present a final recommendation to the Task Force.

Director English said the new budget is more advantageous to the THS financial situation and he would not support extension of the old budget for a long period of time. He noted that it was a lengthy process to agree on the original Tri-Party Agreement, and its revision might take a while.

Mr. Hale said the budget was developed to match the modifications to the O&M Agreement. He noted this year's budget is aggressively cost-effective, ensuring that HART is capable of meeting the requirements of the O&M Plan. The Tri-Party Agreement stands separately, and other documents could be developed to match the Tri-Party Agreement as it stands now.

Ms. Mowen said there are some provisions about the City of Tampa role in the Operator's Agreement, although the City is not a party to the agreement.

Director Corrada said the fundamental question is if the City of Tampa could be bound to any terms in an agreement between THS and HART to operate the system when the agreement is beyond the terms of the Tri-Party Agreement. The Operator's Agreement can be written to support what is contained in the Tri-Party agreement, and both could be amended at a later date.

Director Mechanik said 80 percent of the work has been completed and the Task Force needs to move forward with the changes that are consistent with the Tri-Party Agreement. He added separately, the parties could take time to address the Tri-Party Agreement and make necessary changes to it.

Director Corrada suggested that a final draft be presented for approval at the next Task Force meeting for recommendation to approve at the full THS Board of Directors meeting. Another Task Force can be formed later to review the Tri-Party Agreement.

Ms. Mowen recommended a smaller group work independently from this Task Force to complete the document.

Director English requested to have a Task Force meeting prior to August 17 to be comfortable with the issues to be taken to the full Board. He commented that THS does not have the resources to deal with capital expenditures.

Mr. Hale clarified that operations and maintenance references in these documents are related to running the operations of the system and are not capital expenditures. Issues about infrastructure and mid- and long-term needs are not to be considered as a part of O&M Plan. The O&M Plan can be finalized, with the next step to identify the parties' roles and responsibilities. He stated that the Ybor facilities and streetcars are the responsibilities of HART. The next step would be to identify who is responsible for the right-of-way owned by the City of Tampa (amenities, including stations and catenary). A system analysis will be required to ensure the entire infrastructure meets its planned life cycle.

Director English asked if a plan for this infrastructure would be accompanied by a funding strategy.

Mr. Hale confirmed that it would.

Mr. Fletcher asked if the members of the Task Force are in agreement about the level of obligations in the capital infrastructure described by Mr. Hale.

Director Mechanik said that THS is interested in these issues, but it does not fall under its main purview of responsibilities. The City of Tampa and HART are the owners of respective parts of the system and have their respective responsibilities. He said that there are some issues to be discussed but those issues are not part of the responsibilities of THS defined in the Operator's Agreement.

Ms. Mowen said in the course of re-writing of the tri-party agreement, caution should be taken not to add or distort the language in the Tri-Party Agreement and the agreement between the City of Tampa and HART. She requested clarification about the City's responsibility to review/approve the agreement before it is executed by two Boards.

Mr. Schlosser stated that the City of Tampa does not have an obligation to approve the Operator's Agreement or the O&M Plan. He added that they do have the right to approve or reject the annual budget. Mr. Schlosser said that in his draft he proposed to remove provisions or terms that were not legally required or desirable.

Ms. Eagan stated there is a Marketing Committee Meeting scheduled for August 3 and one of the objectives will be to review the guidelines of the advertising agreements.

The meeting adjourned at 11:25 a.m.

NEXT MEETING

The meeting is to be scheduled before August 17, allowing sufficient time for thorough review of the final versions of the Operator's Agreement and O&M Plan.