State-County Functions Working Group (Transient Accommodations Tax)
(Established by Act 174, Session Laws of Hawai'i 2014)
State of Hawai'i
http://auditor.hawaii.gov/task-forceworking-group/

Minutes of Meeting

Date: Wednesday, October 21, 2015

Time: 10:00 a.m.

Place: State Capitol
415 S. Beretania Street
Conference Room 225
Honolulu, Hawai'i

Present: Simeon R. Acoba, Chair, Chief Justice Appointment
Sananda Baz, County of Maui Appointment
Ed Case, House Appointment
Mary Alice Evans, Governor Appointment
Steven Hunt, County of Kaua'i Appointment
George Kam, Senate Appointment
Neal Miyahira, Governor Appointment
Deanna Sako, County of Hawai'i Appointment
Ray Soon, City and County of Honolulu Appointment
Jesse Souki, Governor Appointment
Kerry Yoneshige, Governor Appointment

Jan K. Yamane, Acting State Auditor, Office of the Auditor
Jayna Oshiro, Analyst, Office of the Auditor
Pat Mukai, Secretary, Office of the Auditor

John Kirkpatrick, Belt Collins Hawaii LLC
Michael Lim, Belt Collins Hawai'i LLC
Joseph M. Toy, Hospitality Advisors LLC
James Mak, Ph.D

Excused: Ronald Williams, Senate Appointment
Tina Yamaki, House Appointment

I. Call to Order: Chair Acoba called the meeting to order at 10:04 a.m., at which time quorum was established. The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Hawai'i Revised Statutes, Section 92-7 (b).

II. Public Testimony

a. Mike White, County of Maui, Council Chair submitted written testimony as an individual member of the council (distributed at the October 7, 2015 meeting) – Discussion

The WG acknowledged receipt of Mr. White's written testimony.

b. Margaret Wille, County of Hawai'i, Councilmember, was an attorney prior to becoming councilmember, this is her second term. She previously was with the Community Development Plan for South Kohala and worked on the issue of the TAT back then. She is also involved with the Real Property Tax Task Force, working with Member Sako.

She's been following the work of the WG and the impacts on the county and other tax issues.

From the counties' point of view, in particular Hawai'i County, she's been reading through the WG's materials, minutes, and reports and will be making comments on what she thinks is fair and how to go about this. She said in conversations between the counties to the State Legislature back in 2008, the counties had 44.8 percent of the revenues and it was pretty solid. And then, the economy tanked and the State wanted to take some of that money and when the economy swings back up, they will go back to that.

She recalled at the Waimea Community Association meeting, that this is temporary and said there are statements in the committee reports. From the counties perspective, why aren't they going back to that promise of the 44.8 percent? Going back to the original intent model, the Tax Review Commission Report was really good. What should be the authority for the counties? It would actually be better to allocate to the counties some taxing authority so it doesn't go back and forth, otherwise it's always an issue.

At the beginning, the counties got 95 percent and the State kept 5 percent for administrative costs. Then the issue of funding the Convention Center and HTA with the increase from 5 percent to 7.25 percent and those amounts were all to the State. Under this formula and looking at the understanding of that report which she believes the Finance Department (not sure who it was here at one of the meetings) was to these principles that still stand and yes, these principles still stand from that report. It would really be, if you implemented that, based on the counties portion was really only coming out of the 5 percent, approximately the 50/50 split.

The investigative group worked on the 60/40 model, it's the State Legislature that has to approve this, you don't go to the county councils to get it approved. This is just her own opinion, if it was really 60/40 and the counties knew that it's 40 percent, she thinks the counties would be agreeable with that. She referred to Mr. White's testimony and he still basically splits HTA and then the counties and State splitting that and it comes out the same; the counties get 40 percent, State gets 40 percent and if you keep HTA separate from the State which she says it should be 20 percent whether it's a flat $83 million. Whether it's a percentage or a flat $83 million, it's really up to the State to decide. It's good to have a percentage as long as there is a percentage, there's always an incentive. The council spends a lot of time on rentals—bed and breakfast; and where people who are not paying the TAT and that's a big problem right now. There is a bill going through the Hawai'i County Association of Counties to come before the council. A bill Kaua'i is proposing is to limit rental properties or rooms being rented out in private homes. She doesn't have a problem with that if people are contributing to TAT and their GET and participating. As it is right now, there is no incentive for the counties.

Referring to the Lessons Learned Model, she got lost in that. She feels that simplicity is important and the neighbor islands will want to know, what is the percentage that they can count on; what is the fair percentage to the counties? Whatever the group does, if you start using the different 60/40 models, when taking out the 20 percent and then, the 10 percent, it comes out to about 28 percent. What is the amount that it boils down to when you take off the 20 percent and the 10 percent of the 90 percent, then what is the 60/40 out of that, what is the bottom line? It should be kept clear, what is that number? She doesn't feel the WG should get in between the division of the counties; it should be kept simple. She encouraged everyone to read the finance report from the 1990s because it's very well-stated and clear. She feels they were promised something but they are going on a different track going down.

She also has concerns over Belt Collins being the consultant. She doesn't feel they are being independent as others. The counties are paying for this report and she does have some concerns. The bottom line is they are going to fight for it. It has to be something clear and really is fair. For the counties, they are surviving but what they don't do is like the issues on wastewater, all the things that are not on the surface that aren't getting done; how are we keeping up with things.

Member Hunt stated to Councilmember Wille that is something the group has been deliberating with; the 44.8 percent was when the TAT was at 7.25 percent. Now that it's at 9.25 percent which was also supposed to be temporary but looks like that's not going to change. If you reverse-engineer for the counties to go back to the 44.8 percent based on 7.25 percent using a higher rate kind of dilutes roughly about 36 percent of the TAT revenue. That would be the revised portion based on the original sharing. The State makes a very strong argument, they went to bat, they took the political heat to get the additional 2 percent whether or not it should be incorporated in the revised percentage. Councilmember Wille replied, when looking at the chart, what is the percentage of the total, it would be 44.8 percent.

III. Chair's Report

a. Announcements, introductions, and correspondence

None

b. Minutes of October 7, 2015 meeting

The minutes will be taken up at the November 4, 2015 meeting.

IV. Consultant's Report

a. Forecasts to 2025 allocation models selected for review by the Working Group (Growth and Recession Forecasts) (handout)

b. Consultant's preliminary findings (distributed at the October 7, 2015 meeting) and information requested at that meeting (handout)

c. Next Steps

Mr. Kirkpatrick stated that they re-worked the models with slightly different forecasts and basically some footnotes and more information discussed at the October 7th meeting. He has very little to present except to answer any questions the WG may have.

Chair Acoba suggested starting with general questions before discussing the models.

Member Case asked if the indexing used in the models is the Honolulu CPI. Mr. Kirkpatrick replied it's the Honolulu urban consumer CPI. When talking about forecasts, he needs to come up with forecast estimates. His suggestion would be to take the Honolulu urban consumer CPI and the State agency people should tell us the best way to do this, whether it's the August or January/February presentation. If you take it from what's published every August that means you got the last fiscal year's price increases and that could be the basis for estimating change as you go to the next fiscal year's budget so there is a lag there; there is always going to be a lag.

Member Case said it's not estimating anything. Once you start with a base, it should be self-activating over time. Mr. Kirkpatrick replied but somebody has to go in and say what are the new numbers being put in. Member Case said that happens every year, you have to allocate the money every year. Taking the Tourism Special Fund (TSF) for starters, let's say you start with $100, it's pretty simple at that point if you calculate that CPI application and that goes on year after year, is it a fairly simple exercise? Mr. Kirkpatrick said he would think so. Member Case said it's pretty simple on the private industry side. Mr. Kirkpatrick stated the issue for budgeting purposes, the budget is developed July through October, and it goes before the Legislature in January through April, so at what point do you throw in the percentage? Member Case answered as close to the beginning of the next fiscal year as possible because that is the most accurate, it seems. It comes out more often than just once a year. Mr. Kirkpatrick said it comes out every six months that's why it is either July/August or January/February. The people who deal with this all the time should tell him when it is possible to do this and it should not be painful to the State agencies to calculate it, everyone has to agree on a procedure.

Member Yoneshige stated it would seem that the August index that came out for the prior July/June would be the most accurate—it would be the basis for budgeting. When he looks at it mechanically, there's no other option except for the fact that when the ceiling goes into effect, it's actually two years down from when the CPI was calculated. There's no other way to work that. Mr. Kirkpatrick said there's always going to be a lag and to try and reduce the lag by a certain amount, the question is, what is practical. Member Yoneshige said as time goes on, in the two years, you get the impact of the change, the two-year delay, is it good or bad. At least it is an index that is calculated by an independent federal agency.

Dr. Mak stated the federal labor statistics uses the CPI U and they do it for Honolulu twice a year. The January–June, 2015 report just came out. So, we're about three months behind, so that's the kind of timeframe we will be working with.

Chair Acoba asked if the WG adopts some version of the CPI how that is measured or computed would have to be included in the statute. The statute would have to designate the period. What is the consequence of saying, in terms of accuracy of using the index for some items, not all items? Mr. Kirkpatrick replied that gets into a judgement call. If you are working in a specific industry, we are talking about overall government expenditures and also about marketing and CPI does not have a tourism marketing line. This is why using the total basket of CPI makes more sense. Also, you do get changes in different components of CPI change over time. We all know sometimes you can have really big increases and/or decreases and then, that percolates through the system, through the price of other goods. The basket gives you something that averages out.

Chair Acoba said what he is trying to anticipate is questions from the Legislature, why some items are indexed and others are not. Do you have fair comparison of items? Mr. Kirkpatrick said the reason for indexing is some things seem to be price sensitive, other items seem to be obligations that were set by prior contracts or capital costs and tied to set figures.

Member Baz stated if the WG decides on a model that includes CPI, we need to get that into the report pretty clearly why we chose to have some include CPI and some not. If we choose the CPI, it is because of base cost inflation. If we don't choose the CPI, it is because it is for the debt service, flat debt service. It's been decided that debt service will be the same for the next 20 years so that doesn't meet CPI obligation and should answer the question legislators might ask.

Chair Acoba asked should the index be applied to the 60/40 split. Member Baz said it's up to the WG to decide. His personal opinion is that it shouldn't because the 60/40 split is a percentage. The only thing they were talking about is the CPI in his mind that makes sense is for the TSF allocation. If they are going to make a dollar amount, then set that as a certain dollar amount with the CPI calculation. If they start talking about other set amounts, then they will need to discuss addition of the CPI. Percentages will go up and down based on that actual revenue for tourism.

Member Soon wanted to add that there was also the philosophical question as to whether, even if it's a fixed amount, whether it should go up with CPI because it may not make sense to grow TSF if we're doing great in the market, do we really need that fund to grow? There are philosophical questions that we need to answer when we decide on the model.

Chair Acoba stated he's not sure on nominal and constant dollars and which one should the WG be using. Mr. Kirkpatrick replied that any policy document that will set out a rule for how to do things is a rule for how to use the dollars that's in front of you. That is to say the dollars that are in the general fund right now; that's current dollars. When you are doing forecasting, you can talk about constant dollars. If we are going to put everything in 2010 dollars for example, but it's not operational, it's something you need to do for forecasting. The point he is trying to make is, when looking at forecasting, they do their best to not think about inflation so they will use constant dollars but they are not in that position; they are in the position of saying, what is a good and fair way to approach the decisions that are being made year-to-year in inflationary or non-inflationary circumstances that may come up.

Chair Acoba asked about nominal dollars. Dr. Mak said it's the same as current dollars. Chair Acoba asked which one they would recommend. Mr. Kirkpatrick replied they think in terms of current dollars because they are talking about the decision-making that people have to make every year. If you write constant dollars into any kind of ordinance or statute, then you have to have someone do the calculations; we have $157.5 this year, how much is that in 2010 dollars then someone else is going to say, they don't agree with DBEDT or whoever made that transformation.

Member Yoneshige asked Chair Acoba the question why don't you apply the index to all of the factors and why only to the TSF and his answer to that would be that the changes in the TAT is a function of volume of hotel units occupied and changes in the rate of units and then CPI. The idea in putting behind the CPI onto the TSF is to adjust the TSF for any changes in price inflation but not to change the amount in the budget in the TSF as a function of rate and volume changes in hotel room occupancy. That's the adjustment mechanism so the TSF is able to keep up with changes in the economy related to inflation on spending. The floors are protected so if there is a significant change in the CPI because the economy goes down, the fund is stabilized so the resources are available to market Hawai'i. Chair Acoba asked Member Yoneshige to check and write it up. Member Yoneshige said he will.

Dr. Mak said whether you want to use nominal dollars or real dollars, it depends on which question you want answered. If you want to know how many dollars are going to be at hand in the pot, you would want to use nominal dollars, that's the appropriate one to use. If you want to know how much those dollars can buy, what the impact of those dollars then, you will want to use the real dollars. For the group's purposes, it's the nominal dollars at hand that's important but also in the back of your mind, you want to know, are those dollars going to cover expenses for constant services. It depends on what questions you want answered.

Member Yoneshige stated for their purposes, it's getting a little too deep. The issue they are trying to address is, how do they address the maintenance of the TSF with changes in the economy so there can be conceptually a mechanism for adjustment to the budget without the HTA having to go through the whole budgetary process yet, the adjustment is pegged against some changes in the economy. Dr. Mak suggested having information on both; both are useful. Member Yoneshige stated he is thinking about when the law is written up.

Chair Acoba said when looking at the models, they were thinking in terms of relationships between, for example, county and the State and the appropriations are already made so in terms of the relationships, which would be the better dollar measure? Dr. Mak said it depends on which question you would like answered. If you choose the nominal dollars, you will have the $93 million every year going forward but at the same time, you may also want to know, is that going to be buying $93 million worth of goods ten years from now compared to today? So, the answer is, no.

Member Baz stated it is important information but he doesn't think it should be written into the law, it gets way too complicated. He's trying to just imagine writing a law that says some base amount is $82 million to TSF and each year, the CPI is calculated and added to the previous years' amount. It is going to be that calculations. Chair Acoba said the increase would be taken care of by the CPI. Mr. Kirkpatrick replied by the appropriate State authorities at the appropriate time. Chair Acoba stated that will account for the $93 million. Mr. Kirkpatrick said that's where the CPI is trying to get you, is to keep your buying power.

Dr. Mak said this is for discussion, he's not trying to complicate things. Chair Acoba stated that the Legislature has accountants, CPAs, on the committees and they know this stuff. He doesn't think trying to keep things simple for them will make it easier for the WG. He thinks it is better if they explain it.

Dr. Mak stated to complicate things even more, adjusting for the CPI inflation to the $93 million; a loan is not going to cover the cost of doing business. If you think about a fixed program, the fixed program will grow because there are more people on the islands, for example. It covers the price changes with the CPI but it doesn't cover the workload changes. So, adjusting for the CPI alone is only a partial adjustment for the growing costs of government which includes changes in the workload because the population increases and changes to the composition of workload because let's say, we have an aging population, so we need different kinds of services. The CPI is only a partial adjustment for costs of rising government. There's nothing in the model that addresses that issue.

Member Baz replied, he thinks Dr. Mak is talking about the cost of providing public services that would be important, but we are not talking about a CPI to adjust the costs for providing public services. We are talking about CPI to the costs of providing TSF, tourism services or tourism marketing, or whatever marketing HTA does. That will be more the price of constant service. If we have more hotel rooms, eventually, they will have to pitch to the Legislature that something significantly has changed, that CPI isn't correct. Member Case said that's the point right there because he would be worried if they were talking about, if that was it for the TSF. This is an unlimited function; starting with a base and it escalates and at some relationship to general inflation; recognizing there are two functions—1) it provides a predictable amount in a good time; and 2) a floor in a bad time. If HTA wants to go to the Legislature and ask for more money than that is up to them, they have that option. This is like trading predictability against not getting everything you want, you have to fight for some of it. If there are specific consequences to tourism over and above general inflation, then it is something that has to be discussed. At least the TSF has something they can work with. Chair Acoba stated we have to remember that this will go before the money committees and those people know economics and finances. It's our attempt to account for any changes in the future.

<u>Models</u>

Chair Acoba stated at the last meeting the WG discussed Models C, D, and E and would like to focus on those models.

Member Hunt said he would like Model B to be considered with slight modifications. Instead of the 20 percent share to TSF, go directly to the TSF floor which would be the $82 million plus the CPI and the balance be split based on a percentage between State and county.

Right now Model B, in a growth mode, the TSF gets substantially higher. He's more concerned about the floor being able to maintain that level so the B2 model which has the CPI, but remove the line above that has the 20 percent share, would be a model somewhat easy to implement as well as be workable.

Chair Acoba verified with Member Hunt that he is referring to Model B2 and the 20 percent be $82 million plus the CPI. It actually shows the line just below the 20 percent, there is a TSF floor, $82 million plus the CPI; eliminate the 20 percent and go directly to that so it provides the guaranteed amount. Stage 1 feeder will get the guaranteed amount whatever the CPI is plus the adjustment to the $82 million and the balance will be split, whether it is 40/60, that's for discussion but that is what he would recommend, have TSF at the top with a fixed amount plus a CPI indicator and the remaining split between State and county.

Member Soon asked about the current $30 million debt service. Member Hunt replied that it will come from the State's share. The 40/60 split is up for discussion to incorporate that debt in that service. Giving the additional funding and some of that would not be overfunding TSF based on a percentage increase over the years could help support that debt service as well. Chair Acoba asked if that was contained in one of the other models, the State absorbing the $30 million. Member Soon said in Models D and E, it is set-asides, it sets it apart so you can see but this is probably the simplest, philosophically. Member Sako suggested putting in the changes so they are able to see the impact.

Member Kam asked if he's the only member for the 20 percent TSF. Chair Acoba replied it hasn't been decided yet. Member Kam said he doesn't want it just given to HTA or TSF. We can make sure it's directly related towards things. The 20 percent is a good constant. Once you go to CPI, you are taking away from the 20 percent. Member Hunt said in a growth model yes; but in a recessionary model, you actually benefit more because the percentage might be higher. Member Kam said if things are doing good then he's thinking in terms of the counties, in the good times, HTA can improve the product. He is for the 20 percent TSF and everyone else have a strict percentage. How we get to the bonus above the $83 million through legislative acts, we need funds that go directly towards tourism. Chair Acoba verified the Model B2 is the 20 percent or the $82 million plus the CPI, the State absorbs the existing appropriations.

Member Miyahira stated whatever the WG does, the shared model is going to be a natural comparison so you have to include the shared model as a baseline because everything will be compared, referring to Model A. Member Case said speaking from one industry representative to another, the shared model would be good for the industry. The WG is better off starting with a share as a baseline and in some of the other models, escalating at CPI over time for our share even though it might not be 20 percent under a really good time and being guaranteed on the downside, otherwise they will get really hurt. He thinks he's on the same page in terms of starting point; it's what happens after that. Member Kam said not to be greedy, but he would like to protect on the downside but yet be able to benefit on the upside where it is always the constant 20 percent. If it goes down, it's going to be even more but make sure it's directed towards tourist-related. However, that 20 percent is set aside for TSF and we have to make sure it stays there and direct it through legislation.

Member Baz stated he doesn't know how the State legislation is set for the TSF. If as soon as the tourism money is put into the TSF then, HTA automatically spends it but that may be a way to protect HTA in down turns in the economy too if the Legislature cannot spend all of the money and rolls it over so that you do have money in 2021, if there's a recession. In the recessionary model, you can still keep a minimal spend.

Member Sako asked to look at the revised Model B2 (Excel spreadsheet displayed on the wall). Mr. Kirkpatrick said he will refer straight to the recessionary forecast and he can also spend time on the growth forecast. He highlighted in yellow, the CPI increase; it was a little different when they had the floor. Member Sako asked Member Hunt if that was correct. Member Hunt replied it was correct. He said instead of the 20 percent, it's the CPI every year. You have your funding plus adjusting for inflation. Obviously at some point, when we are at capacity and doing very well, we don't want you to advertise anymore, because we are now suffering having to maintain and pay for services. They would like the shares to come to the counties and the State to help support that. What they don't want to have is when things are drying up because you don't have adequate funds. Member Kam stated when we say marketing, we are also saying to improve the product; it's not just about marketing. How do we improve the infrastructure working with the counties and the State and that's why he doesn't want to give away the top on the 20 percent.

Chair Acoba said that Model B2 (recession forecast, with CPI) does reflect going with 20 percent or going with 82 percent plus CPI. Mr. Kirkpatrick replied the way it is set up it is the $82 million plus the CPI. Chair Acoba referred to the line above that, the 20 percent share so that would reflect what the 20 percent share results would be as compared to the $82 million plus CPI. Mr. Kirkpatrick replied if you compare the two lines, the 20 percent share and the one beneath it, the 20 percent share is higher for a few years and then in the recession circumstance, the CPI version is higher so it changes over time. Right now the TSF allocation has just been changed so it follows the floor.

<u>Model C</u>

Mr. Kirkpatrick stated Model C is a shares model that also took the State existing appropriations listed at the top and the remainder of TAT funds is for the counties and State. The recession models are clearly when things get difficult.

Member Sako asked for this particular model as well for the other models, listing the existing appropriations at the top, she cannot help but wonder in future years, when the State Legislature wants to make additional appropriations, what that does and does it all come off the top?

Member Case said if you're a legislator, you will want to go above the line rather than below the line, it is going to become a common theme. Personally, he feels it should be below the line because if you're going to do it, take it out of your share. Member Evans commented she would like to see the Convention Center debt above the line because it is a debt obligation for the State. Chair Acoba asked if she's talking about Model C1. She said she's referring to Models C1 and C2 recessionary models and it's the value of Models C1 and C2 that does recognize that as a debt obligation for the State.

Member Baz commented it is a debt obligation by choice and they could choose to get more debt obligations and the counties are kind of in unison and that is why they believe the money should be coming out of the State's pot. The State made that choice to have that debt obligation and so, it should be coming out of the State's pot.

Chair Acoba said those obligations were incurred when looking at TAT as a pot but now we're imposing a model on it so that model would have to take into consideration that it is existing appropriations. When the Legislature made those appropriations they didn't think in terms of it cutting against what the State's share would be. Member Kam says he agrees, whether it's an obligation to State or county, it is TAT money that is there. Member Baz said then if that's the case, that is fine and he understands but we may put language in there saying, "That future obligations decided by the State would be come from the State's share."

Chair Acoba stated if we go with Model C, there's no remainder for the Legislature to work with. Member Baz said correct but the Legislature has the whole thing to work with. Chair

Acoba said at this point, with this model, as opposed to Models D or E, it doesn't set aside any room for the Legislature to take from the TAT, the Legislature has no discretion under this model.

Member Sako referred to Model B1 (recession forecast, no CPI) and said we didn't want the TSF to fall too low which is why we didn't want just the 20 percent then it would fall to $66 million in 2021. It's the same thing with Model C1 (recession forecast), the counties fall below from where they have ever been at $81 million. We would want to be fair to all three pieces. Chair Acoba said except for in a recession, this avoids the situation where in a recession, you would saddle the State with any shortfall on the $31 million plus having to deal with the recession which is what is in Models D and E. So, this avoids that issue.

Member Evans stated the charge from the Legislature is to look at all public services. The State's share, looking at it as a pot of money that the Legislature has complete discretion over is accurate but the State also has obligations in terms of labor agreements and mandated services such as education that it is not all play money. These are people's lives, employment, and services that cannot be just waved away, in case there's less money to appropriate. So, taking the debt obligations, maybe not the special land fund, which is operations, but maybe the debt obligations and recognizing that they were incurred before the Legislature asked the WG to recommend a model. The Legislature can also look at the Executive and Judiciary funding and do whatever they want to do; they play with a very small margin because almost all State expenses are essentially fixed.

Member Sako said they argue the same thing for the counties. They have labor negotiations, they are stuck with that, the State was supposed to negotiate and they have public safety, which they cannot get rid of either. Even during the recession when they were negotiating work furloughs, the public safety people could not be put on furloughs. They all have the same burden.

Member Kam said he's thinking about how TAT relates, both the counties and State are broke, we all need more money. The TAT fund which is being funded by the tourists, the tourists also pay a ton of taxes from shopping and everything else. The tourists are not free-loading off the State or the counties. We need them in a big way and he wants to make sure they are still driving it and to ensure that it is a shared faith. When looking at the Convention Center, yes, the TAT should fund that whether it's State or county. What does the WG think?

Mr. Kirkpatrick asked the WG to take a look at the recession forecast numbers for 2021. In 2021, under Model C1 recession forecast, the TSF is at $96 million; the counties combined are at $81 million. And we are setting up a situation and providing numbers for TSF in these recessionary circumstances is going to be bigger than the total counties' share. This is something that will pop up and needs to be taken into consideration. Member Kam said maybe at that point, they will probably have to re-evaluate how HTA is funded and help direct it. He's more concerned with TAT funding going towards tourist-related, which helps the community as a whole; we're not just trying to pay off debts or pensions or agreements in the past that we had forever. He's looking at tourism as an economic engine; it's not about liability, it's something that can increase to fund. So how do we make sure we are utilizing that to drive our economic engine, whether it's $8 million and $8 million is the cap but can we build the infrastructure so those 8 million tourists stay more. It is not about bringing more bodies; it's the quality of the experience we are providing and that takes resources. He just wants to make sure TAT is being utilized to improve the resources from State, counties, and HTA level to improve the overall experience which helps all of us in the end.

Chair Acoba asked if at 20 percent, the $93 million would be even larger. Mr. Kirkpatrick replied if it were straight 20 percent, in a recession situation, 20 percent of $330 million would be $66 million; it's less. Member Hunt said that's when they need the money and everyone else needs the money. Mr. Kirkpatrick said that's what he wanted pointed out, the issue will come up and the Chair will have to answer.

Member Case asked Member Evans, what the difference between Turtle Bay and the Convention Center from a debt service perspective. She referred the question to Member Miyahira which he stated Turtle Bay is fixed debt. Member Case said he's thinking about what Member Baz said about what if the fixed debt is left above the line and everything else comes down below because it does add a couple million to the State and county. Member Miyahira stated the Convention Center amount is a combination of paying the debt service and operating costs.

Chair Acoba asked for any comments on Mr. Kirkpatrick's observations about the relationship between the TSF and the counties. Member Soon said that's what they were trying to do in Model D for counties and the State so it wouldn't drop to $81 million but that meant others would have to share the burden. Chair Acoba asked then, the TSF would not be TSF plus CPI. Member Miyahira stated when looking at Models D and E, it looks very complicated. Member Soon agreed.

Model D

Mr. Kirkpatrick explained Model DI (recessionary forecast) gets complicated for two reasons: 1) you have to be ready if we have the floors to make sure we can get everything; and 2) showing a total statewide which includes the legislative appropriations plus the State's set-asides. He asked to look at Model D1 on the wall (it wasn't included in the handout) which is similar to the others.

Member Soon said the only reason to show it is to talk philosophically on what the WG is trying to achieve. He reiterated that they did keep TSF constant and also made it above the line and then took the remaining 100 percent and gave 10 percent to the Legislature and then the other 90 percent—60/40 split to the State and counties. The philosophy of giving the 10 percent and to make it obvious, and it's that line that says appropriations was so that the Legislature knew where it could go to make expenditures outside, to draw from the TAT to do things they want to do. That's where they would put the debt service to North Shore as well as Convention Center and land expenditures to DLNR. It would all go into that bucket that the Legislature could touch so that it is obvious they have this bucket. If debt went down, that bucket would still be the same and we would have increased funding to play with. It's very akin really to Model B except that in Model B, you don't pull the money out, it's not clear the Legislature had a fund to go to but Model B is much simpler than this one. Those were the philosophical approaches to this; he's afraid it gets too complex today which is why he's getting more attracted to Model B especially if they made it clear that the State's expenditures came out of the State's bucket. All the philosophical things they talked about are better illustrated there.

Chair Acoba asked if everyone agrees that Model D is too complicated. Mr. Kirkpatrick indicated that this is what Member Soon asked for.

Member Case said he may be the only other defender of Model D; this expresses best policy overall but it does get confusing at the end of the day. Member Souki said he likes Model D more, the sandbox idea because he thinks it adds more discipline to the decision-making but he doesn't agree the special land fund should be in the sandbox because it's not a sandbox item. That is something DLNR does that has more direct impact than Turtle Bay. Turtle Bay could be in the sandbox; that was extra. For the sake of rational decision-making, there should be items in a "lock box."

Chair Acoba asked if everyone agrees Models D and E are out and everyone agreed. He referred back to Models B and C, and asked are there any problems making Models B and C two alternative recommendations to the Legislature.

Member Soon said he would prefer to give a preferred model and one preferred alternative. Member Case asked if the WG could make Model C work, it might be most contextual for consensus. Mr. Kirkpatrick said one way to think about Model C is going back to one of the suggestions that has come up from Mr. Mike White is that you are going to separate items out ahead time, then he would want you to look at counties and State, 50/50 split, which is equivalent to 20/40/40.

Member Baz indicated he was going to make the motion if they got to the point of choosing one of these models with the money above the line in saying that he would want to make it at least 50/50 would be ideal for the counties and looking at the actual disbursements of it. He understands that they kind of agreed on the 60/40 initially, but that was when they were just looking at large numbers and not necessarily a breakdown.

Member Soon said he would argue against Model C and would rather wrestle with Model B. The big philosophical difference between Models B and C is whether you are above the line or below the line.

Chair Acoba stated if the WG does a model like this, if and when things get paid off, wouldn't the money fall down to the counties and State? Member Soon thinks the reality is, they are going to add. Member Sako said the Convention Center debt keeps getting adjusted for improvements, repairs, etc. and probably will never go away.

Chair Acoba said this model doesn't allow for any legislative discretion. He would like to say something about Model C, looking at it from a point of view in having to defend something. The strong feeling from the industry and counties, the context is if we are going before the Legislature, credibility is really important. We spent a $160,000 on this, as much information as we have the better it is to justify the cost. He would like to talk in favor of Model C and the reason is, 1) it's flexible in a sense that it rises and falls with whatever revenue is available; and 2) it is simple, there are not much moving parts because you already have the $82 million plus the CPI and $31 million in existing appropriations; that's all set, it's all done. The only thing that needs to be done is to determine the remainder and that should be pretty simple.

Chair Acoba also stated that if it's set up, $82 million plus $31 million, then the revenues to the counties and the State is fairly predictable because you can forecast what the revenues would be. He also thinks that this is the most equitable way to go. He said it is equitable because if you look at the recession figures, what really strikes the reader is that the State really gets it in the shorts in a recession because the amounts available to pay for the existing appropriations are not going to be there so the State has to pick up the shortfall on the existing appropriations and also, it has to deal with its own problems with a recession. If anything, that's going to make the Legislature alter the model; they are not going to follow the model because the Legislature will have no options. We will be back in the same situation we were in when the Legislature said they were going to cap the counties because they don't have enough to pay from the general fund. It's a true 60/40 split and it makes it a lot more credible. He thinks Model B suffers from the same problem. They don't get a true 60 percent because the State is saddled with the existing appropriations. It is a hidden burden on the State. The recession data will be right out of the gate and we will have to overcome that. It sets us back in terms of credibility because the Legislature is going to end up having to make up that shortfall. He has always made the assumption if you pay for all the existing appropriations, that money flows down because the TAT will always come down to the 60/40 split and that takes away any discretion from the Legislature to use the money.

Member Soon said he appreciates the Chair's comments, especially about credibility but how are you going to explain that to the counties' legislators, that in recessionary times that the counties will get less money than HTA. HTA gets $96 million, and the counties get $81 million. Chair Acoba asked Member Soon how he thinks he could fix that. Member Soon answered by caps of some sorts. Chair Acoba asked in doing a floor, he doesn't have any problem with a floor at $82 million.

Member Kam commented, Turtle Bay, the $31 million is fixed costs, where would you put other acquisitions in the future, is it under the State or counties. If they acquire more land, where would that be? Chair Acoba said the model doesn't allow for that. Member Kam said it is going to happen, are you saying, it cannot happen? Chair Acoba said their model doesn't allow for that. Member Kam said that is why in the 60, the Convention Center, they will ask for more funding, that's going to increase, does that still stay there. The $31 million is not a fixed number, it's going to increase, does it go under the State or counties. What if they want to give more to DLNR, the $3-5 million, does it stay up there or does it go below. That is why they should lean towards Member Soon's model because if they stay below the line, let's say 65 percent, at least we can account for it because even though it looks like a fixed amount, the $31 million is a variable amount and it's going to set a precedent for future, whether it's land acquisition.

Chair Acoba said their model, he doesn't know if they can speculate but if the model says anything leftover goes to the counties or State. Member Kam said it sets precedence because it's not fixed is what he's saying. Chair Acoba stated he thought it was fixed because they were talking about bond obligations.

Member Baz explained that the amount today is fixed but since it's a legislative choice that they made, that choice can be made at a future date to increase that even if it's for future fixed amount, it will be higher fixed amount. Chair Acoba stated what he is thinking is that it can be done in every model but their particular model doesn't allow that. Member Baz suggested that protecting the counties' interest and still allow for the State Legislature to make those kinds of decisions, if we have the TSF amount there and the counties with the 40 percent remainder, then those fixed costs, the $31 million, then, the remainder going to the State. All it is moving the county above the line and State gets everything else. The State gets the TSF and whatever doesn't go to the counties; the State can put in their required costs and then they have a huge amount to allocate how they see fit. In the future, in case they decide they want to purchase some other large portion of land or they want to do more Convention Center improvements and that number gets bigger, then the Legislature will make that contrast decision that they are reducing their general fund allocation by fixed costs appropriations.

Member Miyahira said he agrees with the Chair's argument that, what Model C does, it reflects what it is now and puts it in a more rational basis. The correction to address Member Soon would be what Member Hunt had said to have a floor and put TSF at $82 million. CPI would go with the good times and in bad times, to just cap.

Member Hunt wanted to make it clear that it wasn't his recommendation on the bad time, what he was saying, the $82 million plus CPI becomes the guaranteed amount. It doesn't revert back to $82 million at any time. There is growth but it's not tied to TAT in general where you have this huge potential surplus which could then be used as a rainy day fund if they went that direction.

Member Miyahira said in actuality, this is an allocation that goes to the special fund. The Legislature also appropriates how much they can spend. If there is more money in the special fund, it's there, but whether they will allow HTA to spend that amount is another question. Member Yoneshige stated that's a really good point.

Member Sako stated if they go with the TSF always getting the $80 million plus CPI and let's say we give them the $96 million in 2021, the Legislature might only let them spend $82 million. The Legislature could raid the other portion for the State.

Member Hunt stated if they are still looking at Model C, another way to look at it is, assuming the TSF takes the top cut, and they want to show the appropriations above the line, looking at 60/40 as the share between State and counties, they can also look at the $31 million of existing appropriations as $12.4 million being funded by the counties 40 percent. If they want to look at it as a top line item, re-adjusting the 60/40 below to reflect additional $12.4 million that the counties are contributing to debt services, that's another way is to re-adjust the percentages. They are still at a general 60/40 relationship but now recognizing that because it's a top line item; counties are at 40 percent coming from the counties' share.

Member Soon said to Member Hunt if they re-calculate, it would be 46-47 percent; 53-54 percent but the question becomes, what happens in the future? Member Hunt stated if we cannot come to consensus and this has to be there on a vote and it does go that way, he would like to look at the percentage and not leave 60/40, not accounting for top line item debts.

Member Case asked what is meant by future allocations. Member Sako said similar to Turtle Bay. Member Case said under this scenario, it is up to the State, they have their share. Member Soon said if there were language in the bill that said any future appropriations by the Legislature, he said he doesn't see it happening if it's above the line.

Member Sako said she likes the percentages because it simplifies the model taking into account, the State pays the $31 million but it is simple, three set percentages and they are done. Model B having three separate simple percentages but adjusting the 60/40 split so the State would have enough, giving up their $12.4 million, the counties share of that so the State will have enough to pay the $31 million.

Member Souki stated the reason he likes Model B is because it's more straight-forward and it puts the obligation the State has obligated for itself in the proper place and although there's argument that the Legislature is going to do what it's going to do, it's clear and simple, it sets up the argument in the future. So, we know what points to argue about why the State shouldn't do it that way or why the Legislature shouldn't do it that way. If the model is too defused, than it's complicated to argue why it should be a certain way and less rational decisions to make.

Chair Acoba said the $82 million seems a lot easier to compute than 20 percent, every year, you have to count $82 million out, the $31 million is out so you're only dealing with what's left and the counties can do whatever they want with the 40 percent and State can do whatever it wants with the 60 percent, it is straightforward. Member Baz agrees it is straightforward but the hesitation to support that much of a straightforward model is what future legislators are going to do. Chair Acoba said unless you put it in the Constitution, the Legislature can do whatever they want. At some point, we will have to say, this is our recommendation, they can accept all, part, or none of it.

Member Baz stated the counties can be in a significant financial problem if they are budgeting for their 40 percent of calculating the future of what TAT will be for that year and all of a sudden the State takes another $30 million out of that pot because they want to do another Convention Center, then counties are not going to have enough revenue to operate because they are budgeting for that amount the same time the State Legislature is deliberating on those types of things. Chair Acoba said he has no problem in putting in a provision that says, as these get paid off, the money goes to 60/40 split.

Member Evans would like to take a step back and one of the reasons they are there, the Legislature placed a cap on the counties' share and the cap as it resets next year is significantly below what they are getting this year. None of the models continue with a cap. The WG is making a significant recommendation to not have a cap but to have floors and CPI indexing. We are focusing right now on a recession model and that is driving, we are trying to protect against the downside but we have to look at the fact that we have already reached a consensus on lifting the cap off the county share and letting them share on the upside and that is significant. They have reached a really important part of what the recommendation is going to be.

Member Hunt stated it's interesting to hear the State is lending a share on the upside when 95 percent of the revenues used to go to the counties. The intent of giving the lion's share to counties was, the only taxing authority they had was property taxes and they didn't want hotel rates to continue to go up because we will lose tourism and that was the intent. Also, don't continue to raise property taxes we will give you these additional funds to support costs of running your operations including visitors because we are competing in an international market and we have veered off from that.

Member Soon commented that he agrees the Legislature can do whatever they want with any model regardless of what we give them. We should give them the model that fits the policy and philosophy that works. He thinks the philosophy that works, at least from the counties' perspective, is where the decision gets made to expend, should be the pot where the money comes from which is why he likes Model B. They can take the existing appropriations and identify them under the State's share but it at least reflects what he thought was a preponderance of an argument earlier that whoever spends the money should be paying for it which is why he likes Model B as opposed to Model C because what Model C says, despite the fact that the counties doesn't make those decisions, the counties pay 40 percent of it.

Chair Acoba said the counties could never have made those decisions and that is why the analogy is wrong. The counties could not be obligated to spend those moneys, only the State could. It wasn't really a choice between the counties or the State paying for it but now we are thinking of a model under B imposing that kind of division on something that has been done in the past where the people who made the decisions didn't know they were making a decision that would set out a model for the future but we are treating it as if it was one of the considerations when they made the appropriations. The model you like favors the counties. He's just concerned with going before the Legislature. You can propose a model like that but going before the Legislature and saying everything above the line, including the counties, everything below the line, the State picks up. In a recession, the State will pick up the items above the line plus dealing with their own recession but the counties don't have to share in that pain.

Member Soon stated if the counties have no floor; the counties will share in a recession as well. The decisions they made at the county level, they are not asking for the State to pay for it, we make it, buy it, and spend it. Chair Acoba said if you put the counties above the line, it looks uneven. Member Soon replied Model B doesn't put the counties above the line. The counties are below the line with the State. It's just the State expenditures get done by the State and the counties' expenditures get done by the counties. If they choose to increase the number of lifeguards, the counties have to pay for it, they are not asking the State to pay for it.

Member Case asked if Model B can work with adjustments to the percentage to adjust for the practical effect of putting the above the line items to below the line. Member Evans said the 60/40 is a very understandable split. She likes the idea the model they are recommending is a going forward model, not a look back model. We are accepting the reality of decisions that were made by the Legislature because they have the authority to make those decisions and the WG was asked to make a recommendation going forward and the recommendation going forward acknowledges what they did before but it is based on going forward. It does take the cap off counties sharing the upside and the downside in a more equitable way than they have done now. It does allow the State to share the upside and the downside.

Member Soon asked a question if they could work with Model C with a 46/54 split as opposed to 60/40 which more reflects what you were talking about. Member Hunt said he tried working with Model B2 to see the percentages; if you took out the $31 million from the State's share and look at their balance and it comes out to 56 percent for the State and 44 percent for the counties as opposed to 60/40 split. Member Soon said he is trying to stretch to Chair Acoba's position because if they adjusted those percentages—Member Yoneshige asked Member Soon if he's using the 46/54 split from the Belt Collins analysis and the revenues—Member Soon said yes and it was something to justify.

Member Miyahira stated an observation, one of the things the Belt Collins report points out is there is a real potential for win/win and nobody loses if they go after the TOT (Transient Occupancy Tax) part of it because there is a gold mine there and it raises all kinds of equitability issues too especially with the hotels and other people who are not paying. Everybody could benefit.

Chair Acoba asked if that could be a recommendation in the report. Mr. Kirkpatrick said how TOT is calculated is a different way from TAT and how does the Department of Taxation (DoTAX) makes sure that the TOT is calculated correctly. He doesn't have any information from DoTAX to explain that and he doesn't know how they check on that and how they audit the timesharing industry. VRBO (Vacation Rental by Owner) and Airbnb, do they pay their GET and TAT. They are all supposed to list their GET numbers on their ads and he doesn't know if there is any enforcement either of the tax on those units. The various counties are looking at zoning type issues which run in parallel.

Member Baz explained what Maui County does is they go through scanned Airbnb and VRBO, and through their planning department, they send notices of violations if they don't have a permit. If they have a county permit, they are required to give them their State tax filing. So, they are making sure the State gets those tax filings as a part of that permit to operate. Mr. Kirkpatrick asked if they are at 95 percent compliant. Member Baz said, no, but they are getting there. They do send out a lot of notices and they do have people who are shutting down or somehow going underground, but they cannot advertise, if they advertise, they can catch them. They have the ability to catch those based on advertisement.

Member Evans said she cannot speak for the tax department but she does know that earlier in the year, DoTAX did ask DBEDT for the data SMS collected in which they did a survey for HTA to determine an estimate of how many units on O'ahu are undocumented and illegal. DoTAX is exploring any way they can to be able to collect the tax. Member Souki said the WG shouldn't rely on that when working the numbers or as part of the recommendation. As far as he's been working in land use, the issue of collecting taxes on these transient vacation rentals, there has never been a good method for collecting and although Maui is making the effort, it's very difficult to enforce.

Dr. Mak noted it is difficult to collect taxes on some of those, if you take Airbnb for example, increasingly, they are negotiating with different states and cities to do this. San Francisco negotiated an agreement with Airbnb to collect the transient accommodations tax on behalf of the city directly related to them. If the WG is making a recommendation to the Legislature, the Legislature should look more aggressively and negotiate to do these kinds of things and to collect the taxes on TOT. The TOT should be parallel to TAT. The formula for TOT grossly underestimates the amount of TAT. The units that have changed should be paid at the fair market rental value but the formula is half of the operating expenses on the units. The fair market rental value is the capital cost plus the operating cost. The half of the operating costs grossly underestimates the total collection costs. The law also says, they are supposed to collect the fair market value, but the formula underestimates that. The Legislature has the opportunity to enforce the timeshare operators to collect on the basis of fair market value but so far, it hasn't been done.

Member Baz stated that's why the counties have tried to make it fair, at least for Maui, they have charged their timeshares a higher real property rate. Dr. Mak replied the law already allows for the State to collect on the fair market rental value but the current collection is not fair because it is based on half of the operating expenses.

Chair Acoba asked if the WG is in agreement of the TSF plus CPI should be in the formula. Member Kam said he doesn't but everyone else does. ASA Yamane suggested formal decisions with a motion on the table for clarity otherwise it will be very difficult for the WG to decide.

Chair Acoba asked just to get a preliminary indication first before putting a motion on the table. TSF plus CPI, and he asked if there are any problems with that. Everyone agreed except for Member Kam. As far as the counties getting 40 percent and the State getting 60 percent, the Chair is looking at Model C2 and asked if there are any problems with that. The only issue is how the treat Turtle Bay, Convention Center and special land fund. At least in theory, they agree with TSF plus CPI and the remainder being split 40/60 between the counties and the State. The WG said it depends on existing appropriations. The question is whether the existing appropriations would be absorbed by the State or taken off the top. In a sense, if those are the two alternatives, the WG has it within its discretion to put out both alternatives and indicate which one it would favor. Are those parameters the WG can work within? One would be existing appropriations above the line and that means all those items is off the top–Turtle Bay, Convention Center, Special Land Fund and whatever is left is divided up. The other point of view is, Turtle Bay, Convention Center, Special Land Fund come out of the State's portion, which would be the second alternative. That would be the two models.

Member Evans stated as long as the percentage between the State and counties be changed to reflect the already-existing obligations for the Turtle Bay, Convention Center, Special Land Fund, so the State's share is adjusted to reflect that. Chair Acoba said that's one of the options.

Chair Acoba asked the WG if those two options could be presented to the Legislature. Member Baz suggested all models be presented in the report and the WG recommending a model. Chair Acoba asked if the WG can vote on two models, at least have two alternatives to go to the Legislature.

Member Kam suggested for everyone agree to one model; a consensus from the WG and showing the models that WG looked at. Chair Acoba said that's correct but he's not sure they can get a unanimous decision. Member Kam stated as a WG to come up with a recommendation that they want to present to the Legislature to show all the work and the models presented but as a WG to decide whatever they decided.

Member Miyahira stated this is going to come down to, this is the majority vote model, and this is the minority opinion model. Whatever the WG presents to the Legislature, he thinks they should put the Shares Model as a baseline and all the others, Models D and E would be more esoteric, he thinks the Shares Model is a conceptual comparison. Chair Acoba said we need to give them a model. The purpose of the WG is to make a recommendation; we can present; the Legislature can accept or reject parts or all.

There were two alternatives that the WG agreed to. Member Case asked if it's Models B2 and C1. Member Evans said she prefers Model C. Chair Acoba thought they came to consensus on Model C2 because existing appropriations are above the line or existing appropriations absorbed by the State. Mr. Kirkpatrick said Model C2 has the CPI for the Special Land Fund. Model C1 does not have the Special Land Fund.

Member Soon said if the State at 55 percent and counties at 45 percent, he agrees with Model C. Chair Acoba asked if there is a consensus for the 55/45 split. Member Baz stated the Belt Collins detailed analysis matches the 46/54 split.

Member Baz motioned to adopt Model C1 with a percentage of 46 percent to the counties and 54 percent to the State, Member Soon seconded the motion. Member Baz stated that the 46/54 split was based on the public service report. Their analysis of public service provided is 54 percent for the State and 46 percent for the counties. So, it's going back to the original allocation. They are presenting a TAT model that is based on the provision of public services.

Member Evans referred to the handout, page 4, line 7, Table 1: Ratios of State and Counties' Expenditures. Member Souki said for the record, because the concept being Turtle Bay, Convention Center, and Special Land Fund above the line, does the 46/54 split include these because he supports those three things in the State. Member Soon said he does too. Member Baz explained what this does, it goes to the State. Member Souki said the reason he supports it is the idea is for some retribution for some decision the State makes. He looks at it that the Legislature will make decisions, the decisions should be rational, they made a decision and he could argue too that everybody and the counties too should pay for the Convention Center and Special Land Fund. He also said that Turtle Bay is only O'ahu, the counties don't benefit, there is no analysis about how it impacts tourism and there probably is no impact. The WG all agreed early on that one thing they wanted to do but maybe it wasn't clear is that a linkage between tourism impact and services. Member Baz said Model C1 with the 46/54 split.

Member Case asked for a friendly amendment, incorporating from a prior discussion that any further direct appropriations out of the TAT would be in the State's portion, as opposed to above the line. Member Baz said he would love that but he understands political realities. Member Soon said we could make that as a wise policy.

Chair Acoba stated when you say, 46/54 split he had thought the WG had already decided on 60/40 split, the 46/54 split seems some kind of preciseness, why 46 percent and why 54 percent rather than a round number. It just makes it difficult to argue if you go before the body, we are going to be blocking one or two points either way.

Member Hunt said prior to the cap allocation, it was 44.8 percent so that is even more precise than what the WG is recommending. It is in the statute. Chair Acoba asked if there were any questions regarding the 46/54 split. Member Case stated it's defensible because it's a two-pass; 1) the report from Belt Collins; and 2) the other information is the WG, within the range of the WG. With the analysis, it did start at 60/40 split and it evolved to the 46/54 split to accommodate this particular situation.

Chair Acoba called for the vote, all in favor of the 46/54 split. The motion was carried by the majority vote. Chair Acoba and Member Miyahira opposed. Member Miyahira stated he wasn't comfortable with this decision but to go ahead.

Member Soon said they are actually trying to find a compromise to fit the Chair's philosophical position but if the Chair is going to oppose then he suggested going back to Model B. That is where he really wants to be. He is trying to find a place that works for the Chair but if he's going to oppose it, help him understand why.

The Chair said his opposition is based on the fact that 46/54 split seems to lend an air of preciseness when there is no precision and it just seems out of whack. Member Hunt asked if the motion was to adopt the changes or a motion to adopt a model. His thought was that they were making changes to the model before voting on Models B or C. Chair Acoba said they were just voting on the 46/54 split. Member Sako said she was voting on Member Baz's motion to adopt Model C1, changing it to 46/54 split. Member Hunt said it wasn't clear if they were voting on a recommended model, he thought they were voting on amending the model itself before it comes up to vote. Member Soon said the Chair will have to go before the Legislature. ASA Yamane stated that it doesn't have to be the Chair to appear before the Legislature.

Chair Acoba said what the WG agreed to, is what it will be. A few members stated they were confused. Member Baz clarified that the Chair will not go against what the committee voted on. As the Chair, and if he testifies, he's testifying in support of what the recommendation is. ASA Yamane said it is up to the WG if you decide you would like to have someone else testify; it doesn't have to be the Chair. Member Soon stated let's not let the rules get in the way of the decision in front of the WG. He then asked the Chair what would the Chair have supported. Chair Acoba said 60/40 split is what they have been talking about the whole time. Member Soon said but that was when it was below the line. Member Kam said he thinks the Chair wants the 60/40 split above the line where everything was above the line, the Convention Center, Turtle Bay, etc. Member Soon stated they are just making adjustments in the percentages to accommodate that. Member Miyahira said he agrees with the Chair on Model C1 as presented.

Member Baz said adjusting it by one percent is not a material amount. He was trying to get the WG to a decision-making. The timeline is they needed to make a decision today. Member Soon said he would like to have the Chair vote yes. If they went to 55/45 split, could he get a yes from the Chair. The Chair said that is fine with him, it's just trying to defend one percentage point.

It was moved by Member Baz to reconsider adopting Model C1 with the 55/45 split. It was seconded by Member Soon and unanimously carried to adopt Model C1 as the WG's recommended model. Member Miyahira stated if the Chair is comfortable with this, he will be also.

It was moved by Member Soon, seconded by Member Evans, and unanimously carried to have the WG include a policy statement that any allocation decisions in the future should come from whoever makes that decision.

ASA Yamane wanted to discuss in relation to legislation and the need for Legislative Reference Bureau (LRB) to draft for the WG. She did have discussion with the Chief of LRB and said the sooner we can get the draft report to them, it will be better and they can work with us on getting draft legislation. She did discuss with LRB the WG working on a preamble or some type of explanatory statement in front of the legislation and LRB said it would be difficult for them to do that kind of drafting. With that being said, this WG needs to draft and it's not something the Auditor's Office can do either. This needs to be part of the discussion.

Member Evans suggested creating a permitted interaction group, Findings and Purpose Statement Investigative Group, comprised of the different stakeholders to draft the statement. Chair Acoba asked for any volunteers—Members Evans, Case, Soon, and Chair Acoba agreed to serve on the investigative group.

Member Baz left the meeting at 12:18 p.m.

Member Yoneshige asked if the WG can submit the draft to LRB to have them incorporate and the WG to approve the bill after LRB is done as well as in the preamble and the bill. ASA Yamane stated the problem with that is, it's going to push out production of the final report because all of that will be pending.

ASA Yamane said to create the IG this meeting, present at the November 4th meeting, and make decisions at the November 12th meeting.

It was moved by Member Evans, seconded by Member Souki, and unanimously carried to create the Findings and Purpose Statement Investigative Group to draft the statement for consideration.

V. Allocation of TAT Revenues

   a. Approval of allocation model(s)

   This item was discussed and approved as part of the consultant's report.

VI. Adjournment: With no further business to discuss, Chair Acoba adjourned the meeting at 12:21 p.m.

Reviewed and approved by:

Jan K. Yamane
Acting State Auditor

[✓] Approved as circulated.

TATWG/20151021