Approved- 11/12/19

Hawaii Interagency Council for Transit-Oriented Development

Minutes of Meeting No. 31

Tuesday, October 8, 2019
9:30 am
Hawaii Community Development Authority
Community Room, 1st Floor
547 Queen Street, Honolulu, Hawaii

Members/ Designees Present:	Mary Alice Evans, Office of Planning (OP), Co-Chair Deepak Neupane, Hawaii Housing Finance & Development Corporation (HHFDC), Co-Chair Designee Sara Lin, Office of the Governor Chris Kinimaka, Department of Accounting and General Services (DAGS) Robyn Loudermilk, Department of Education (DOE) Darrell Ing, Department of Hawaiian Home Lands (DHHL) Heidi Hansen Smith, Department of Health (DOH) Russell Tsuji, Department of Land and Natural Resources (DLNR) Benjamin Park, Hawaii Public Housing Authority (HPHA) Representative Henry Aquino, House of Representatives April Surprenant, County of Hawaii Lyle Tabata, County of Kauai Cyd Miyashiro, American Savings Bank, Business Community Representative Betty Lou Larson, Catholic Charities, Housing Advocate Bill Brizee, AHL, Developer Representative
Members/ Designees Excused:	Aedward Los Banos, Hawaii Community Development Authority (HCDA) Ross Yamasaki, Stadium Authority (SA) David Lassner, University of Hawaii (UH) Senator Lorraine Inouye, State Senate Harrison Rue, City & County of Honolulu Pam Eaton, County of Maui Ryan Okahara, U.S. Housing & Urban Development, Honolulu Office (HUD) (Ex-officio)
Other Designees/ Alternates Present:	David DePonte, DAGS Nancy Pisicchio, County of Hawaii Jodi Higuchi Sayegusa, County of Kauai
TOD Council Staff:	Rodney Funakoshi, OP Ruby Edwards, OP Aaron Setogawa, OP Carl Miura, OP
Guests:	Susan Kim, Department of the Navy Nathalie Razo, PBR Hawaii Lynn Robinson-Onderko, Office of Senator Stanley Chang

Lauren Ige, DLNR-Land Division
Sydney Hart, Office of Lorraine Inouye
Kevin Auger, HPHA
Franz Kraintz, City and County of Honolulu
Tim Streitz, City and County of Honolulu
Andrea Roess, David Taussig and Associates (DTA)
Ann Bouslog, PBR Hawaii
Grant Murakami, PBR Hawaii

1. Call to Order
Mary Alice Evans, Co-chair, called the meeting to order at 9:37 a.m.

2. Introduction of Members
Members and guests introduced themselves.

3. Review and Approval of Minutes of September 10, 2019 Meeting
On page 5 under Wailuku Courthouse Expansion, Chris Kinimaka said it should say "DAGs is working with the Judiciary to make safety improvements, and they are coordinating overall planning efforts with the County of Maui." It was unanimously voted to accept the meeting minutes as corrected.

4. Financing Alternatives for TOD Infrastructure
Ann Bouslog, PBR Hawaii, introduced the guest speaker Andrea Roess, David Taussig and Associates (DTA), who is the financial sub-consultant for the State TOD Planning and Implementation Project (Oahu).

Roess mentioned that DTA had made a presentation to the TOD Council on financing tools and case studies last September. DTA is helping the State TOD project look at different ways to pay for infrastructure. Building the infrastructure is not the end itself, it serves a lot of different needs by bringing new development, creating jobs, assisting people in moving around the island more easily, and helping to make housing more affordable.

Roess described four buckets of financing tools, which can overlap:

A. Diversion of Existing Revenue, such as Tax Increment Financing (TIF), Payment-in-Lieu-of-Taxes (PILOT), GET/Sales Taxes, Certificate of Participation (COP)/Lease Revenue Bonds.
B. New Revenue Sources, such as Revenue Bonds, Community Facilities Districts (CFD), Improvement Districts, Impact Fees, General Obligation (GO) Bonds, Public-Private Partnership (P3), and Grants and Loans.
C. Outside Funding Sources, such as GO Bonds, P3, Grants, Loans, Opportunity Zones (OZ), Low Income Housing Credit (LIHTC), New Market Tax Credit (NMTC).
D. Developer Incentives, such as OZ, LIHTC, NMTC.

She explained the difference between funding and financing. Financing is raising of upfront capital such as selling of bonds, while funding is the long-term revenue stream that is needed to pay back the bond. One of the biggest struggles is finding a financing tool.

Roess provided an overview of different types of financing mechanisms:

- Community Facilities Districts (CFD): District authorized to levy special taxes to fund public improvements or services in a specific area. It is approved by majority of property owners.
- Utility Revenue Bonds: Municipal bonds that finance public utility projects and are secured by a specified revenue source (water, sewer fees).
- General Obligation (GO) Bonds: Public bond backed by the "full faith and credit" of the issuing jurisdiction rather than the revenue from a given project. This is the gold standard and well accepted in the market.
- Tax Increment Revenues/PILOT: Often called value capture. Property tax revenue that results from an increase in assessed value above the base year.
- Public-Private Partnerships (P3): Contractual agreement between a public and private entity to deliver a service or facility (e.g. stadium, toll roads, etc.) for the benefit of the general public. It transfers some of the risk from the government agency to the P3 entity.
- Impact Fees/Capacity Charges: Fee imposed on new development by a public agency to mitigate the impacts on public infrastructure. Usually, one-time fees that new development pays to connect to a system or provide schools.
- Lease Revenue Bonds/Certification of Participation (COP): Bonds/Certificates that are repaid by income generated by the project, including lease payments by a public entity for a capital asset.
- Special Improvement Districts: District authorized to levy assessments to fund public improvements (ID) or services (SID). Similar to CFD, but without a tax.
- GET/Sales Tax and Excise Tax: Tax revenue resulting from sales of goods and services.
- Grant and Loans: Transportation Infrastructure Finance and Innovation Act (TIFIA), Dwelling Unit Revolving Fund (DURF), State Revolving Fund, and FTA Small Starts/New Starts.
- Opportunity Zones: Program that provides incentives for investors to re-invest unrealized capital gains into Opportunity Funds targeting low-income areas in exchange for temporary tax deferral and other benefits.
- New Market Tax Credits: Federal tax credit program that provides incentives to attract private investment in distressed communities.
- Low Income Housing Tax Credit Program: Federal and state subsidy that provides financing for low income housing by allowing investors to claim tax credits on their income tax returns.
- Establishment of dedicated TOD funding.

When selecting a possible financing tool, some of the factors to consider are:

- Yield/Revenue Potential: Infrastructure is needed upfront, but revenue comes later. Can the revenue cover the costs?
- Equity: Is it fair? Who benefits from the infrastructure? Should all of the public pay for it?
- Efficiency: Is it generating revenues in a way that is not cumbersome?
- Administrative Ease: You don't want to set up a mechanism that is extremely complicated and takes a tremendous amount of time and effort to establish and administer it.
- Transparency: Good public policy suggests that the process is open and understandable.
- Political and Legal Feasibility: Is there a political appetite for this?

Roess compared the costs of financing mechanisms:

Funding Mechanism	Cost of Capital			Timeframe for Issuance			Political Difficulty		
	Low	Med	High	Early Dev.	Mid Dev.	Post Dev.	Low	Med	High
GO Bonds	$								
CFD Bonds	$$$								
Value Capture Bonds	$$$								
Revenue Bonds	$$								

In reality, the cost of financing continues to be at a record low. However, the GO Bonds are the cheapest and most common. It is not dependent on availability of revenues coming from a specific project. The drawback with GO Bonds is that the project competes with other needs for GO Bonds funds and the State or County is limited on the amount they can issue. For CFDs, the bonds often have a provision to tax property. As a result, the development does not need to be fully constructed in order to sell the bonds. These bonds can be sold early or in the middle of the project. Kukuiula on Kauai is the only CFD established in Hawaii. Revenue Bonds are dependent on revenues coming from the project, such as for water and sewer projects. Sometimes people get creative and start with a CFD or GO Bond and pay it back through some kind of Value Capture mechanism.

The following factors need to be considered in facilities-related project:

- Types of infrastructure to be funded.
- Who is responsible for infrastructure?
- When is it needed?
- Are funds already committed, planned, and/or budgeted?
- Who benefits from the infrastructure?
- Ease of implementation.

In addition, what is a successful outcome? Construction of needed infrastructure in a timely manner. One of the things that she has been finding in TOD areas are a lot of interest and stakeholders. People from different agencies need to work together collaboratively and to find ways different agencies can contribute and help out.

One case study is the Hudson Yards, New York City. This is an example of a Payment-In-Lieu-Of-Taxes (PILOT) utilizing a Value Capture technique. The City contributed money upfront to construct a rail station to the area because the infrastructure had to be in before any development-generated revenue would be realized. The Industrial Development Agency, the City, and developer put together an agreement to fund the projects. In lieu of paying property taxes, the property owners make payments over time.

Hawaii has a tax increment law, but it is unclear whether agencies can issue bonds based on tax incremental financing. She believes this negotiated tax increment is a valuable tool especially in areas where there are large number of landowners and stakeholders.

Another case study is Ladera Ranch, Orange County, California. This is an example of a number of public agencies working together using various financing tools to build needed public infrastructure for the community. Orange County, the school district, water district, and the toll road authority were involved. There were multiple layers of CFDs and financing mechanisms. For instance, the County had a CFD to pay for county infrastructure, and the school district had its own CFD on top to pay for their infrastructure. The water district had GO Bonds, and the toll road authority used revenue bonds. This was an exercise in cooperation by pulling together all of the numbers so that the property owners were paying within the policy guidelines and rates that allow the developer to be able to still sell their homes.

Buena Park Mall was a rundown mall in Orange County, California that needed public parking. The Redevelopment Agency and the City worked to find a plan where a CFD was formed to pay for infrastructure upfront. As property and sales tax grew, those monies offset the CFD. The CFD was eliminated when the infrastructure was completed.

What does this mean for the State and counties? There is no one-size-fits-all solution to funding major infrastructure needs. A lot of money is going to be needed, so agencies need to coordinate and collaborate on priorities, timing, and financing tools. Often revenues will be available at the back end, but the infrastructure needs are more immediate. Projects can be fine-tuned either through reducing expenses or possibly delaying costs. Every TOD area is unique and agencies need to work together to understand the stakeholder's priorities and regional needs to make decisions. Affordable housing requirements are both a challenge and opportunity. The costs associated with building these units still exist which need to be passed on to the other homes or paid by the government. People should understand the political appetite to issue GO Bonds, appropriations, and/or seek other alternatives to fund improvements in the TOD areas.

Deepak Neupane asked what percentage are paid to the CFD? Roess answered that it can be set at any level. When she was running the models for the State TOD study, one of the challenges was how much of a burden can be placed on the property owners. Property taxes in Hawaii are fairly low in comparison to California and the mainland. As more taxes are placed on the property, the burden gets passed on to the property owner, which could make it harder to sell the house.

Neupane said that this is similar to the challenges of having a TIF because property taxes are very low in Hawaii. Any increase will not generate enough revenues. In his experience with improvement districts at HCDA, about 30 percent of the construction costs were passed on to landowners.

He was curious to find out how much was passed on to property owners in the CFD established for Kukuiula. Roess said the tax rates were low because the costs were tremendous. An interesting piece about this development was that the CFD funded projects that the developer needed. Eighty-five percent of money went to the developer projects and 15 percent is going to county-desired projects. Lyle Tabata added that the Department of Public Works only received about $600,000 of the County's share and their park department collected about $500,000. Tabata said he expects to receive more funds this year. Roess said Kukuiula is supposed to be issuing more bonds soon.

Neupane asked if the remaining amount needed will be made up by issuing GO Bonds? Roess believed that the developer paid for it.

Russell Tsuji asked if she looked at how Hawaii's taxes differed from the mainland where there are county-imposed taxes. Roess said that DTA is working with one of their partners to understand Hawaii's tax structure.

Neupane mentioned that he came across a funding mechanism called CEPAC (Certificates for Additional Construction Potential) used in Brazil. Roess said this was tied to increased density in development that they monetized. He asked if this type of tool would be possible in Hawaii. She said that the problem is infrastructure costs increases whenever density goes higher. Instead of this exact model, the government could give the developer more density and more market units, which frees up more funds. Neupane believes that the CEPAC was able to raise a substantial amount of money, but he was not sure if such a program would be legally and politically possible in the United States.

For discussion purposes, Sara Lin asked what Roess would recommend on the mix of financial products for one of the study areas like Iwilei-Kapalama or East Kapolei? Roess responded that DTA is looking broadly at a combination of CFDs, value capture like PILOTs, revenue bonds, and water, sewer, school or transportation impact fees. For the purposes of the State TOD Infrastructure Study, they developed a baseline scenario where all the infrastructure costs are financed and funded by development within the TOD area. The costs will be probably too high, so the next step is for the team to determine what is the likely level and see if the State, County or private developers can make up the remaining amount.

Ann Bouslog added that the project and DTA began with the assumption that no GO Bonds will be used. If the State or County can fund a project using GO Bonds, it is the best way to pay for it. However, this resource is limited. Right now, they are looking at how would they deal with the infrastructure costs if the whole financial burden was placed on these types of alternate financing tools.

Cyd Miyashiro inquired whether the State is looking at previously untapped outside sources. Miyashiro said finding another way to raise money would be preferable to raising taxes. She asked if there are other models out there. Roess replied that there are some types to consider. For example, if these TOD areas are causing people from other parts of the island to move there, it will free up land or facilities in different location would not need to be developed. Also, if more market rate housing is built with the density bonus, it could create more tax revenues, which can provide more assistance.

Neupane noted that an HCDA consultant study thought this was worth looking into… putting development in the TOD area and foregoing development elsewhere, such as increasing density in Kakaako's TOD area would have the benefit of a greenfield area that would not need to be developed.

Since much of the TOD areas consist of public lands that cannot be sold, Evans asked how this may limit the number of financing alternatives that can be utilized to put in the infrastructure or to incentivize developers. Roess explained that if it is a private developer leasing public land, there is some taxing capability.

Ruby Edwards asked Miyashiro if she had models in mind for outside sources of financing or funding. Miyashiro said she is thinking about bonuses, not taxes or diverting from the same pool of money. Edwards added this is something the Council could explore on one end of the incentives to fees continuum. Vancouver, British Columbia has tapped through a value capture fee that takes a percentage of a project's developed value to fund community amenities at the project site.

Funakoshi asked how an infill community pays for infrastructure improvements on the mainland. Roess explained that in many cases it goes out for a vote. In California, they had Proposition 13 which limited the amount of property taxes. If the government needs more money for a CFD or GO Bonds, the voters need to approve it. It is a challenge everywhere.

Betty Lou Larson asked what the situation is for retail and how Opportunity Zones work. Larson expressed concern that small businesses need more affordable places. Neupane explained that retail in SALT worked really well in the Keawe corridor with the mixed-use and residential. Bouslog mentioned that the reason SALT worked was more people live in Kakaako now, and they also did a great job in finding small, local business that would be successful rather than going with a national chain. With these TOD plans, a lot more people would live, walk, shop, and eat in the same area. For example, in East Kapolei, about 60,000 more people could be living in the area, which will bring more shoppers.

Roess explained that Opportunity Zones (OZ) are federally designed census tracts that can benefit from private investment capitalized by Federal tax incentives. The investors would receive federal capital gains benefit over time depending on how long they leave the money invested in the area. Currently, the capital gain tax deferral is until 2026.

For New Market Tax Credits (NMTC), it is based on income levels at different census tracts, which change from year to year. It has a market limit on the money set aside for NMTCs. Bouslog added that it is applicable to defined areas like OZ. The funds get earmarked through certain agencies.

Evans shared that DBEDT and its partners are having an Opportunities Zones Seminar on Thursday, October 17, 2019, 8 a.m. - 1:30 p.m. at the YWCA on Richards Street. Also, Edwards mentioned that DBEDT is asking agencies to apply with them if they are trying to attract OZ funding. They would like interested individuals to be market ready, so they will be offering technical assistance beginning around November. Registration and more information are available through the DBEDT Hawaii Opportunity Zones website.

For the case studies of Buena Park and Ladera Ranch, Edwards asked if there were agreements in place between the agencies as to how much each agency was contributing and on the timing of infrastructure delivery. Roess replied that agreements between the agencies were negotiated. If the revenues did not come in as expected, then the developer will continue to be responsible.

Funakoshi asked why CFDs do not work in Hawaii when they are successful on the mainland. Roess said CFDs can work in Hawaii, but nobody wants to be the first, and it takes time for the local market to accept it. CFDs are a good tool and it should eventually be successful in Hawaii.

Edwards asked if someone is keeping track of the multiple CFDs. In California's CFD law, Roess explained that the total tax bill cannot exceed two percent. In a CFD right next to Ladera Ranch, Ascencia had a subsidy agreement where the water rates were paid by the developer in the early years because the total tax bill would have exceeded two percent. Once the value grew, the water rates dropped.

Miyashiro inquired if Hawaii's CFD law can be refined to encourage more areas to use it. Roess responded that Hawaii's legislation is very similar to California's. For TIF, it might require more legislation. For CFDs, the issue might be more perception and execution.

Edwards mentioned that a graduate intern researching value capture had spoken to the City staff that were okay with using GO Bonds for financing TOD infrastructure. The property values would increase and provide a return over time, so GO Bonds should not be taken off the table since it is low cost. The key is to make sure the project has a funding stream to pay them back.

Kevin Auger said that CFDs and other tools require a revenue source. For public affordable housing, these are already publicly financed and have no revenue stream.

5. Future Agenda Topics

Evans pointed out future meeting topics to include:

- November 12 meeting: Presentation on Equitable TOD with Christopher Coes, LOCUS/Smart Growth America, and Jackie Boland, AARP Hawaii.

- December 10 meeting: Review of TOD CIP Projects and Legislative proposals.

6. Announcements

- East Kapolei Permitted Interaction Group meeting in the HCDA Community Room.
- Halawa-Stadium Permitted Interaction Group meeting on Wednesday, October 9, 2019, at the Aloha Stadium Hospitality Room.
- Iwilei-Kapalama Permitted Interaction Group meeting on Friday, October 11, 2019, in the HCDA Community Room.

7. Adjournment

There being no further business, the meeting was adjourned at 10:58 a.m.

Note: All meeting materials are posted at http://planning.hawaii.gov/lud/state-tod/hawaii-interagency-council-for-transit-oriented-development-meeting-materials/.