

Broadband Task Force
(Established by Act 2, Session Laws of Hawai'i 2007)
State of Hawai'i
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Minutes of Meeting

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawai'i Revised Statutes.

Date: Wednesday, December 3, 2008

Time: 8:30 a.m.

Place: State Capitol
415 South Beretania Street
Conference Room 329
Honolulu, Hawai'i

Present: Chair David Lassner, University of Hawai'i
Senator Will Espero, The Senate
Senator Carol Fukunaga, The Senate
Jennifer Goto Sabas, Office of Senator Daniel K. Inouye
Ken Hiraki, Hawaiian Telcom
Senator David Ige, The Senate
Henk Rogers, Blue Planet Software
Clyde Sonobe, Department of Commerce & Consumer Affairs
Representative Gene Ward, House of Representatives
Kiman Wong, Oceanic Time Warner
Representative Kyle Yamashita, House of Representatives

Marion M. Higa, State Auditor, Office of the Auditor
Sterling Yee, Assistant Auditor, Office of the Auditor
Jayna Oshiro, Special Projects Coordinator, Office of the Auditor
Pat Mukai, Secretary, Office of the Auditor

Robert Doeringer, RHD Consulting, LLC
Ms. Linda Smith, Governor's Office
Mr. Larry Reifurth, Director, Department of Commerce and Consumer Affairs

Excused/Absent: Gordon Bruce, City & County of Honolulu
Gary Caulfield, First Hawaiian Bank
Representative Marcus Oshiro, House of Representatives

Call to Order: Chair Lassner called the meeting to order at 8:37 a.m. at which time quorum was established.

Chair's Report: The following were additional handouts distributed at the meeting.

1. Pacific Business News Release indicating that Hawai'i is second to the lowest State in broadband speed. In Chair Lassner's personal opinion, there have been several studies on this, but they have been based on a non-scientific selection of people who decide to go to the website. While there may be no scientific validity to this particular listing, there have been enough of these studies ranking Hawai'i extremely low that we should view

the net result as a wake-up call for Hawai'i. Akamai's data is more systematic and ranks states on several metrics, many of which also have Hawai'i ranked low and some of which we do better on. But overall, articles like this are widely read and support the importance of the work of the Task Force.

2. ITU Press Release on importance of infrastructure sharing. The ITU (Intl Telecoms Union) is the United Nations' telecom organization. They have historically been a club of the telephone companies of the world, most of which were (and may still be) government-controlled or -influenced monopolies. This report recommends that governments and industry each do their part to increase sharing of telecom infrastructure, noting reducing costs is especially important in times of difficult financing. Otherwise we are all paying for duplicative infrastructure. There is a report on the ITU website which describes a model of sharing fiber optics and how it is currently being implemented. It also discussed how to do structural separation and includes some of the models that we reference in our report. The report also notes the importance of shared submarine fiber cable stations.
3. 'A Call to Action' for a National Broadband Strategy. Chair Lassner noted that what's interesting about this is the last page, the list of organizations that have signed on to work together. Chair Lassner said these are entities that often fight with each other on issues like network neutrality. That they are working together to try and figure out a National Broadband Strategy, indicates the importance of this task. It's the telcos, high tech companies like Google and Cisco, Connected Nation, Benton Foundation, Alliance for Public Technology, etc. There is a lot of interest in broadband in Washington DC, and many hope that the new administration will pay attention to this matter from the perspectives of the current economic conditions and the required investment in infrastructure.

Minutes of the November 14th meeting were not available at this time.

Discussion of Possible Administration Initiative:

Chair Lassner would like to acknowledge Mr. Mark Anderson, Deputy Director of DBEDT, who recognized the criticality of broadband as 21st-century infrastructure and kept asking what's going on with broadband in the State. Mr. Anderson has a lot of personal passion in this area and has continually talked up the importance of broadband within the Administration.

Chair Lassner introduced Ms. Linda Smith of the Governor's Office. She wanted to share some of their ideas with the task force. She commended the task force on having the draft report available. She then mentioned a few specific aspects about which they've had conversations.

Vision – whether there should be more concrete goals over time. It was noticed that the first recommendation involves the date 2012 and speed. Looking back at the model of what has worked successfully in the energy area, one aspect was the setting of a series of goals over time as opposed to one specific timeframe, and having these goals be ambitious but doable. In this particular case, there are at least 3 to 4 benchmarks that could be addressed. The first issue is speed. There is also the issue of penetration and to have a vision for penetration. The second issue is cost. This should be to articulate an open architecture for a neutral arrangement going forward here in the State of Hawai'i.

Structure of the Entity – there's a commonality of perception that we need some kind of new entity to look at how we move broadband forward in our state. It's not clear where the authority would be; it seems the components include the PUC and the DCCA. It was suggested we talk through and visualize the structure of the entity

and particularly, how the entity and this task force might be able to get buy-in from the counties for the permitting issues because for many of us who had dealt with other permitting issues, we know it is something we have to work in partnership and understand the counties' perspective.

Stakeholders? In addition to the counties, has the Task Force talked with the Public Education Government (PEG) access entities?

Chair Lassner summarized the Task Force considerations on these aspects. He said he indicated that the Task Force didn't get very far on the internal structure of the entity. In general, the Task Force was thinking that DCCA was the most logical home for this. The Task Force did talk about how to work with the counties as part of the strategy moving forward. One idea was to send a delegation to each island to meet with the mayors and their key staff to let them know what we are proposing and explain why we think this is important. We do have the CIO for Honolulu (member Gordon Bruce) who has agreed to join the delegation on the visitations. We would like to keep this as revenue-neutral as possible for the counties. To the extent there's actual revenue generated from these activities, we would like to send it to the counties. The idea would be to streamline the administrative process within this entity and send revenues that were derived back to the counties. Referring to PEGS, there wasn't much discussion of this. However, it was noted that all Task Force meetings have been publicly noticed and open to the PEG entities along with everyone else.

Ms. Smith asked Mr. Reifurth to comment on DCCA being the locale for this entity. Mr. Reifurth's initial thought was DCCA is the preferred location. Ms. Smith mentioned there are a couple of models to look at in terms of structure. An example would be the Insurance Commissioner who is responsible, with a technical staff, for carrying out the duties and responsibilities of that office. This idea resonated with the task force members as a direction to look at. Chair Lassner stated, the Task Force clearly did not recommend a body like PUC where there would be group decisions, but did want to make sure there is an advisory group.

Ms. Smith noted the one thing they all admire and appreciate is the 'National Call to Action' that was distributed and the signatories that have come together to work on this particular issue. Noting that the final Task Force report will be sent to the Legislature in the 20-day-before-session timeframe, there is a lot of work to be done on crafting some kind of legislative action. She has offered resources to assist in that regard.

Some ideas brought to the taskforce's attention include: 1) to set some speed level by a certain date; and 2) to benchmark ourselves against other countries; or to say to be second best in the world by a certain date. The challenge we face is how realistic this might be, knowing that these are all moving targets for other countries. It is also suggested to look at penetration rates which have been addressed in previous reports. Also, it's been said that making sure every family, particularly low-income families, have some access to broadband.

The current version says every home and business should have access to broadband at prices comparable to those in the leading countries.

Review and
Approval of Draft
Report:

The Chair suggested the taskforce review and approve the draft report. He suggested going through the first eight pages, which is the summary, and then hopefully the rest of the report. If we can get agreement, including the specific goals, we can adopt the report at the end of the meeting, subject to making changes agreed upon.

Representative Ward stated he has problems with the first three pages. He suggested the executive summary be only 2 paragraphs, and at most ½ - 1 page long. If you want the legislators to read it, the summary needs to be compact. Chair Lassner said he will work on writing a one-page summary.

Member Wong had a few comments regarding the section on Vision. He said he likes what it says better than what was said before. The 100 megabits is a stretch from what we have right now. The concern is being symmetric. Technically, it's possible but doesn't know if it is attainable. We all know video is growing and people are generating their own content. In other places, even other countries like South Korea and Japan, their numbers are specific, 60 – 100 mbps, and he's quite sure they are not symmetric. Senator Fukunaga asked Member Wong if his concern is primarily based upon the costs associated with achieving this goal. Perhaps we should have a sentence recognizing that this is a time we would be looking at crafting appropriate incentives to make it feasible for public and private sector to go forward together. The notion is a shared vision and establishing a goal that collectively we can seek to achieve using whatever mechanisms are available. Member Wong said cost is a major hurdle. The networks that exist today for residential use are not symmetric because current usage is generally not symmetric. For businesses, cost is a big factor but it's not the only component. Senator Fukunaga replied, if we had language that reflected an objective of using appropriate funding mechanisms to achieve our goals we can make it clear that it is not one individual entity that is being expected to carry this load but really it is a shared vision.

Chair Lassner stated that the technologies are not fundamentally asymmetric, but they have been implemented in that way. We deliver video as a one way service on our cable TV systems, other than via broadband. Phone companies also tend to use copper primarily in a one-way direction. They configure asymmetric service to the home so they can deliver high definition video in a one-way mode and then use some two-way capacity on the side for broadband. We don't know when, and maybe it isn't exactly 2012, but the way people consume video in the future is likely to be fundamentally different. People may not want 100 channels coming in on their cable in a one-way mode but may want to receive just the content that someone in the home has specifically requested with the rest of the bandwidth available for other purposes, including generating and delivering content and services from their homes, wherever they may be, as part of our sustainable economic and social development. So where we want to be positioned is to be able to provide 100 megabits or 1,000 megabits symmetric so residents can both receive and generate content, any content, not just the 100's of commercial channels. The future is about High Definition video, native Internet-delivery (next advances on Youtube-style video), and user-generated content. 2012 may be aggressive but we shouldn't underestimate how fast this transition is taking place. It has been projected that 98% of homes will be watching video on the internet by 2011. Member Wong commented, watching video and the download is fine. His concern is upstream and expressed his reservations over including "symmetric" in the vision.

Member Sonobe asked Member Wong, does Oceanic view this as a mandate, that you must meet this requirement, or is it just a personal observation because this is based on Oceanic view that this as a hard mandate to meet this requirement? Senator Fukunaga mentioned incentives or initiatives that would assist not only Oceanic, Hawaiian Telcom or any other provider to reach this particular goal by that date. Member Wong said he wants the Task Force to set an achievable goal.

Member Rogers commented, being aware of the KDDI and other national services

that routinely offer of 100 megabit service, that it is important for Hawai'i to be at the forefront of learning how high-speed broadband will be used. This will be the basis of our next industries. As a task force, we have to recognize that people in Hawai'i barely realize broadband exists. Everyone in Japan has broadband and we are behind. It is our responsibility to the people of Hawai'i and this country to catch up.

There are a few suggestions in reference to Page 6. The suggestion was to make it clear that this is the authority, the group that will promote infrastructure sharing. The ITU report does a very good job of talking about sharing as much as you can—poles, conduits, fiber, etc. This gives the authority a clear mandate to promote sharing infrastructure in order to reduce costs to providers which in turn reduces prices to consumers.

Member Wong stated that telephone is regulated and cable television is franchised, but the Internet isn't. It was noted that we are not trying to regulate the Internet, but trying to create the best possible regulatory and advocacy environment in Hawai'i to create the best possible infrastructure for broadband services in Hawai'i. In fact, the FCC provides some limits on what can be regulated and the Internet is not controlled in this fashion. Chair Lassner said the language that is used here tries to consolidate the existing authority of the regulatory, franchising, and permitting functions of state and local governments into a single coherent and consistent proactive agency.

Member Sonobe commented that when this report was being generated, he looked at the organizational possibilities for consolidation of the broadband-related functions that are performed by the PUC and DCCA. If a current function is being provided out of the PUC or DCCA, and the function is moving to the new entity, then the positions currently performing those roles could be transferred to the new agency. It is not anticipated that additional head count or funding would be required. In keeping with concerns over the size of government, the priority would be to conduct the operations with existing staff and resources. Consolidation would put the State of Hawai'i in a better position to react to national policy initiatives because there would be consolidated functions in one entity versus multiple entities. The ability for Hawai'i to respond and be proactive would be much greater.

The Task Force consensus was that DCCA would be the best administrative home for the Authority. Member Hiraki expressed reservations on this position, stating that the Task Force had not adequately studied the options for the new Authority, such as whether it should be at the PUC.

Representative Ward referred to the John Hibbard quote and expressed concern that we had sanitized one of the strongest statements that was put before this task force. This was when Google decided not to land its fiber in Hawai'i due to over-regulation and difficulty of permitting. He also wondered whether the reader would know who John Hibbard is. Chair Lassner observed that at the last meeting it had been agreed to not try to overplay the bureaucratic issues but to also note the small market in Hawai'i, which also mitigates against fiber projects landing here. He also noted that people in the submarine fiber business in the Asia-Pacific region know John Hibbard, but agreed that the Report needed to provide more information.

Senator Ige stated his concern that assigning the submarine fiber landing station task to the Advancement Authority is one of timing, since the Authority doesn't exist yet. We don't want to miss the next opportunity. Senator Ige suggested that UH should initiate this so actions get started immediately. He noted that it will take at least a year to make progress, and that is if everything moves ahead smoothly. If nothing happens for longer than that it will be too long of a window. Senator Espero

seconded this statement.

Representative Ward suggested having at least three pieces of legislation in the report. Chair Lassner responded because we are not going to write the legislation as a full task force, in the Next Steps section we could say the task force will be forming a working group to prepare draft legislation. Senator Fukunaga stated, legislators are not going to read something if there's no follow-up action. At the last meeting, she volunteered to have her research office draft a very skeletal bill to give the task force an opportunity to choose which areas we would need to look at in addressing for this one-stop entity. She would like to distribute the draft bill at the end of the meeting and develop a working group to work with the Administration to come up with something fairly quickly and get it back to the task force for approval and perhaps appended as an appendix to the final report as sample legislation. State Auditor Higa added, the task force extends until June 30, 2009. A possibility is the official bill drafters could very well be the Legislative Reference Bureau. As a suggestion, if the task force wishes, they could provide instructions to the Auditor's office, who would then turn over skeletal thoughts to LRB. LRB could then present the Task Force with the draft bill. Because the task force officially exists until June 30th, there's nothing to prevent communication among the members through that date. The chair could send the bill out to all members for their information and possible support when session starts.

A motion was entertained to approve the report with the changes as discussed. Senator Espero moved to approve the report, seconded by Member Rogers. The motion was approved unanimously with reservations expressed by Members Hiraki and Wong. Member Wong was concerned over the vision statement calling for symmetric service, and Member Hiraki felt the Task Force had not studied the options for placing the new Authority adequately, such as whether it should be at the PUC.

Senator Fukunaga briefed the task force on the draft skeletal bill which is intended to give everyone a rough starting point. It doesn't go into the actual Chapter 269, telecom legislation or Chapter 440, cable regulation directly. It is intended to provide the members of the task force with a starting point. We talked about having a bold vision statement at the beginning of the bill. We included as a point of reference the old bill we had 20 years ago when Hawai'i, Inc. was first created and a lot of statutory framework was included. We just need to incorporate something comparable. Based on the discussions so far, we will incorporate the Insurance Commissioner approach and use its basic language. We deliberately tried not to get into too much detail so that whoever wants to work on the draft legislation, can identify areas that could be problematic. In terms of timing, we want to make the implementation take effect July 1, 2009 with a period of the actual rate setting portion to be deferred one year out. That part would take effect July 1, 2010. It was envisioned there would need to be some sort of transition period between what PUC, CATV, and this new entity would be doing in the meantime. If anyone else is interested in working on any more modifications, send email to Senator Fukunaga and she will set up some kind of meeting. Senators Fukunaga and Ige, Representative Yamashita and Members Sonobe, Bruce and Lassner agreed to form a Working Group to prepare legislation.

Future Meetings
and Events:

A meeting may be scheduled in early January to approve draft legislation and approve all minutes of meetings.

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 10:31 a.m.

Reviewed and approved by:

Sterling Yee
Assistant Auditor

January 12, 2009

Approved as circulated.

Approved with corrections; see minutes of _____ meeting.

Broadband12/03/08

Draft