



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077

COMMITTEE ON EXECUTIVE MATTERS AND LEGAL AFFAIRS

Voting Members:

Ron Menor, Chair
Carol Fukunaga, Vice-Chair
Ikaika Anderson
Brandon J.C. Elefante
Ann H. Kobayashi
Joey Manahan
Ernest Y. Martin
Trevor Ozawa
Kymberly Marcos Pine

MINUTES

REGULAR MEETING
TUESDAY, JANUARY 23, 2018

COUNCIL COMMITTEE MEETING ROOM
2ND FLOOR, HONOLULU HALE
HONOLULU, HAWAII 96813

Note: A copy of the video of the full proceedings of this meeting may be requested by calling the City Clerk's Office at 768-5822.

CALL TO ORDER

The regular meeting of the Committee on Executive Matters and Legal Affairs was called to order by Committee Chair Ron Menor at 1:05 p.m. Voting Members Anderson, Elefante, Fukunaga, Kobayashi, Manahan, Martin, and Pine were present at the meeting. Voting Member Ozawa was excused from the meeting.

STAFF PRESENT

Corinne Gallardo-Mata, Senior Advisor to Committee Chair Menor
Anthony Valdez, Attorney, Office of Council Services
Denisse Gee, Analyst, Office of Council Services
Amy Kondo, Deputy Corporation Counsel, Department of the Corporation Counsel,
assigned to the Committee
Vicki Chung, Council Committee Aide, Office of the City Clerk

ORDER OF BUSINESS

APPROVAL OF MINUTES

The minutes of the Committee on Executive Matters and Legal Affairs meeting of November 14, 2017 were approved as circulated.

AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN,
MARTIN, MENOR – 7.

NOES: None.

EXCUSED: OZAWA, PINE – 2.

FOR ACTION

1. RESOLUTION 17-288 – COMMITTEE REPORT 14

CHARTER AMENDMENT RELATING TO THE BOARD OF THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION. To provide that the President of the Senate and the Speaker of the House may each appoint up to two non-voting members, for terms to be determined by the appointing authority; to specify that six members shall constitute a quorum; and to specify that the affirmative vote of a majority of all voting members of the Board shall be necessary to take any action.

The following amendments were circulated at the meeting:

PROPOSED CD1 TO RESOLUTION 17-288 (Submitted by Councilmember Ozawa) - The CD1 (OCS2018-0052/1/22/2018 3:11 PM) makes the following amendments:

- A. Makes amendments requested by the City Administration in Mayor's Message 7 (2018) to include the Director of Planning and Permitting as a voting, rather than a non-voting, member of the Board of Directors of the Honolulu Authority for Rapid Transportation.
- B. Makes miscellaneous technical and nonsubstantive amendments.

PROPOSED CD1 TO RESOLUTION 17-288 (Submitted by the Department of the Corporation Counsel) – The CD1 makes the following amendments:

- A. Changes the status of the city director of planning and permitting from an ex officio non-voting member to an ex officio voting member.
- B. Amending the definition of “Board” to reflect that the Board will be comprised of a maximum of fourteen members, ten voting and up to four non-voting members.
- C. Makes miscellaneous technical and nonsubstantive amendments.

Administration/Others

Donna Y.L. Leong, Corporation Counsel, Department of the Corporation
Counsel (COR)

Corporation Counsel Leong provided a brief explanation of the purpose of the Resolution and COR's proposed amendments.

In response to Committee Member Anderson, Corporation Counsel Leong stated that:

- The proposed Charter amendment specifies that six members shall constitute a quorum, which would trump any other provision in the Charter that says a quorum shall be equal to a majority of the total membership of a board or commission.
- She would need to inquire whether the Mayor would be amenable to having the Council appoint the additional voting member.

The following individual testified:

Ember Shin, Honolulu Authority for Rapid Transportation Board
(comment)

In response to Committee Chair Menor, Ms. Shin stated that it would be appropriate to change the Department of Planning and Permitting (DPP) Director from a non-voting member to a voting member because the DPP Director contributes a lot to the discussion.

Committee Member Anderson proposed amending the Resolution to increase the number of board members from 10 to a maximum of 15, and increasing the number of Council appointees from three to four.

Council Chair Emeritus Martin spoke in support of the amendment which would provide a more equitable composition of the board.

Committee Chair Menor recommended that the Resolution be amended to incorporate the changes proposed by Committee Member Anderson.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

Resolution 17-288 amended to CD1 and reported out for passage on third reading.

AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR – 7.

NOES: None.

EXCUSED: OZAWA, PINE – 2.

CD1 to Resolution 17-288 (Submitted by Councilmember Menor) – The CD1 (OCS2018-0093/1/26/2018 11:03 AM) makes the following amendments:

- A. Adds a new WHEREAS paragraph explaining the proposal to increase the number of Council appointees to the HART Board from three to four.
- B. Increases the proposed maximum number of Board members (both voting and non-voting) from 14 to 15.
- C. Increases the number of Council appointees from three to four.
- D. Amends the definition of "board" in Charter Section 17-102 to conform to the changes to the membership of the Board.
- E. Makes changes to comport with current drafting conventions.
- F. Makes miscellaneous technical, nonsubstantive, and conforming amendments.

Related communication:

MM-7 Mayor Kirk Caldwell, transmitting a proposed amendment to Resolution 17-288.

2. RESOLUTION 17-307

CHARTER AMENDMENT RELATING TO HONOLULU FIRE COMMISSION.
Changing the composition of the Fire Commission.

Committee Member Anderson provided a brief explanation of the Resolution.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

Administration/Others

Donna Y.L. Leong, Corporation Counsel, Department of the Corporation
Counsel (COR)
Gary Kurokawa, Chief of Staff, Office of the Mayor
Socrates Bratakos, Assistant Fire Chief, Honolulu Fire Department (HFD)

Corporation Counsel Leong stated that the COR does not have any legal concerns with the Resolution. This is a policy decision to be made by the electorate.

Chief of Staff Kurokawa provided the following comments and concerns relating to Resolutions 17-307 and 17-308:

- The three members appointed by the Mayor would not require Council approval.
- Commissioners should represent a broad spectrum of the community and review overall policy and direction, and should not be involved with the operation of the Department.

In response to Committee Member Anderson, Chief of Staff Kurokawa stated that:

- The Administration would like to hear testimony before making a commitment on whether or not the measure should go to the electorate.
- He will check and inform the Council on whether the Commission kept the Administration apprised of the situation involving former Chief Kealoha.

The following individuals testified:

1. Robert H. Lee, Hawaii Fire Fighters Association, Local 1463 (HFFA) (M-22) (comment)

In response to Committee Member Anderson, Mr. Lee stated that:

- The day-to-day operations of the Fire Department is controlled and managed by the Fire Chief. The Fire Commission oversees the Fire Chief.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

- The HFFA will take a hard look at a Charter amendment that would eliminate the Fire Commission and instead have the Mayor directly appoint the Fire Chief, subject to Council confirmation.
 - There appears to be increased oversight and public awareness of how government and politicians are supposed to operate.
2. Socrates Bratakos, Assistant Fire Chief, HFD (no position)

In response to Committee Member Anderson, Assistant Fire Chief Bratakos stated that he would report back to the Fire Chief and the Administration regarding the Council's inquiry as to the Administration's position on a possible Charter amendment to eliminate the Fire Commission and instead have the Fire Chief directly appointed by the Mayor, subject to Council confirmation.

Committee Member Elefante noted that he will be filing a Disclosure of Interest with the City Clerk's Office (Communication CC-22).

Council Chair Emeritus Martin stated that he always believed that the Mayor should have the discretion and authority to both hire and fire the Fire Chief and the Police Chief. Rather than eliminating the Fire Commission, he suggested defining the specific duties of the Commission.

Committee Member Anderson requested that action on Resolution 17-307 be deferred to give the Administration, the HFD, and the HFFA time to review the issue.

Committee Chair Menor recommended that action on the Resolution be deferred.

Action on Resolution 17-307 deferred.

AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN,
MARTIN, MENOR – 7.

NOES: None.

EXCUSED: OZAWA, PINE – 2.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

Related communication:

CC-22 Councilmember Brandon Elefante, submitting Disclosure of Interest Statement.

3. RESOLUTION 17-308

CHARTER AMENDMENT RELATING TO HONOLULU POLICE COMMISSION.
Changing the composition of the Police Commission.

Committee Member Anderson provided a brief explanation of the Resolution.

Administration/Others

Donna Y.L. Leong, Corporation Counsel, Department of the Corporation Counsel (COR)
Gary Kurokawa, Chief of Staff, Office of the Mayor

There was no public testimony.

Corporation Counsel Leong stated that the COR does not have any legal concerns with the Resolution. This is a policy decision to be made by the electorate.

Chief of Staff Kurokawa noted that the Administration has the same concerns he raised relating to Resolution 17-307.

In response to Committee Member Anderson, Chief of Staff Kurokawa stated that he will inform the Mayor of Councilmember Anderson's concerns regarding the Commission's failure to provide the information requested by the Council.

Committee Member Anderson requested that the Resolution be deferred.

Committee Chair Menor stated that improvements should be made to the process of selecting Police Commission members. The Council should have more input which would ensure more accountability on the part of the commissioners to the Council and to the general public, as well as provide more transparency in the selection of the commissioners. He recommended that action on the Resolution be deferred.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

Action on Resolution 17-308 deferred.

AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN,
MARTIN, MENOR – 7.

NOES: None.

EXCUSED: OZAWA, PINE – 2.

Committee Chair Menor announced that Items 4 through 13, Resolutions 18-7, 18-8, 18-9, 18-10, 18-11, 18-12, 18-13, 18-14, 18-15, and 18-17, respectively, would be taken up together since they relate to the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of various properties.

4. RESOLUTION 18-7 – COMMITTEE REPORT 16

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of a fee simple interest and guideway easement over, on, and across the real property identified as Tax Map Key 2-1-014: 006 (portion) situated at 170 Aloha Tower Drive, Honolulu, Hawaii.

5. RESOLUTION 18-8 – COMMITTEE REPORT 17

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of a fee simple interests, permanent easements, and temporary construction easements over, on, and across the real property identified as Tax Map Key 1-5-007: 016 (portion) situated at 617 Dillingham Boulevard, Honolulu, Hawaii.

6. RESOLUTION 18-9 – COMMITTEE REPORT 18

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of a guideway easement over, on, and across the real property identified as Tax Map Key 1-5-007: 026 (portion) situated at 519 Kaaahi Street, Honolulu, Hawaii.

7. RESOLUTION 18-10 – COMMITTEE REPORT 19

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of a fee simple interest and temporary construction easement over, on, and across the real property identified as Tax Map Key 1-5-008: 020 (portion) situated at 230 N. Nimitz Highway, Honolulu, Hawaii.

8. RESOLUTION 18-11 – COMMITTEE REPORT 20

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of a fee simple interest, permanent easements, and temporary construction easements over, on, and across the real property identified as Tax Map Keys 2-1-014: 003 (portion) and 2-1-014-004 (portion) situated at 733 Bishop Street, Honolulu, Hawaii.

9. RESOLUTION 18-12 – COMMITTEE REPORT 21

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of a guideway easement over, on, and across the real property identified as Tax Map Key 2-1-030: 012 (portion) situated at 586 South Street, Honolulu, Hawaii.

10. RESOLUTION 18-13 – COMMITTEE REPORT 22

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of a permanent easement over, on, and across the real property Identified as Tax Map Key 2-1-031: 030 (portion) situated at 616 Keawe Street, Honolulu, Hawaii.

11. RESOLUTION 18-14 – COMMITTEE REPORT 23

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of an easement for guideway purposes over, on, and across the real property identified as Tax Map Key No. 2-3-039: 013 (portion) situated at 1357 Kapiolani Boulevard, Honolulu, Hawaii.

12. RESOLUTION 18-15 – COMMITTEE REPORT 24

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of a fee simple interest in the real property identified as Tax Map Key 2-1-052: 056 (portion) situated at 753 Halekauwila Street, Honolulu, Hawaii.

13. RESOLUTION 18-17 – COMMITTEE REPORT 25

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S NOTIFICATION REGARDING THE ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY. Approving the Honolulu Authority for Rapid Transportation's acquisition by eminent domain of various easements over, on, and across the real property identified in Exhibits A and B.

Administration/Others

Andrew Robbins, Executive Director, Honolulu Authority for Rapid Transportation (HART)
Abbey Mayer, Director of Planning, HART
Rick Rayl, Eminent Domain Attorney, Nossaman Law Firm

Executive Director Robbins provided a brief explanation of the Resolutions to request Council approval for HART to proceed with condemnation of specific property interests in the City Center section of the transit project where signed purchase agreements remain pending.

Mr. Mayer provided a PowerPoint presentation on the proposed acquisitions as detailed in Departmental Communication Nos. 37 through 46.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

In response to Committee members, Mr. Mayer stated that with respect to the concerns raised regarding Resolution 18-10, HART is in the process of performing due diligence in order to make a determination on whether to do a partial or full take of the property. The due diligence process should take four to five months.

The following individuals testified:

1. Mark Murakami, Victoria Ward, Ltd. (M-38) (oppose Resolution 18-17)

In response to Committee members, Mr. Murakami stated that:

- The route has always been over Halekauwila Street but was moved mauka to Queen Street where Sports Authority and Ross Dress for Less are located. The location of the columns has changed.
- The City Council should know the correct valuations of the properties before approving HART's request to begin condemnation proceedings.
- The City agreed to abide by Federal law, the Uniform Relocation Act in proceeding with the federally funded, State level condemnations.
- With regard to the pre-2016 condemnation resolutions, he is not aware that the Federal process was not followed.

In response to the concerns raised by Mr. Murakami, Executive Director Robbins and Mr. Rayl stated that:

- No Federal or State laws have been violated.
- The HART process involving a series of three or more public hearings before filing for eminent domain, and the Federal process of an appraisal, an offer, and a negotiation period are not mutually exclusive.
- Given the complexities of these acquisitions, some of the processes must be done concurrently or HART would end up with a stale appraisal and have to start at square one.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

- HART will follow the Federal procedures, the appraisal, the offer, and the negotiation period, prior to any eminent domain action being filed.

In response to Committee members, Mr. Mayer and Mr. Rayl stated that:

- The Federal government must approve the appraisals—what is being appraised, the methodology used, the appraisal amount—and at the same time, concur with the potential offer HART would make based on that appraisal. In negotiations, should the price vary by more than \$50,000 from what the Federal government approved, HART would need to get Federal approval of the settlement amount.
 - The City's offer based on a 2015 appraisal and the owner's counter-offer were far apart.
 - With the advancement of the design of the project, appraisals must be redone given the current market and the specific footprint being requested. HART would then make an offer and the owners would have an opportunity to negotiate prior to any eminent domain filing.
2. Casey Ching, Servco Pacific, Inc. (M-37) (comment on Resolution 18-13)

In response to Committee Member Fukunaga, Mr. Ching stated that:

- Discussions started in 2014. HART agreed to reimburse Servco for design costs for relocation of its operations. No formal request for reimbursement has been made.
- Relocation efforts may have been in vain given that the approach has changed again regarding valuation.

Committee Chair Menor stated that there is a 45-day time period for the Council to take action on the Resolutions. The Council has until February 3, 2018 to decide whether to approve or reject HART's request to initiate eminent domain proceedings. The Committee Chair recommended moving the measures out for further consideration at the January 31, 2018 full Council meeting.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

Committee Member Fukunaga noted that given her concerns with respect to some of the condemnation actions, she would be voting with reservations on Resolutions 18-10, 18-13, and 18-17.

Council Chair Emeritus Martin expressed his appreciation that Committee Chair Menor placed these measures on the agenda. He introduced the measures to give the councilmembers who represent the areas an opportunity to hear testimony from all sides and then make an appropriate decision and he would support their recommendations. The Council must exercise this power very judiciously because once an eminent domain proceeding is authorized, the power shifts in negotiations.

Committee Member Kobayashi noted she would be voting no on Resolutions 18-13 and 18-17.

In response to Council Chair Emeritus Martin, Committee Chair Menor stated that a simple majority vote is required to pass the Resolutions.

Resolution 18-7 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.
NOES: None.
EXCUSED: ANDERSON, OZAWA, PINE – 3.

Resolution 18-8 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.
NOES: None.
EXCUSED: ANDERSON, OZAWA, PINE – 3.

Resolution 18-9 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.
NOES: None.
EXCUSED: ANDERSON, OZAWA, PINE – 3.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

Resolution 18-10 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA*, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.

NOES: None.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

*Councilmember Fukunaga voted aye with reservations.

Resolution 18-11 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.

NOES: None.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

Resolution 18-12 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.

NOES: None.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

Resolution 18-13 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA*, MANAHAN, MARTIN, MENOR – 5.

NOES: KOBAYASHI – 1.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

*Councilmember Fukunaga voted aye with reservations.

Resolution 18-14 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.

NOES: None.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

Resolution 18-15 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.

NOES: None.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

Resolution 18-17 reported out for adoption.

AYES: ELEFANTE, FUKUNAGA*, MANAHAN, MARTIN, MENOR – 5.

NOES: KOBAYASHI – 1.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

*Councilmember Fukunaga voted aye with reservations.

Related communications:

- | | |
|--------------|---|
| D-847 (2017) | Honolulu Authority for Rapid Transportation, notification of intent to initiate eminent domain proceedings for 10 properties. |
| D-37 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-7. |
| D-38 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-8. |
| D-39 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-9. |
| D-40 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-10. |
| D-41 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-11. |
| D-42 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-12. |
| D-43 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-13. |
| D-44 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-14. |
| D-45 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-15. |
| D-46 | Honolulu Authority for Rapid Transportation PowerPoint presentation on Resolution 18-17. |
| M-9 | Early testimony on Resolution 18-7 |

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

M-10	Early testimony on Resolution 18-8
M-11	Early testimony on Resolution 18-9
M-12	Early testimony on Resolution 18-10
M-13	Early testimony on Resolution 18-11
M-14	Early testimony on Resolution 18-12
M-15	Early testimony on Resolution 18-13
M-16	Early testimony on Resolution 18-14
M-17	Early testimony on Resolution 18-15
M-18	Early testimony on Resolution 18-17
M-37	Additional testimony on Resolution 18-13
M-38	Additional testimony on Resolution 18-17

14. BILL 99 (2017) – COMMITTEE REPORT 13

BUS STOPS. Preserving the use of City bus stops for patrons of the City's bus system.

The following amendment was circulated at the meeting:

PROPOSED CD1 TO BILL 99 (2017) (Submitted by Councilmember Ozawa) – The CD1 (OCS2017-1227/11/28/2017 3:26 PM) makes the following amendments:

- A. Deletes the existing language in Section 1 of the bill and replaces it with the general statement that the purpose of this ordinance is to prohibit, subject to exceptions, persons from lying down within bus stop areas, and adds a new section, entitled “Declaration of legislative intent — Purpose,” in the proposed new Article in ROH Chapter 13. Renumbers subsequent sections of the new Article accordingly.
- B. Adds minor clarifying and conforming language to the definition of “bus stop area,” in Section 2 of the bill to read as follows (additional text bolded):

“Bus stop area” means the area at a bus stop occupying the entire width of the sidewalk that extends 20 feet before a bus stop **sign or bus stop route** sign or, for bus stops furnished with a shelter or shelters, the footprint of the shelters, and the entire width of the sidewalk **that extends 10 feet before and 10 feet after the footprint of the shelter. The footprint of**

a shelter is defined by vertical planes, perpendicular to the ground, extending down from the outermost edges of the shelter overhang or roof.

- C. Deletes the existing definition of “expressive activity” in Section 2 of the bill, and instead incorporates the definition of “expressive activity” in ROH Section 29-1 5A.2(d).
- D. Adds the word “cardboard” to the list of items in proposed new ROH Section 13-___.2(a) in Section 3 of the bill.
- E. Deletes the words “knowingly or recklessly” from proposed new ROH Section 13-___.2(c) in Section 3 of the bill.
- F. Makes miscellaneous technical and nonsubstantive amendments.

There was no testimony from the Administration or the public.

Committee Chair Menor recommended that the Bill be amended to CD1 and reported out for passage on third reading.

Bill 99 (2017) amended to CD1 (OCS2017-1227/11/28/2017 3:26 PM) and reported out for passage on third reading.

AYES: FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR – 5.

NOES: ELEFANTE – 1.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

15. RESOLUTION 18-2 – COMMITTEE REPORT 15

DESIGNATING A SITE IN KAIMUKI AS A SAFE ZONE FOR HOMELESS INDIVIDUALS. Urging the State of Hawaii to reconsider designating a safe zone for homeless individuals on the vacant land in Kaimuki identified by the State of Hawaii Department of Land and Natural Resources as Tax Map Key 3-2-036-010, because the property is unsuitable for use as a safe zone.

The following individual testified:

Jordan Brant (oppose)

There was no testimony from the Administration.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

Committee Chair Menor recommended that the Resolution be reported out for adoption.

Committee Member Kobayashi noted that the land is very steep and it does not make sense to utilize that particular property.

Committee Member Fukunaga stated that most of the testimony received appears to support the Resolution.

Resolution 18-2 reported out for adoption.

AYES: ELEFANTE*, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.

NOES: None.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

*Councilmember Elefante voted aye with reservations.

Related communications:

M-19 Early testimony on Resolution 18-2

M-39 Additional testimony on Resolution 18-2

16. BILL 83 (2017) – COMMITTEE REPORT 12

PUBLIC SIDEWALKS. Prohibiting, subject to exceptions, persons from sitting or lying on public sidewalks in areas near schools and public libraries.

There was no testimony from the Administration or the public.

Committee Chair Menor recommended that the Bill be reported out for passage on third reading.

Committee Member Elefante noted that while he appreciates the introducer coming up with the Bill, as he has done previously on sit-lie measures, he will be voting no on the measure.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

Bill 83 (2017) reported out for passage on third reading.

AYES: FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR – 5.
NOES: ELEFANTE – 1.
EXCUSED: ANDERSON, OZAWA, PINE – 3.

Committee Chair Menor stated that he would be taking up Items 17 and 18 together as both relate to fire safety.

17. BILL 69 (2017) – COMMITTEE REPORT 11

FIRE SAFETY. Requiring existing highrise residential buildings to retrofit when necessary to comply with specified fire safety standards.

18. BILL 107 (2017)

FIRE SAFETY. Providing for various means, methodologies, and standards to promote improvements to fire safety in existing high-rise residential buildings through the amendment of the Fire Code of the City and County of Honolulu, and provides for various incentives and cost mitigation measures to help building and unit owners mitigate the costs associated with implementing fire safety improvements.

The following amendment was posted on the agenda:

PROPOSED CD1 TO BILL 107 (2017) (Submitted by Councilmember Fukunaga) – The CD1 (OCS2018-0015/1/17/2018 11:41 AM) makes the following amendments:

A. Deletes the amendments made to Revised Ordinances of Honolulu 1990 (“ROW) Chapter 20, Article 2 in Sections 2 through 6 of the Bill and instead amends, in new Section 2, Section 20-1.1 ROH, as follows:

1. Adds a new paragraph (15) to read as follows:

“(15) Amending Section 13.3.2.26.2. Section 13.3.2.26.2 is amended to read:

“13.3.2.26.2 Existing high-rise residential buildings not protected throughout by an automatic fire sprinkler system shall be subject to building fire and life safety evaluation

code assessments, which consist of an assessment of building safety features and fire protection systems in accordance with this code and the building code. A passing score on the evaluation provides a minimum level of fire and life safety to occupants and fire fighters that is approved by the AHJ. A building fire and life safety evaluation shall be conducted by a licensed design professional within three years from the effective date of this ordinance. Buildings shall comply by passing the building fire and life safety evaluation within six years from the effective date of this ordinance. The AHJ may grant an extension pursuant to Section 13.3.2.26.7 if automatic fire sprinkler systems are required to achieve compliance. All buildings must continue to maintain a passing status on their respective building fire and life safety evaluations.

13.3.2.26.2.1 An existing high-rise residential building may appeal the final building fire and life safety evaluation score, and the resulting fire safety requirements for the building, as assessed by the licensed design professional or the determination of the AHJ, by filing a written request for an appeal to the director or head of the AHJ within 10 business days of the date of the completed building fire and life safety evaluation assessment or the AHJ's determination of the building's fire and life safety requirements, whichever is later. The request for an appeal shall include a clear statement of the basis for appeal, supporting documentation, if any, and the relief requested. The director or head of the AHJ shall render a decision on the appeal not later than 30 calendar days from the receipt of the appeal. The AHJ shall submit as part of its annual report the appeals filed by existing high-rise residential buildings and the disposition of the appeals. The AHJ may prescribe, as needed, additional appeal procedures, requirements, and forms, not inconsistent with this section.

13.3.2.26.2.2 Existing high-rise residential buildings shall be protected throughout by an approved automatic fire sprinkler system or alternative fire prevention and fire safety systems in accordance with this Chapter and the building code.

13.3.2.26.2.3 An existing high-rise residential building may opt-out of the automatic fire sprinkler system requirement; provided that, a majority of the unit owners affirmatively vote to opt-out of the requirement within three years of the completion of the building fire and life safety evaluation at a regularly scheduled or special meeting of the owners, convened and noticed in accordance with the condominium's or association's by-laws; and provided further, the building receives a passing score on the building fire and life safety evaluation through the implementation of alternative fire prevention and fire safety systems. A building that opts-out of the automatic fire sprinkler system requirement shall provide verifiable, public disclosure of its action to all current and future owners. Verifiable public disclosure may include, but shall not be limited to, signs posted in the building's public notification areas, real estate sales disclosures as required by Hawaii law, and declarations recorded with the bureau of conveyances.

13.3.2.26.2.4 Each building owner shall, within 180 days from the effective date of this ordinance, file a written statement of its intent to comply with this regulation with the AHJ for approval.

13.3.2.26.2.5 The AHJ shall review and respond to the written statement of its intent to comply within 60 days of receipt of the intent to comply.

13.3.2.26.2.6 The entire building shall be required to be protected by an approved automatic fire sprinkler system or alternative fire prevention and fire safety systems as approved by the AI-IJ within 12 years of the effective date of this ordinance, except where an extension is approved by the AHJ as provided in Section 13.3.2.26.2.7.

13.3.2.26.2.7 Compliance with the automatic fire sprinkler system or alternative fire prevention and fire safety systems provisions of Section 13.3.2.26.2.2 shall be achieved as follows: Common areas for buildings 20 floors and over shall be completed within eight years from the effective date of this ordinance, common areas for buildings 10 to 19 floors

shall be completed within 10 years from the effective date of this ordinance, and all buildings, regardless of the number of floors, shall be completed within 12 years from the effective date of this ordinance. An extension to 15 years from the effective date of this ordinance may be approved by the AHJ, provided that compliance using an automatic fire sprinkler system has been achieved for common areas.

EXCEPTION: Existing high-rise residential buildings are exempted from the automatic fire sprinkler system requirements in Section 13.3.2.26.2.2 if all dwelling units have exterior access and a continuous egress path to exit the building and have no full-length interior corridors.

EXCEPTION: Existing high-rise residential buildings can receive a building fire and life safety evaluation passing status in lieu of the approved automatic sprinkler system requirements through the implementation of a combination of alternative fire prevention and fire safety systems as provided in Section 13.3.2.26.2.2, as approved by the AHJ.

EXCEPTION: Existing high-rise residential buildings may be protected throughout by an approved automatic fire sprinkler system per NFPA 13R when approved by the AHJ.

EXCEPTION: Private balconies that have at least one long side that is 50 percent open are not required to have automatic fire sprinkler protection.

EXCEPTION: Elevator hoistways and machine rooms are not required to have automatic fire sprinkler protection.

EXCEPTION: Class II wet standpipe systems may be removed when buildings are protected throughout by automatic fire sprinkler systems pursuant to Section 13.3.2.26.2.

EXCEPTION: Combined standpipe and automatic fire sprinkler systems using existing standpipes shall be permitted to utilize pump sizing for the fire sprinkler demand.

2. Renumbers all subsequent paragraphs thereafter accordingly.
- B. Deletes existing Section 3 of the Bill and replaces it with a new Section 3, as follows:

SECTION 3. The Revised Ordinances of Honolulu 1990 is amended to provide incentives and cost mitigation measures, as set forth in this Part and as may be further promulgated by the AHJ, to assist owners of highrise residential buildings and owner-occupants of highrise residential units to address the costs that may be associated with the installation of automatic fire sprinkler systems or alternative fire prevention and fire safety improvements. Such incentives and cost mitigation measures may include, but shall not be limited to, loans and grants, the waiver of applicable fees, real property tax credits, the issuance of bonds, and the extension of applicable compliance periods.

- C. Deletes existing Sections 4 to 6 of the Bill and renumbers remaining sections of the Bill accordingly.
- D. Makes miscellaneous technical and nonsubstantive amendments.

Administration/Others

Socrates Bratakos, Assistant Fire Chief, Honolulu Fire Department (HFD)

Committee Member Fukunaga explained her proposed amendment to Bill 107 (2017) and thanked Committee Chair Menor for placing the amendment on the agenda.

The following individuals testified:

1. Larry Geller (M-40) (comment on Bill 107 [2017])
2. Charles Carole (comment on Bills 69 [2017] and 107 [2017])
3. Jane Sugimura, Hawaii Council of Association of Apartment Owners (M-40) (support Bill 107 [2017])
4. Charles Canipe, AOA Pacificana Atlas Residential (M-6) (oppose Bills 69 [2017] and 107 [2017])
5. Ronald Amemiya (M-2) (comment on Bill 107 [2017])
6. Socrates Bratakos, Assistant Chief, Honolulu Fire Department (comment on Bills 69 [2017] and 107 [2017])

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

7. Eric Johnson, Contessa AOA (M-2) (oppose Bill 107 [2017])
8. John Moore (comment on Bills 69 [2017] and 107 [2017])

Committee Chair Menor stated that in addressing the issue of fire safety, there needs to be a balance between the need for improved residential highrise fire safety and recognizing that mandatory sprinkler systems would impose huge financial burdens on condominium associations and residents.

Committee Chair Menor recommended moving out Bill 69 (2017) as the vehicle to address the issue of fire safety going forward. He recommended amending the measure to incorporate the language in the amendment to Bill 107 (2017) proposed by Councilmember Fukunaga. He noted that he would be working on a Floor Draft amendment for consideration by the full Council on January 31, 2018 to include a mandate that highrise residential buildings install sprinkler systems in common areas for the protection of residents.

In response to Committee Member Elefante, Committee Chair Menor stated that the proposed Floor Draft would also address the concerns raised by the Corporation Counsel.

Bill 69 (2017) amended to CD1 and reported out for passage on second reading and scheduling of a public hearing.

AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR – 6.
NOES: None.
EXCUSED: ANDERSON, OZAWA, PINE – 3.

CD1 to Bill 69 (2017) (Submitted by Councilmember Menor) – The CD1 (OCS2018-0081/1/25/2018 8:21 AM) makes the following amendments:

A. Deletes the amendments made to Revised Ordinances of Honolulu 1990 ("ROH") Chapter 20, Article 2 in Sections 2 through 6 of the Bill and instead amends, in new Section 2, Section 20-1.1, ROH, as follows:

1. Adds a new paragraph (15) to read as follows:

“(15) Amending Section 13.3.2.26.2. Section 13.3.2.26.2 is amended to read:

13.3.2.26.2 Existing high-rise residential buildings not protected throughout by an automatic fire sprinkler system shall be subject to building fire and life safety evaluation code assessments, which consist of an assessment of building safety features and fire protection systems in accordance with this code and the building code. A passing score on the evaluation provides a minimum level of fire and life safety to occupants and fire fighters that is approved by the AHJ. A building fire and life safety evaluation shall be conducted by a licensed design professional within three years from the effective date of this ordinance. Buildings shall comply by passing the building fire and life safety evaluation within six years from the effective date of this ordinance. The AHJ may grant an extension pursuant to Section 13.3.2.26.7 if automatic fire sprinkler systems are required to achieve compliance. All buildings must continue to maintain a passing status on their respective building fire and life safety evaluations.

13.3.2.26.2.1 An existing high-rise residential building may appeal the final building fire and life safety evaluation score, and the resulting fire safety requirements for the building, as assessed by the licensed design professional or the determination of the AHJ, by filing a written request for an appeal to the director or head of the AHJ within 10 business days of the date of the completed building fire and life safety evaluation assessment or the AHJ's determination of the building's fire and life safety requirements, whichever is later. The request for an appeal shall include a clear statement of the basis for appeal, supporting documentation, if any, and the relief requested. The director or head of the AHJ shall render a decision on the appeal not later than 30 calendar days from the receipt of the appeal. The AHJ shall submit as part of its annual report the appeals filed by existing high-rise residential buildings and the disposition of the appeals. The AHJ may prescribe, as needed, additional appeal procedures, requirements, and forms, not inconsistent with this section.

13.3.2.26.2.2 Existing high-rise residential buildings shall be protected throughout by an approved automatic fire sprinkler

system or alternative fire prevention and fire safety systems in accordance with this Chapter and the building code.

13.3.2.26.2.3 An existing high-rise residential building may opt-out of the automatic fire sprinkler system requirement; provided that, a majority of the unit owners affirmatively vote to opt-out of the requirement within three years of the completion of the building fire and life safety evaluation at a regularly scheduled or special meeting of the owners, convened and noticed in accordance with the condominium's or association's by-laws; and provided further, the building receives a passing score on the building fire and life safety evaluation through the implementation of alternative fire prevention and fire safety systems. A building that opts-out of the automatic fire sprinkler system requirement shall provide verifiable, public disclosure of its action to all current and future owners. Verifiable public disclosure may include, but shall not be limited to, signs posted in the building's public notification areas, real estate sales disclosures as required by Hawaii law, and declarations recorded with the bureau of conveyances.

13.3.2.26.2.4 Each building owner shall, within 180 days from the effective date of this ordinance, file a written statement of its intent to comply with this regulation with the AHJ for approval.

13.3.2.26.2.5 The AHJ shall review and respond to the written statement of its intent to comply within 60 days of receipt of the intent to comply.

13.3.2.26.2.6 The entire building shall be required to be protected by an approved automatic fire sprinkler system or alternative fire prevention and fire safety systems as approved by the AHJ within 12 years of the effective date of this ordinance, except where an extension is approved by the AHJ as provided in Section 13.3.2.26.2.7.

13.3.2.26.2.7 Compliance with the automatic fire sprinkler system or alternative fire prevention and fire safety systems provisions of Section 13.3.2.26.2.2 shall be achieved as

follows: Common areas for buildings 20 floors and over shall be completed within eight years from the effective date of this ordinance, common areas for buildings 10 to 19 floors shall be completed within 10 years from the effective date of this ordinance, and all buildings, regardless of the number of floors, shall be completed within 12 years from the effective date of this ordinance. An extension to 15 years from the effective date of this ordinance may be approved by the AHJ, provided that compliance using an automatic fire sprinkler system has been achieved for common areas.

EXCEPTION: Existing high-rise residential buildings are exempted from the automatic fire sprinkler system requirements in Section 13.3.2.26.2.2 if all dwelling units have exterior access and a continuous egress path to exit the building and have no full-length interior corridors.

EXCEPTION: Existing high-rise residential buildings can receive a building fire and life safety evaluation passing status in lieu of the approved automatic sprinkler system requirements through the implementation of a combination of alternative fire prevention and fire safety systems as provided in Section 13.3.2.26.2.2, as approved by the AHJ.

EXCEPTION: Existing high-rise residential buildings may be protected throughout by an approved automatic fire sprinkler system per NFPA 13R when approved by the AHJ.

EXCEPTION: Private balconies that have at least one long side that is 50 percent open are not required to have automatic fire sprinkler protection.

EXCEPTION: Elevator hoistways and machine rooms are not required to have automatic fire sprinkler protection.

EXCEPTION: Class II wet standpipe systems may be removed when buildings are protected throughout by automatic fire sprinkler systems pursuant to Section 13.3.2.26.2.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

EXCEPTION: Combined standpipe and automatic fire sprinkler systems using existing standpipes shall be permitted to utilize pump sizing for the fire sprinkler demand.”

2. Renumbers all subsequent paragraphs thereafter accordingly.
- B. Deletes existing Sections 4 to 6 of the Bill and renumbers remaining sections of the Bill accordingly.
- C. Makes miscellaneous technical and nonsubstantive amendments.

Action on Bill 107 (2017) deferred.

AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN,
MENOR – 6.

NOES: None.

EXCUSED: ANDERSON, OZAWA, PINE – 3.

Related communications:

D-825 (2017)	Honolulu Fire Department, responding to questions relating to the Residential Fire Safety Advisory Committee Report.
D-853 (2017)	Honolulu Fire Department, responding to questions relating to the Residential Fire Safety Advisory Committee.
M-7293 (2017)	Irma Tom (oppose Bill 69 [2017])
M-7354 (2017)	
& M-7357 (2017)	Tom Sheeran (oppose Bill 69 [2017])
M-7355 (2017)	Jadean DeCastro, Coty Tower AOA (comment on Bill 69 [2017])
M-7356 (2017)	Bob Reed (comment on Bill 69 [2017])
M-7358 (2017)	Julie Ng (comment on Bill 69 [2017])
M-7359 (2017)	Lloyd Nakata (comment on Bill 107 [2017])
M-7360 (2017)	Karen T. Nakamura (oppose Bill 69 [2017])
M-7361 (2017)	Takashi Ohno, State Representative, District 27 (comment on Bill 69 [2017])
M-7362 (2017)	Dan & Diane Cook (comment on Bill 69 [2017])
M-7363 (2017)	Karin Lynn (support Bill 69 [2017] and Bill 107 [2017])
M-7364 (2017)	Roy Nakama (oppose Bill 69 [2017])
M-7365 (2017)	George M. Kaneshiro (oppose Bill 69 [2017])
M-7366 (2017)	George M. Kaneshiro (oppose Bill 69 [2017])

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

M-7367 (2017)	Laura Glenn (oppose Bill 69 [2017])
M-7368 (2017)	Siew Kett Tan (oppose Bill 69 [2017])
M-7369 (2017)	Carl Takamura, Parkland Gardens AOA Board of Directors (comment on Bill 107 [2017])
M-7370 (2017)	Rebecca Nadler (oppose Bill 69 [2017])
M-7371 (2017)	Annamaria Miru (comment on Bill 69 [2017])
M-7372 (2017)	Laura Glenn (oppose Bill 69 [2017])
M-7374 (2017)	Bob Reed (comment on Bill 107 [2017])
M-2	Early testimony on Bill 107 (2017)
M-6	Early testimony on Bill 69 (2017)
M-40	Additional testimony on Bill 107 (2017)

EXECUTIVE SESSION

Before convening into Executive Session, the Committee Chair called for public testimony on Agenda Items 19 through 21 as posted on the agenda. At 4:35 p.m., with no testifiers and with no objections from the six members present (Ayes: Elefante, Fukunaga, Kobayashi, Manahan, Martin, Menor – 6), the Committee resolved into a closed meeting pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), to consult with the attorneys for the Council’s Committee on Executive Matters and Legal Affairs on questions and issues pertaining to claims and other matters on the Council’s powers, duties, privileges, immunities and/or liabilities.

MEETING RESUMED IN OPEN SESSION

At 4:58 p.m., with six members present (Elefante, Kobayashi, Manahan, Martin, Pine, Menor) the Committee resumed the meeting in open session.

19. Resolution to request additional funds for Contract No. SC-OCR-1700106 to continue the services of Chung & Ikehara, ALC, as Special Deputy Corporation Counsel to represent Louise M. Kealoha in a legal action entitled Jonah K. Kaahu and Donna Liaka Marie Kaahu, Husband and Wife v. City and County of Honolulu, et al.; Civil No. CV14-00266 HG/RLP.

Action on this item deferred.

AYES: ELEFANTE, KOBAYASHI, MANAHAN, MARTIN, PINE,
MENOR - 6.
NOES: None.
EXCUSED: ANDERSON, FUKUNAGA, OZAWA – 3.

20. COMMITTEE REPORT 26

Request for authorization to settle a case against the City and County of Honolulu entitled Sean M. Davis, as Personal Representative of the Estate of Thomas James Davis, Deceased, et al. v. City and County-of Honolulu; Civil No. 15-1-0221-02 JPC.

Committee Report 26 reported out for adoption.

AYES: ELEFANTE, KOBAYASHI, MANAHAN, MARTIN, PINE,
MENOR - 6.

NOES: None.

EXCUSED: ANDERSON, FUKUNAGA, OZAWA – 3.

21. COMMITTEE REPORT 27

Request for authorization to settle a case against the City and County of Honolulu entitled George Martin v. City and County of Honolulu, et al.; Civil No. CV13-1-2915-10 JPC.

Committee Report 27 reported out for adoption.

AYES: ELEFANTE, KOBAYASHI, MANAHAN, MARTIN, PINE,
MENOR - 6.

NOES: None.

EXCUSED: ANDERSON, FUKUNAGA, OZAWA – 3.

Committee on Executive Matters and Legal Affairs Minutes
Tuesday, January 23, 2018

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:49 p.m.

GLEN I. TAKAHASHI
City Clerk

vc

DATE APPROVED

February 13, 2018