



Summary Minutes

Board Meeting
April 28, 2022

Call to order

The meeting was called to order at 1:33 p.m. by Chair Kent Keel in a Virtual Meeting via telephone and video conference.

Roll call of members

| Chair | Vice Chairs |
|---|---|
| (P) Kent Keel, City of University Place Councilmember | (P) Dow Constantine, King County Executive (P) Dave Somers, Snohomish County Executive |

| Board members | |
|--|---|
| (P) Nancy Backus, City of Auburn Mayor | (P) Joe McDermott, King County Council Vice Chair |
| (P) David Baker, City of Kenmore Councilmember | (P) Roger Millar, WSDOT Secretary |
| (P) Claudia Balducci, King County Council Chair | (P) Ed Prince, City of Renton Councilmember |
| (P) Bruce Dammeier, Pierce County Executive | (P) Kim Roscoe, City of Fife Mayor |
| (P) Cassie Franklin, City of Everett Mayor | (P) Dave Upthegrove, King County Councilmember |
| (P) Christine Frizzell, City of Lynnwood Mayor | (P) Peter von Reichbauer, King County Councilmember |
| (P) Bruce Harrell, City of Seattle Mayor | (P) Councilmember |
| (P) Debora Juarez, City of Seattle Council President | (P) Kristina Walker, City of Tacoma Councilmember |

Katie Flores, Board Administrator, announced that a quorum of the Board was present at roll call.

Report of the Chair

Update on CEO Selection Committee

Chair Keel reported that since recruitment launched in February the consultants had received submissions from over 90 candidates. Over 20 candidates met the Ideal Candidate Profile that the consultant developed based on stakeholder outreach that was conducted in January.

Earlier this month, the CEO Selection Committee met to hear about the applicant pool and begin to identify candidates that will be considered for the interview process. Yesterday, the Committee met again to continue to process of identifying candidates to interview.

The committee plans to begin conducting interviews in early May with a goal of identifying a candidate to recommend to the Board by the June Board meeting.

Upcoming realignment implementation work and Independent Consultant Introduction

Chair Keel reported that today the Board would receive an in-depth briefing on the Annual Program Review, which is one of the major deliverables requested of staff to produce in the realignment action that the Board took last summer.

Chair Keel introduced the Board's independent consultant, Dave Peters, who was in attendance. Mr. Peter's has a long and rich history with transit and civil projects in our region, having served as the Chair of the Strategic Bridge Advisory Team for the Washington State Department of Transportation's (WSDOT) SR 520 Floating Bridge Project that was tasked with evaluating project delivery approaches,

risks, resources, costs, and contingencies. He also served on the Expert Review Panel for King County for construction of their South Park Moveable Bridge Project, and is experienced with the work Sound Transit does. He worked as a design consultant on Sound Transit's Federal Way Link Extension and Tacoma Dome Link Extension light rail projects.

Now, Mr. Peter's role as the Board's independent consultant is to ensure the Board gets everything we directed in the resolution. Mr. Peter's has been working with the Board for just a handful of weeks but already reviewed a late draft of the Annual Program Review, the quarterly cost savings work plan, and an outline of the cost drivers report. The Board will receive briefings on these in the coming months.

CEO Report

CEO Peter Rogoff provided the report.

Federal Update

CEO Rogoff noted that the week got off to a great start on Tuesday as Sound Transit had the opportunity to join Federal Transit Administrator Nuria Fernandez and members of our congressional delegation to cheer on agency partners at Community Transit as they broke ground on the Swift Orange Line.

Later that afternoon, Sound Transit's Executive Leadership Team had the opportunity to meet with Administrator Fernandez, where we emphasized appreciation for the Administration's partnership in the agency's work. In addition to talking about market challenges that make federal funding more critical than ever, staff spent a good portion of the time calling out accomplishments in areas of sustainability, equity, workforce development and affordable housing, all priorities for both Sound Transit and the Biden Administration.

On Friday, as Earth Day took center stage, the agency received a couple very pleasant surprises that were called out in a news release Mr. Rogoff has forwarded along to the Board. First, Sound Transit was honored by the Federal Transit Administration with a Climate Challenge Award. Of the ten awards that the FTA announced, they recognized the agency's sustainability work under a category titled "Most Transformative," noting the environmental accomplishments throughout the agency, including at fleets, facilities, and operations.

This honor is based not only on the hard work of agency staff but also on the Board's industry-leading environmental policies which anchor that work. Staff thanks the Board for its leadership and support on the issues of sustainability. The other great surprise on Earth Day was when President Biden called out Sound Transit during his speech at Seattle's Seward Park.

President Biden spoke to the fact that his proposed FY2023 Budget triples the agency's expected 2023 funding level under previously awarded grants for the Lynnwood and Federal Way light rail extensions.

Mr. Rogoff concluded the federal update with a brief recap of the good news that is included in the president's proposed budget for FY 2023. The FTA's published recommendations for the Capital Investment Grant (CIG) program, proposes \$716.6 million for Sound Transit. For Federal Way Link, the budget would in a single year complete the FTA's multi-year FFGA for that project, three years sooner than previously committed. The proposed budget for Lynnwood Link would position that project's grant to be paid off at least three years sooner than expected. If Congress were to enact these funding proposals, this accelerated funding would create more than \$40 million in borrowing savings for regional taxpayers.

Earlier this month, Chair Keel sent letters to all members of our Congressional delegation, urging their support the President's proposal and of course, thanking them for providing the historic levels of CIG funding in the Bipartisan Infrastructure Law that make these increases possible. Additionally, for each member, the letter also also identified a project in their districts to "earmark" funds for in the FY 23

appropriations bills as that process gets underway. Members will review requests to determine if they want to forward them to the appropriations committees. A copy of Chair Keel's letter to the delegation is in the Board's materials today.

Impacts to current construction projects

At the April System Expansion Committee meeting staff put some emphasis on the fact that while the concrete delivery strike had just ended, agency projects have been significantly impacted by the confluence of the strike and an array of other factors.

The exciting news of the conclusion of the strike on April 8, 2022 was tempered by the reality that timelines have been deeply impacted. The hard truth is that, as staff look at the work that couldn't be completed for several months due to the concrete strike and combine that with other impacts including those related to COVID-19, the agency's projects face unavoidable delays. This applies to East Link, Lynnwood, Federal Way and Downtown Redmond. Staff are undertaking a detailed quantitative risk assessment process to determine the extent updates will be needed for the schedules for each of the projects.

Mr. Rogoff emphasized that while these impacts cannot be erased, staff is working tirelessly to minimize the impacts to project delivery on Link expansion projects for the region.

West Seattle and Ballard Link Extension Workshop at System Expansion Committee

Staff recently published the Draft Environmental Impact Statement (EIS) for the West Seattle and Ballard Link Extensions project and the 90-day public comment period concludes today (April 28).

Mr. Rogoff was happy to announce that staff has been able to set a date for a System Expansion Committee Workshop focused on the project. The date is May 20 at 1pm the workshop will be an opportunity to gain a deeper understanding of the project as well as get a high-level overview of the feedback the project team has been receiving. This context will be helpful to Board members as they contemplate a Board action in June to confirm or modify the preferred alternative for the project.

External Engagement Highlights

Mr. Rogoff noted that the monthly external engagement report was sent to Board members earlier in the week.

Community Oversight Panel Update

Lastly, at March's Board meeting the Board adopted new guidelines for the Community Oversight Panel (or COP). The changes included changing the name from Citizen Oversight Panel to Community Oversight Panel, shortening terms to 3 years instead of 4, updating and expanding the panel responsibilities, and requiring a virtual meeting option so that members can participate virtually.

In addition, the panel recently moved to evening meetings held once a month, currently the second Wednesday of every month from 5:30-8:15pm. Staff launched a new recruitment effort that communicated these changes and included outreach to community groups and advertising on social media. Over 25 applications have been received since the new recruitment launched on March 25. The applications have been provided to Board members so that recommendations can be brought forward to the Executive Committee in June.

Boardmember Balducci emphasized that all Boardmembers were encouraged to take a tour of the West Seattle and Ballard Link Extension possible alignments, and attend the System Expansion Committee workshop due to complexity of the project.

Boardmember Backus needed to leave the meeting early, and she advised that she supported the amendments to Resolution No. R2022-07 offered by Boardmember's Franklin and Keel. Specifically,

she was concerned about removing civil infractions from the fare compliance process, noting that the policy as written stated that the agency may refer a case to civil infractions, but was not required to do so.

Public Comment

Chair Keel announced that the Board was accepting public comment via email and verbally through the virtual meeting platform.

The following people provided written public comment to the Board:

| | |
|---------------------------------------|--------------------------|
| King County Councilmember Reagan Dunn | Leah Perlmutter |
| J.C. Smith | Brandon Bowersox-Johnson |
| Johanna Wilder | Mary Anne DeVry |
| Phyllis Hatfield | Katherine Johnson |
| Robert Blumenthal | Meeghan Bergmann |
| Laura Beeman | Johnny Townsend |
| Timothy Colman | Meilani Mandery |
| Phelan Rolloson Halbhuber | John MacKenzie |
| Matthew Boguske | Kevin Gallagher |
| Amy Richards | Selene Russo |
| Barbara Phinney | Brent McFarlane |
| Glen Anderson | Caitlin Reed |
| Jean Schwinberg | Jason Gordon |
| Harry Maher | Joyce Hengesbach |
| Jo Claxon | Fran Keown |

The following people provided verbal public comment to the Board:

Kelli Refer
Joyce Hengesbach
Betty Lau
Wes Mills
Laura Svancarek
Joe Kunzler
Matthew Sutherland
Ethan Campbell

Consent Agenda

Voucher Certification: March 22 2022

Minutes of the March 16, 2022 Board Workshop

Motion No. M2022-30: Authorizing the chief executive officer to increase the contract contingency for the Puyallup Station Parking and Access Improvements project construction contract with Hensel Phelps Construction Co. in the amount of \$2,200,000 for a new total authorized contract amount not to exceed \$52,800,000, contingent upon Board approval of the Proposed 2022 Budget Amendment for Puyallup through Resolution No. R2022-10.

Motion No. M2022-31: Authorizing the chief executive officer to increase the contract contingency with Jacobs Project Management Company to provide construction management consultant services for the Seattle to South Bellevue segment of the East Link Extension in the additional amount of \$15,000,000 for a new total authorized contract amount not to exceed \$63,919,350.

It was moved by Boardmember Franklin, seconded by Boardmember Dammeier, and approved by a voice vote of the 17 Boardmembers present to approve the Consent Agenda as presented.

Business items

Resolution No. R2022-10: Amending the Adopted 2022 Budget for the Puyallup Parking and Access Improvements Project to provide funding required to complete the extension to meet the new Open for Service date by a) increasing the authorized project allocation by \$3,250,000 from \$79,100,000 to \$82,350,000, and (b) increasing the annual project budget by \$5,515,000 from \$10,538,500 to \$16,053,500; and (c) changing the baseline open for service date from February 2022 to the 4th Quarter 2022.

It was moved by Boardmember Roscoe and seconded by Boardmember Balducci that Resolution No. R2022-10 be approved as presented.

Boardmember Roscoe advised that the System Expansion Committee forwarded the resolution at its April meeting with a do-pass recommendation.

Jon Mihkels, Director of New and Existing Facilities, provided the staff presentation. Mr. Mihkels provided an overview of the project and reported that this action would increase the project allocation and change the open for service milestone. Additional project funding and time is required to complete the project scope and maintain an appropriate level of project contingency though open for service and close-out.

The on-site improvements of the new parking garage, surface parking lot and pedestrian bridge are expected to be complete in May 2022 and transferred to Sound Transit Operations. Extended time is needed to complete the off-site traffic intersection and signalization work, requiring a change to the baseline open for service date from February 10, 2022, to the 4th Quarter 2022.

Time required for permitting right of way improvements was impacted by design changes and COVID impacts to the review period. Subsequent material supply chain issues further impacted the schedule. The extended timeline has increased the management costs for the design builder, Sound Transit and the Design Build Project Management (DBPM) team. The impact of a \$3.25 million cost increase on agency debt capacity is a reduction of 0.03 percent in 2037. This is a negligible impact on agency affordability and does not impact the affordability of any other system expansion project.

Boardmember Dammeier noted that this project represented one of the tighter budgets the Board had seen, and he commended the project team on its work.

Boardmember Millar asked for a presentation on the accumulation of the ongoing budget amendments and their impact on the agency's overall debt capacity. He also asked that staff provide a future presentation on retirement of project contingencies. Boardmember Balducci advised that the contingency presentation was on the System Expansion Committee Work Plan.

Chair Keel called for a roll call vote.

Ayes

David Baker
Claudia Balducci
Dow Constantine
Bruce Dammeier
Cassie Franklin
Christine Frizzell
Bruce Harrell
Debora Juarez

Nays

Joe McDermott
Roger Millar
Ed Prince
Kim Roscoe
Dave Somers
Dave Upthegrove
Pete von Reichbauer
Kent Keel

It was carried by the vote of 16 Boardmembers present that Resolution No. R2022-10 be approved as presented.

Motion No. M2022-32: (1) Authorizing the chief executive officer to execute a construction agreement with the Washington State Department of Transportation to share costs for the design-build delivery of WSDOT's Brickyard to SR 527 Improvement Project as part of the Bus Rapid Transit Program in the amount of \$133,200,000 with a 6 percent contingency of \$7,992,000 for a total authorized agreement amount not to exceed \$141,192,000; and (2) approves present-value Land Bank credits as reimbursement for fish passage correction in an estimated amount of \$25 million included in the amount authorized.

It was moved by Boardmember Roscoe and seconded by Boardmember Balducci that Motion No. M2022-32 be approved as presented.

Boardmember Roscoe advised that the System Expansion Committee forwarded this action at its April meeting with a do-pass recommendation.

Paul Cornish, Strategic Projects Director for Bus Rapid Transit, and Cynthia Padilla, Development Manager, provided the staff presentation. Sound Transit is partnering with WSDOT to build the I-405 Brickyard to SR 527 Improvement Project which creates a dual express toll lane system from north of the existing NE 128th Street Direct Access interchange to the I405/SR 527 interchange.

The funding amount authorized by this action is approximately 20 percent of the total cost estimate for the project. This percentage is based on the cost estimate for transit-related components within the project that are part of the I-405 Bus Rapid Transit (BRT) project. Sound Transit is either fully funding or sharing the costs of these components: Brickyard Station (full funding), I-405/SR 522 Transit Hub (cost share), and Canyon Park Station (cost share).

Key project transit elements include the Brickyard Station and the I-405 BRT/SR 522 BRT Transit Hub.

The construction agreement amount includes Sound Transit's cost share toward all design, construction, construction management, proposer stipends, incentives and taxes associated with the design-build project. WSDOT will manage this effort. Sound Transit will pay actual costs incurred not-to-exceed the authorized amount in this agreement

The project scope is well defined, which reflects close WSDOT and Sound Transit partnering; collaboration with Bothell, Kirkland, Community Transit, and King County Metro Transit; completion of 15% design; and detailed project requirements. The \$133 million WSDOT agreement amount includes \$4.6 million (approximately four percent of estimated construction) that WSDOT may use for additional costs related to the overall joint project, including change orders up to \$500,000 that do not require Sound Transit approval up to a total aggregate amount of \$4,600,000. This action also authorizes an additional six percent of the estimated project costs (\$8 million) as contingency that Sound Transit may use in the event the total project costs for Sound Transit funded components exceed the \$133,200,000 million estimated project costs.

The project schedule allows sufficient time for Sound Transit to install station elements, such as shelters and passenger information systems before opening for transit service.

This action requests approval to accept present value Land Bank credits, currently estimated at \$25M, as reimbursement to Sound Transit for all costs related to fish passage correction for the Juanita Creek fish passage near Brickyard, consistent with Board Motion No. M2021-64.

Chair Keel advised that he would support the motion. He called out the inequity in projects at grade in Tacoma versus the efforts to reduce pedestrian impacts in projects like the Bus Rapid Transit program and others in North King County.

Boardmember Millar noted that he had been involved in many street car and light rail projects across the country. He acknowledged the impact on the community during construction, however the economic impact of a transit mode being directly in neighborhoods was much higher than when they are out on a freeway.

Boardmember Dammeier echoed the concerns Chair Keel had and advised that he would support the action.

Chair Keel called for a roll call vote.

Ayes

David Baker
Claudia Balducci
Dow Constantine
Bruce Dammeier
Cassie Franklin
Christine Frizzell
Bruce Harrell
Debora Juarez

Joe McDermott
Roger Millar
Ed Prince
Kim Roscoe
Dave Somers
Dave Upthegrove
Pete von Reichbauer
Kristina Walker
Kent Keel

Nays

It was carried by the vote of 17 Boardmembers present that Motion No. M2022-32 be approved as presented.

Resolution No. R2022-11: Authorizing the chief executive officer to enter into agreements for the disposition of interests in the real property identified in the prior Board resolutions listed in Exhibit A for: (1) the relocation of utilities as necessary or desirable for the projects; (2) the satisfaction of permit conditions or mitigation requirements; (3) the curing of damages to real property acquired pursuant to the prior Board actions listed in Exhibit A and caused by the projects; or (4) returning real property identified in the prior Board actions listed in Exhibit A to previous owners for the purpose of minimizing Sound Transit's costs of operations and maintenance; provided that the foregoing dispositions of real property must be compatible with and must not interfere with regional transit system uses and must avoid the creation of unbuildable, residual parcels whenever possible.

It was moved by Boardmember Roscoe and seconded by Boardmember Balducci that Resolution No. R2022-11 be approved as presented.

Boardmember Roscoe advised that the System Expansion Committee forwarded this action at its April meeting with a do-pass recommendation.

Faith Roland, Director of Real Property, provided the staff presentation. Resolution No. R2018-40, the Board's Procurement and Delegated Authority Policy, requires all permanent easements on Sound Transit owned property (excluding standard utility easements that service Sound Transit) to be approved by the Board.

Ten Sound Transit projects are in construction or are close to starting or ending their construction phases. These include the Auburn Station Parking and Access Improvements, Kent Station Parking and Access Improvements, Puyallup Station Improvements, Sumner Station Parking and Access Improvements, Downtown Redmond Link Extension, East Link Extension, Federal Way Link Extension, Lynnwood Link Extension, Northgate Link Extension, and Operations and Maintenance Facility – East projects.

These projects are currently closing out permits or will begin these processes soon and some project permits require disposition of property rights for project-related needs. At the same time, certain other property dispositions are necessary in order to relocate utilities, cure damages, or otherwise for the purpose of minimizing Sound Transit's costs of operations and maintenance. Current estimates are that

over 300 dispositions for the foregoing purposes are needed for the closeouts of the ten projects listed in Exhibit A.

This action will allow dispositions, including permanent easements, of the real property identified in the Board actions listed in Exhibit A for:

- Relocating utilities as necessary or desirable for the projects (e.g., utilities that need to be moved to construct or operate the project);
- Satisfying permit conditions or mitigation requirements;
- Curing damages to real property acquired pursuant to the prior Board actions and caused by the projects (e.g., building a hammerhead at the end of a driveway to avoid depriving access to a home); or
- Returning real property described in the prior Board actions to previous owners for the purpose of minimizing Sound Transit’s costs of operations and maintenance.

In addition, this action will only authorize disposition of properties as long as they are compatible with regional transit system uses and avoid the creation of unbuildable, residual parcels whenever possible. The authorized dispositions will not impact Sound Transit’s planned use of the property to construct, operate, and maintain the regional transit system and appurtenances of the projects

Boardmember Balducci asked for more clarification on the action. Ms. Roland advised that the action allowed for the Board to approve disposition of the various parcels which had already been acquired by the Board in past actions. In review of the real property process, staff realized that the disposition of property was not identified in the Board’s delegation of authority action, Resolution No. R2018-40. This action would authorize disposition of identified property already approved.

Boardmember Dammeier asked that in the future, more information be provided on the parcels in question.

Chair Keel asked that the Board be presented with both actions in the future. Jennifer Belk, Managing Legal Counsel, advised that staff planned to do exactly that on future property acquisitions.

Chair Keel called for a roll call vote.

Ayes

David Baker
Claudia Balducci
Dow Constantine
Bruce Dammeier
Cassie Franklin
Christine Frizzell
Bruce Harrell
Debora Juarez

Nays

Joe McDermott
Roger Millar
Ed Prince
Kim Roscoe
Dave Somers
Dave Upthegrove
Pete von Reichbauer
Kristina Walker
Kent Keel

It was carried by the vote of 17 Boardmembers present that Resolution No. R2022-11 be approved as presented.

Resolution No. R2022-07: Adopting an updated Fare Compliance Policy and superseding Resolution No. R2009-02.

CEO Rogoff provided an overview of this action, which is stemming from a Board direction to bring forward an update to the fare compliance policy. Consistent with the Board action, staff has presented before the Board several times a suite of options available to update the agency’s fare compliance

stance. Mr. Rogoff continued that community engagement has been ongoing and extensive, several different rounds had been completed over the last several years. The two resolutions before the Board are from two separate committees and pertain to different subject areas. Additionally, there are several amendments filed by Boardmembers which will be considered individually.

Mr. Rogoff also emphasized how this work and the decisions the Board makes will tie into the youth fares discussion that is ongoing, and the fare setting and farebox recovery policy updates that are underway.

Russ Arnold, Chief Passenger Experience and Innovation Officer, Carrie Avila Mooney, Director of Regional Government and Community Relations, Sandee Ditt, Fare Engagement Manager, and Chad Davis, Deputy Director of Fares, provided the presentation. Mr. Arnold reviewed the various actions that would be considered at the meeting regarding the fare engagement process.

When staff began the work more than three years ago, they developed a vision and identified desired outcomes. He reviewed Motion No. M2020-74, which among other things, suspended the agency's fare enforcement practices and directed staff to develop a new policy.

Ms. Avila Mooney explained that the draft policy was informed by thousands of online and in-person surveys, listening sessions, and town halls. Additional direction came from Motion No. M2020-74 and learned experience from the Fare Ambassador pilot program.

Since identifying the extent of racial inequalities in fare enforcement, Sound Transit has been very intentional in engaging communities and impacted riders to co-develop program changes and solutions to improve program equity. Through careful research design to better understand and differentiate the experiences of different rider demographics, and to solicit directly from those riders the problem statements and potential solutions, Sound Transit has incorporated a deliberate equity analysis approach to designing program change.

Mr. Arnold highlighted some of the differences between the proposed policy and the old policy, which was suspended in 2020. Notable differences included the removal of a suspension for a period from the system, removal of law enforcement, passengers without proof of payment (POP) may continue to ride the system, passengers may appeal any action in the process.

The proposed policy would include a five-interaction process. The first and second interactions without presenting proof of payment would result in warnings. The third and fourth interactions would be sent through internal resolution options, and a fifth interaction if it occurred would result in a civil infraction.

Identified deficiencies in the propose include the lack of resolution options when riders without proof of payment will not provide identification. Staff is still working to find solutions for how they can encourage riders who don't provide proof of payment to provide fare ambassadors with valid identification. For awareness, out of the passengers we check that do not have proof of payment, 76 percent are not providing full or complete identification (full name and birthdate with valid ID) and out of that 76 percent, 40 percent are not disclosing any information to ambassadors as to who they are.

Mr. Arnold discussed Link non-fare boardings from 2019 to 2021. This information was the difference between the data gathered by automatic passenger counters and revenue from ORCA card taps at stations. He also displayed a comparison between ridership numbers and non-fare revenues. Finally, he reviewed the fare revenues in the agency's Long-Term Financial Plan, which were forecasted to be between \$6.1 billion and \$7.5 billion, depending on ridership and compliance trends. Mr. Arnold noted this decrease in project due to the reduction in ridership discussed at the fares workshop held earlier in the month.

Ms. Ditt reviewed Resolution No. R2022-08, which would increase the annual budget to fund the Fare Ambassador Program. She reviewed the expected results of increased fare ambassador presence in the system. A rider under the current program would expect to see an ambassador one in every 23 trips. Under the ideal staffing conditions, one would interact with an ambassador once every three trips.

Ms. Avila-Mooney reviewed Motion No. M2022-27, which would reduce the ORCA Lift fare on Link from \$1.50 to \$1.00. Outreach and engagement with the community found that families who benefited from the ORCA Lift programs were still facing financial strain in using the system under the current fare structure. Reducing the fare to \$1.00 would ease that burden on those riders.

Motion No. M2022-28 would extend the agency's participation in King County Metro's annual subsidized fare program. The extension of this program through 2024 is not expected to exhaust the established budget of \$2 million dollars. This pilot program is being managed by King County and covers qualifying riders in King, Snohomish, and Pierce counties.

Ms. Ditt explained that staff would return to the Board for quarterly metrics reporting on the program through its Rider Experience and Operations Committee. Reported metrics would include ridership, inspections, details about warnings, and demographics of boardings and interactions.

Chair Keel noted that the Executive Committee forwarded the resolution at its April meeting with a do-pass recommendation. He explained that the committee members shared differing views on the proposed policy, ranging from concerns that it did not go far enough to support for the policy as drafted, and more. He called out three proposed amendments which had been submitted which sought to change the policy in different ways. He would ask each sponsoring Boardmember to speak to their amendment, then staff to speak to the impact of the amendment, before the Board took it up for consideration.

Boardmember Dammeier noted that he previously voiced concern about racially disproportionate impacts from the fare enforcement practices. He asked if the analysis of the policy and practices proposed determined if there would any other racially disproportionate effects. Mr. Arnold explained that through community engagement, staff learned that the fare enforcement officer presence was not welcoming.

Boardmember Dammeier then asked if Sounder and ST Express were experiencing similar trends of fare evasion. Mr. Arnold advised that it was increased on all modes, but not nearly to the degree of that experienced on Link.

Resolution No. R2022-07 was moved by Boardmember Dammeier and seconded by Boardmember Somers.

Boardmember Dammeier called out the high rate of refusal to present identification. He offered that the five-step proposal could be avoided all-together if somebody refused to show identification. Mr. Arnold acknowledged that was a deficiency in the proposal. He explained that in the past, a person who refused to show ID was referred to King County Sheriff's Officers but due to continued engagement and equity work, and at the direction of the Board, that option was not being retained.

Boardmember Dammeier asked, at the current rate of ambassador interaction, how many rides would a person take to make it through all five steps. Mr. Arnold commented that staff has not analyzed reaching the fifth interaction, as the staffing levels for the program and projected interactions are variable in the pilot program.

Chair Keel called on Boardmember Joe McDermott to speak to his proposed amendments.

Amendment 1 to Resolution No. R2022-07 was moved by Boardmember McDermott and seconded by Boardmember Prince.

Amendment 1 – offered by Boardmember McDermott

Amend Resolution No. R2022-07 to remove civil infractions from the policy and replacing them with a \$100 fine by adding or removing blue text in the following sections that is underlined or stricken out, respectively:

2.2.4 Issue verbal warnings; and fines ~~and notices of civil infraction.~~

2.3.1 **Adults.** The agency issues two warnings in a 12-month period for adult passengers without proof of payment. On the third or fourth interaction without proof of payment within a 12-month period, the agency issues a notice of a \$50 fine or \$75 fine, respectively, which must include non-monetary options for a passenger to dispute or resolve the fine. On any further interactions without proof of payment in a 12-month period, the agency may issue a [\\$100 fine, which must also include non-monetary options for a passenger to dispute or resolve the fine.](#) ~~\$124 civil infraction.~~ A passenger may continue to ride the system after receiving a warning ~~or, fine or notice of civil infraction.~~

~~2.4.4. Sound Transit refers civil infractions to district court for resolution.~~

2.5 **Delegation of authority.** The CEO is authorized to establish appropriate methods for demonstrating proof of payment and must regularly publish a list of valid fare media. The CEO may designate fare compliance personnel to ensure compliance with this policy and must develop procedures and appropriate training to implement this policy and take all other action as may be necessary to provide for fare compliance and issuance and resolution of warnings, ~~and fines and civil infractions,~~ including establishing alternative resolution and dispute processes. Notices of fines ~~and civil infractions~~ must be issued on forms approved by legal counsel. The CEO takes actions to continually measure, analyze and improve fare compliance processes and must report to the Board or appropriate Board committee at least quarterly regarding implementation of this policy.

Boardmember McDermott moved adoption of Amendment One. Boardmember Prince seconded the amendment. Mr. McDermott commented that he was grateful for the progressive and responsive fare enforcement policy proposal before the Board.

His proposed amendment would remove the process from the court system and would lower the fine from \$124 to \$100. Staff Analysis found that only around 100 riders would reach the fifth stage of the fare compliance process annually. Boardmember McDermott asserted that it wasn't only the small number of infractions issued that drove his amendment, but data that infractions do not work to change behavior and research shows a miniscule amount of issued citations are ever resolved.

Boardmember Constantine advised that he supported the amendment.

Boardmember Franklin noted that she was less concerned about the small collection of the fares, but about holding riders accountable for paying for the system, which the Board promised to the region. The Court system was the only tool she believed the agency had to hold people accountable. She advised that she would not be supporting the amendment.

Boardmember Dammeier echoed Boardmember Franklin's comments and called into question the logic of the escalation of the first through fifth interaction is there is no final resolution or consequence to the policy.

Boardmember Balducci asserted that the data available to Sound Transit and King County Metro was informative. King County Metro removed their enforcement process from the civil courts and found no associated increase in fare evasion. She thought the Board should be informed by data, not assumptions, and it should act on the problem it knows about, being disproportionate impacts of fare engagement, not a problem it assumes could happen. Reviewing the data comparing fare evasion rates to ridership levels indicated that perhaps the evasion was driven by people who could not pay as opposed to people who didn't want to pay. The Board could also change its practices as it advances the program with more information. She advised that she would be supporting the amendment.

Boardmember Price agreed with Boardmember Balducci's comments. He was concerned about introducing people unnecessarily into the court system and discouraging access to the system for the individuals who are the most dependent on its availability.

Boardmember Somers would not support the action. He was concerned that the amendment wouldn't allow for any enforcement.

Boardmember Frizzell reported that after previous fare discussion that members of the public contacted her with the assumption that they could ride the system without having to pay. The agency was already offering reduced rates and the ORCA Lift program, and she expressed that she would not support the amendment because enforcement must be present in some way.

Boardmember Franklin responded to Boardmember Prince's concerns about those who couldn't pay. She noted that there were solutions for those who could not pay in the way of ORCA Lift and the annual subsidized fare program, and staff should increase the amount of people in those programs. Removing the courts from the process would take away the only tool the agency had to fully enforce against those who were choosing not to pay.

Boardmember Baker asked for how much the agency was losing due to fare evasion. Mr. Rogoff responded that due to lower ridership during the pandemic, increased fare evasion, and other factors, estimates are difficult to be confident in.

Boardmember Harrel thanked staff for their hard work over the past several years which predates his time on the Board. He stated that he supported the staff recommendation but would not be supporting the amendment.

Chair Keel advised that he would not be supporting the amendment, but not due to the disagreement with one person's thoughts but because the whole of the Board's discussion should be reflected in the end result. Chair Keel expressed the prediction that the youth fare will soon be undertaken to provide those eighteen and under access to the system, and that that policy change will solve many of the issues that are still present in this proposal. In addition, the increased number of interactions required to go to the court system are such that people are likely not to get there anyway. Leaving the court system in the process speaks to the people who do not use the system but still pay for it through their taxes.

Chair Keel called for a roll call vote.

Ayes

David Baker
Claudia Balducci
Dow Constantine
Joe McDermott
Roger Millar
Ed Prince
Dave Upthegrove

Nays

Bruce Dammeier
Cassie Franklin
Christine Frizzell
Bruce Harrell
Debora Juarez
Kim Roscoe
Dave Somers
Kristina Walker
Kent Keel

Amendment 1 did not pass with the nay votes of nine Boardmembers present.

Amendment 2 to Resolution No. R2022-07 was moved by Boardmember McDermott and seconded by Boardmember Juarez.

Amendment 2 – offered by Boardmember McDermott

Amend Resolution No. R2022-07 to remove referral of unresolved fines to collection agencies from the policy by deleting the following section:

~~2.4.3 If a person does not complete an alternative resolution option or pay the fine after the fourth interaction, Sound Transit may submit the unresolved fine to a collection agency.~~

Boardmember McDermott advised that he heard a desire for enforcement, which was in place following the vote on the last amendment through the courts. His proposal would remove the escalation of sending a person to collections. A person facing collections could result in many negative effects including wage garnishments, and ultimately civil infractions.

Boardmember Juarez advised that she would be supporting the amendment. She was in support of this amendment because she was opposed to credit scores. Referring a rider to collections could impact their credit score, which would impact their ability to get housing, and other services which relied on credit scores.

Chair Keel asked what staff determined the impact was of this amendment. Sandee Ditt advised that staff was concerned that removing this provision would limit the tools the agency had to enforce fares in the third and then fourth interactions, which occur before the civil infraction and interaction with the court system.

Chair Keel asked where the courts were in this process. CEO Rogoff advised that a civil infraction referral would be taken as last resort, which is why there are so many interactions with the fares system before that step is taken. However, in the fourth interaction the fines issued by fare ambassadors would also potentially be sent to collections when not paid.

Chair Keel advised that he would support the amendment.

Boardmember Harrell asked if the courts would refer a person to collections, were they referred to the courts by the agency. He questioned the impact of this amendment and asked if the policy required a person to be referred to collections. Mr. Arnold confirmed that the policy gave the agency the option of referring to collections, but did not require it.

Chair Keel called for a roll call vote.

Ayes

David Baker
Claudia Balducci
Dow Constantine
Cassie Franklin
Christine Frizzell
Debora Juarez
Joe McDermott
Roger Millar
Ed Prince

Kim Roscoe
Dave Uptegrove
Kristina Walker
Kent Keel

Nays

Bruce Dammeier
Bruce Harrell
Dave Somers

It was carried by 13 affirmative votes that Resolution No. R2022-07 be amended by Amendment 2.

Boardmember McDermott advised he would not be offering Amendment 3.

Amendment 4 to Resolution No. R2022-07 was moved by Boardmember Franklin and seconded by Boardmember Frizzell.

Amendment 4 – offered by Boardmember Franklin

Amend Resolution No. R2022-07 to remove the third step of the resolution process from the policy by adding or removing blue text in the following sections that is underlined or stricken out, respectively:

2.3.1 **Adults.** The agency issues two warnings in a 12-month period for adult passengers without proof of payment. On the third ~~or fourth~~ interaction without proof of payment within a 12-month period, the agency issues a notice of a \$50 fine ~~or \$75 fine,~~ ~~respectively~~, which must include non-monetary options for a passenger to dispute or resolve the fine. On any further interactions without proof of payment in a 12-month period, the agency may issue a \$124 civil infraction. A passenger may continue to ride the system after receiving a warning, fine or notice of civil infraction.

2.4.3 If a person does not complete an alternative resolution option or pay the fine after the ~~third~~ ~~fourth~~ interaction, Sound Transit may submit the unresolved fine to a collection agency.

Boardmember Franklin explained that she maintained that those who were not able to pay a fare should have access to the system, however, there needs to be a fair and reasonable elevation path for those individuals who are not paying to access the system.

Boardmember Dammeier supported the amendment. He asserted that if this were adopted, the policy would still be more forgiving than any other of the major agencies comparable to Sound Transit.

Boardmember McDermott opposed the amendment because it would speed the process to referring a person to the courts.

Chair Keel supported the amendment. He thought four steps was enough time for a person to make an adjustment if they were going to make the adjustment at all.

Boardmember Franklin noted that it would still be many trips between when a person would even engage with a fare ambassador.

Boardmember Balducci noted that the original proposal from staff was informed by much of the work done through engagement. Since this amendment would pull back on the staff's suggestion, she would not support it. The projected reduction in fare revenue was primarily driven by reduced ridership, and not by the decrease in collection of fines which has been very negligible.

Boardmember Harrell advised that he would not support the amendment.

Chair Keel called for a roll call vote.

Ayes

Bruce Dammeier
Cassie Franklin
Christine Frizzell
Dave Somers
Pete Von Reichbauer
Kent Keel

Nays

David Baker
Claudia Balducci
Dow Constantine
Bruce Harrell
Debora Juarez
Joe McDermott
Roger Millar
Ed Prince
Kim Roscoe
Dave Upthegrove
Kristina Walker

Amendment 4 failed to pass with the nay votes of eleven Boardmembers present.

Amendment 5 to Resolution No. R2022-07 was moved by Chair Keel and seconded by Boardmember Roscoe.

Amendment 5 – offered by Chair Keel

Amend Resolution No. R2022-07 by adding or removing blue text in the following sections that is underlined or stricken out, respectively:

- 2.2 Fare compliance process. Fare compliance personnel are designated to monitor fare pursuant to RCW 81.112.210(2)(a). Fare compliance personnel operate in accordance with the law and the fare compliance procedures authorized by the CEO. Law enforcement officers will not be called to fare-evasion only situations. Fare compliance personnel may:
 - 2.2.1 Request proof of payment from any person on a Sound Transit vehicle or in a fare paid zone of a Sound Transit facility.
 - 2.2.2 Request personal identification from any person who does not produce proof of payment when requested.
 - 2.2.3 Provide assistance and information to a person who has not produced proof of payment and connect the person with additional resources when appropriate.
 - 2.2.4 Issue verbal warnings, fines and notices of civil infraction.
 - 2.2.5 Request that a person leave a Sound Transit vehicle or a fare paid zone of a Sound Transit facility when the person has not produced personal identification after being asked to do so.
- 2.3.1 **Adults.** The agency issues two warnings in a 12-month period for adult passengers without proof of payment. On the third or fourth interaction without proof of payment within a 12-month period, the agency issues a notice of a \$50 fine or \$75 fine, respectively, which must include non-monetary options for a passenger to dispute or resolve the fine. On any further interactions without proof of payment in a 12-month period, the agency may issue a \$124 civil infraction. A passenger may continue to ride the system after receiving a warning, fine or notice of civil infraction. A passenger may be asked to leave the system if they fail to, or are unwilling to, provide valid personal identification for purposes of documenting and tracking non-payment activity.

Chair Keel explained that his amendment was to strike a balance. An acknowledged deficiency in the proposed policy was the possibility that somebody could choose not to show identification. If somebody was not able to pay, the agency was there to help. If a person does not show identification, that is a lack of responsibility, in his mind. The policy as written did not allow the fare ambassador to ask a rider to leave the train, and did not give the passenger a chance to comply.

Boardmember Upthegrove asked if the amendment language intended to be an issued identification, or something less. Chair Keel advised that he was open to thoughts. Russ Arnold advised that staff was researching possibilities for other forms of personal identification.

Boardmember Millar asked if the language as written would interfere with the staff's research. Mr. Arnold suggested that it would not.

Boardmember Frizzell asked what level of enforcement was attached to this. She asked if a fare ambassador would be put in an uncomfortable position because of this. She was concerned about fare ambassador safety.

Boardmember Harrell advised that he would not support the amendment because it put the fare ambassador in a precarious position, and it would indirectly require someone to carry identification, and that was not required by state statute.

Boardmember Franklin supported the amendment. Every time an ambassador engaged a person there was a risk, but she thought it was the agency's duty to request compliance.

Boardmember Roscoe appreciated the language that says a passenger "may" be asked to leave the train, which gave a fare ambassador some flexibility. She would support the amendment.

Boardmember Dammeier would support the amendment.

Chair Keel called for a roll call vote.

Ayes

Dow Constantine
Bruce Dammeier
Cassie Franklin
Christine Frizzell
Roger Millar
Ed Prince
Kim Roscoe
Dave Somers
Dave Upthegrove
Pete Von Reichbauer
Kent Keel

Nays

David Baker
Claudia Balducci
Bruce Harrell
Debora Juarez
Joe McDermott
Kristina Walker

It was carried by 11 affirmative votes that Resolution No. R2022-07 be amended by Amendment 5.

Boardmember Walker praised staff's work in bringing this action and the other supporting actions. She thought that the action as amended made sense. Transparency, and the quarterly monitoring was crucial to the success of the proposed policy.

Boardmember Upthegrove asserted that the agency needed to hold people accountable but ensure people that people had equitable access to the system. He was generally supportive of the direction of the policy, but the agency needed to confront the elephant in the room of the large number of people who were refusing to show identification, who in his assertion were flaunting the law. He agreed with Boardmember Walker's desire to continue to review the progress of the policy, and advised that the Board may need to look to amend the policy in the future to address flagrant fare evasion.

Boardmember McDermott praised the policy in front of the Board and was happy to support it.

Chair Keel called for a roll call vote of Resolution No R2022-07 as amended.

Ayes

David Baker
Claudia Balducci
Dow Constantine
Bruce Dammeier
Christine Frizzell
Bruce Harrell
Debora Juarez
Joe McDermott

Nays

Roger Millar
Ed Prince
Kim Roscoe
Dave Somers
Dave Upthegrove
Pete Von Reichbauer
Kristina Walker
Kent Keel

It was carried by the vote of 16 Boardmembers present that Resolution No. R2022-07 be approved as amended.

Due to the length of the meeting, several Boardmembers indicated that they could not remain in the meeting. Chair Keel advised that the remainder of the agenda, including Resolution No. R2022-08, Motion No. M2022-27, Resolution No. R2022-09, and Motion No. M2022-28 as well as the report on the Annual Program Review; be deferred to the next meeting of the full Board of Directors.

Reports to the Board

Annual Program Review

This report was deferred for a later meeting.

Other business

None.

Next meeting

The next regular Board meeting would be held on May 26, 2022, 1:30 to 4:00 p.m. as a virtual meeting via WebEx.

Adjourn

The meeting adjourned at 5:29 p.m.



Kent Keel
Board Chair

ATTEST:


Kathryn Flores
Board Administrator

APPROVED on May 26, 2022, AM.