

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Study Session

August 1, 2011  
6:00 p.m.

Council Conference Room  
Bellevue, Washington

PRESENT: Mayor Davidson, Deputy Mayor Lee, and Councilmembers Balducci, Chelminiak, Degginger, Robertson, and Wallace

ABSENT: None.

1. Executive Session

Deputy Mayor Lee called the meeting to order at 6:00 p.m., and declared recess to Executive Session for approximately 45 minutes to discuss one item of potential litigation.

The meeting reconvened at 7: 12 p.m., with Mayor Davidson presiding.

2. Study Session

- (a) East Link: Consideration of an Updated Draft 2010 Term Sheet between Bellevue and Sound Transit in Anticipating an Agreement for a Tunnel Contribution

City Manager Steve Sarkozy introduced discussion and consideration of the draft updated 2010 Term Sheet with Sound Transit regarding the East Link light rail project. The City's negotiating team includes Councilmembers Degginger and Wallace, as well as Deputy City Attorney Kate Berens and Diane Carlson, Director of Intergovernmental Relations.

Diane Carlson, Director of Intergovernmental Relations, provided an overview of tunnel discussions with Sound Transit since the April 2010 Term Sheet was established. In early 2009, the Council identified a tunnel as the preferred alternative through Downtown Bellevue. Sound Transit's draft environmental impact statement (DEIS) evaluated several tunnels. The City and Sound Transit worked together through 2010 to identify a shorter, more affordable tunnel option (C9T).

Sound Transit advanced engineering on the C9T option to 30 percent and developed new cost estimates, and Sound Transit and City staff continued to work together to refine the alternative. Recently, Sound Transit proposed an updated Term Sheet for adoption by July 28 to further set the framework for the memorandum of understanding (MOU) to be established this fall. On July

28, the Sound Transit Board selected C9T and B2M as the preferred alignment, contingent upon the Term Sheet to be approved by August 10, and the MOU to be established in the fall.

Kate Berens, Deputy City Attorney, reviewed the general Term Sheet provisions, which specify that the City and Sound Transit will continue discussions to produce a MOU by the end of October. The Term Sheet provisions include the City's willingness to participate as a funding partner in the C9T Downtown Tunnel alternative, in part through design modifications and mitigation measures for the B2M alignment.

In the proposed updated Term Sheet, the City's funding includes an initial contribution of \$100 million and up to \$60 million in contingent funding, updated to 2010 dollars. The Term Sheet addresses the potential addition of a southbound lane on Bellevue Way. It specifies that the MOU will address the cooperative development of 60 percent design, identification of opportunities to clarify codes and applicable regulations, coordinated permit processing, and agreement on the interim design for NE 16<sup>th</sup> Street and 136<sup>th</sup> Avenue NE and on mitigation. The Term Sheet includes a waiver of litigation for the period that the MOU is being negotiated.

Ms. Berens explained that the updated Term Sheet is a non-binding agreement setting the general framework for a formal agreement. The Sound Transit Board resolution adopted on July 28 identified a deadline of August 10 for finalizing and signing the Term Sheet.

Ms. Berens outlined the Council's alternatives for action at this point, including taking no action on the Term Sheet. Action alternatives include authorizing the non-binding Term Sheet, with an accompanying resolution that clearly articulates the Council's expectations for the MOU. This would allow the City and Sound Transit to start work immediately on a review of the B2M alignment issues and the details of the MOU. Another option is to provide a modified Term Sheet to Sound Transit, with an accompanying resolution that articulates the Council's expectations for the MOU. This option might require additional review by the Sound Transit Board.

Mayor Davidson expressed his concerns about the Term Sheet. He noted that the project scope description indicates that the City is generally supportive of the B2M-C9T alternative identified in the final EIS. He observed that the Council has not taken formal action in support of this alternative. Also, Mayor Davidson said he would like to remove the waiver of litigation. If the parties are to continue with negotiations, he would like to keep all options on the table.

Councilmember Balducci observed that the idea behind the Term Sheet is a statement of principles under which the City and Sound Transit would then negotiate a binding MOU that includes several key project elements. She believes that a binding agreement will establish a collaborative approach and joint support of an alignment, and that removing the waiver of litigation is inconsistent with this cooperative approach.

Councilmember Robertson clarified for the public what the Council is doing and why. The Council is working toward a cooperative alignment decision with Sound Transit and the identification of mitigation measures for the B2M that are consistent with Bellevue's Best

Practices report. She observed that one of the elements missing from the Term Sheet is the funding gap to be resolved, which is \$276 million in 2010 dollars for Segment C. She noted that the East Link project extends beyond the Eastside subarea, and the City wants to resolve issues related to its Downtown Tunnel. She believes it is important to define the gap, and to expand the first section outlining the purpose of the draft Term Sheet. She suggested listing the benefits of a tunnel including higher ridership, noise mitigation, reduced traffic impacts, and increased safety.

Ms. Robertson said it is important that the Term Sheet define a cooperative alignment and specify collaboration on cost reductions, potentially including grant funding and a sales tax reduction from the State. She would like to include elements of the D2A related to grade separation, which has been requested by the developers of the Spring District. She would like grade separation of the alignment throughout Bellevue. She noted the potential for cost savings by eliminating the Main Street Station.

Councilmember Robertson said it would be helpful to take action on a resolution to clarify the Council's intent for staff, the public, and Sound Transit. She suggested that the resolution identify public engagement activities related to alignment refinements and the MOU. She would like to discuss how this will affect the City's overall capital budget, and whether a tax increase is anticipated. She believes the Term Sheet should indicate that the City intends to use its Best Practices report, Land Use Code, Noise Code, and environmental regulations as guiding principles for a cooperative alignment.

Ms. Robertson expressed concern about potential partial takings of residential properties, and she would like clarification on impacts to Bellevue Way. She is pleased that Sound Transit has narrowed its preferred alternative to the C9T, although she would be happier if Sound Transit had also identified the B7 alignment.

Councilmember Degginger observed that the draft Term Sheet meets the intended goals of identifying its purpose, addressing mitigation, and committing to negotiating a MOU by late October. The intent is to discuss all of the elements outlined by Councilmember Robertson, as well as the City's role as a partner with Sound Transit. He concurred with adding a reference to negotiating mitigation measures including traffic, noise, and visual impacts, which he believes can be included in brief language in the Term Sheet and/or a resolution. He suggested being strategic and careful in proposing revisions to the Term Sheet, because he believes that the general concepts are there. The concept of exploring additional funding opportunities is included in Section 3(B), and these will be discussed in detail in negotiating the MOU.

Mr. Degginger agrees with the need for a public process, and Sound Transit's resolution also commits to providing opportunities for neighborhoods to provide input into the project design. He believes that the Term Sheet largely addresses topics that have been mentioned in this discussion.

Following up to Mayor Davidson's comments, Mr. Degginger suggested that, if the Council wants to remove the reference to the B2M under the project scope description (Section 2), a statement should be added to the end of Section 1, Purpose, indicating that the Term Sheet is

intended “to meet the City’s goals of mitigating traffic, noise and visual impacts to surrounding neighborhoods and the environment.”

Mayor Davidson commented that he would prefer that to articulating that the City supports the B2M alternative.

Councilmember Chelminiak concurred with Mr. Degginger’s suggested revision to meet Mayor Davidson’s concern. With regard to the waiver of litigation, he observed that much has happened since the previous week. The waiver of litigation referred primarily to the potential for a SEPA (State Environmental Policy Act) appeal by the City. He noted that, the previous week, the Deputy Mayor made a motion that did not receive a second. Mr. Chelminiak observed that this indicated that the Council was not interested in moving forward with a SEPA appeal.

Mr. Chelminiak believes that the waiver of litigation does not have a great deal of meaning for the City in a negative light, and it does not have a great deal of meaning to Sound Transit in a positive light. He noted that Sound Transit identified the C9T as the preferred alternative on July 28. Councilmember Chelminiak expressed general support for Councilmember Degginger’s recommended revision, and suggested language indicating that the City will negotiate in good faith on Sound Transit’s preferred alternative, including proposed design modifications to the B2M.

Mr. Chelminiak recalled that the C9T alternative has been supported since 2000 by four Mayors, five Deputy Mayors, and three Councilmembers. He believes it is time to reach an agreement on tunnel funding. He noted that Councilmember Wallace has talked about the City being an investor in the project. Mr. Chelminiak agreed that the City and Council should be a responsible and active investor in defining the project. He noted that negotiations with Sound Transit have narrowed the funding gap for the Downtown Tunnel, and the City will continue to pursue additional savings.

Mr. Chelminiak said he would support modest revisions to the Term Sheet, broad statements in a resolution, and moving forward with negotiation of the MOU. He suggested allowing the City Manager to negotiate the agreement at this point.

Deputy Mayor Lee stated that this is a difficult issue and a major investment for the City. He respects his colleagues’ deliberation of the issues, even when Councilmembers do not agree. Mr. Lee observed that the Term Sheet addresses two issues that he believes should be separated. One is the tunnel issue, and the other is the preferred alternative for Segment B. He said that, despite references to the Term Sheet as a non-binding agreement, there are also references to commitment and a binding umbrella MOU.

Mr. Lee said that everything is pointing to the B2M alternative preferred by Sound Transit, even though the Council has not identified it as a preferred alternative. He commented that the Term Sheet does not clearly state Bellevue’s interests, and it removes certain options from further consideration. Deputy Mayor Lee said he will not support the Term Sheet as written.

Councilmember Wallace said that he agrees in general with the Council's comments tonight. However, more work and continued negotiations are needed. He is disappointed with the outcome regarding the B7 alternative. He agrees with the suggestion to remove the waiver of litigation from the Term Sheet. This does not mean that the Council is not willing to cooperate with Sound Transit, but that the Council is not in the position to make that agreement at this point.

Mr. Wallace clarified that he will not support a tunnel option that results in an overall alignment that is unacceptable to neighborhoods. He believes there is much more work to do to reach a cooperative alignment with Sound Transit. He acknowledged that the City must now work within the parameters set by Sound Transit using Bellevue Way and 112<sup>th</sup> Avenue SE. However, he disagrees with Sound Transit's last proposal involving elevated crossovers.

Mr. Wallace said that more work is needed to address mitigation. He will support the Term Sheet as a way of moving forward in cooperation with Sound Transit. He said it is essential for the City to address its overall capital demands and the financial implications of contributing to light rail funding.

Mayor Davidson noted that the City is already talking about best practices and about environmental mitigation consistent with its codes. He observed that the East Link FEIS does not address mitigation. He suggested that the resolution indicate that the B7-Revised option will be considered if the revised B2M option cannot reach an acceptable level of mitigation.

At 8:00 p.m., Mayor Davidson declared recess to Regular Session.

Myrna L. Basich, MMC  
City Clerk

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