

**Sound Transit  
Board Meeting Summary Minutes  
March 25, 1999**

**Call to Order**

Board Chair Paul Miller called the meeting to order at 2:43 p.m. in the sixth floor conference room of the Puget Sound Regional Council office, 1011 Western Avenue, Seattle, Washington.

**Roll Call**

Chair

(P) Paul Miller, City of Tacoma Councilmember

Vice Chairs

(P) Dave Earling, City of Edmonds Councilmember

(P) Greg Nickels, King County Councilmember

Board Members

(A) Ann Davis, City of Lakewood Councilmember

(A) Bob Drewel, Snohomish County Executive

(P) David Enslow, City of Sumner Councilmember

(P) Mary Gates, City of Federal Way Councilmember

(P) Jane Hague, King County Councilmember

(A) Ed Hansen, City of Everett Mayor

(P) Richard McIver, City of Seattle Councilmember

(P) Rob McKenna, King County Councilmember

(P) Sid Morrison, WSDOT Secretary

(P) Dave Russell, City of Kirkland Councilmember

(A) Paul Schell, City of Seattle Mayor

(P) Ron Sims, King County Executive

(P) Cynthia Sullivan, King County Councilmember

(P) Doug Sutherland, Pierce County Executive

(P) Jim White, City of Kent Mayor

Marcia Walker, Board Administrator, indicated a quorum of the Board was present.

The following Board members arrived after roll call:

Dave Enslow, City of Sumner Councilmember

Rob McKenna, King County Councilmember

Ron Sims, King County Executive

Cynthia Sullivan, King County Councilmember

**Public Comment**

The following individuals presented comments to the Board (comments are on file with the Board Administrator):

Mr. Philip Grega

**Report of the Chair**

Mr. Miller advised the Board that Resolution No. R99-3 would be deferred to a future meeting.

**Executive Director Report**

Mr. White announced that a recently published book, Best Brochure Designs, includes a Sound Transit brochure design done by Tony Secolo of the Sound Transit staff.

Mr. White stated that in 1995, the Board adopted a motion that endorsed the utilization of labor agreements for aspects of the program. He said that with construction beginning in 1999 and accelerated in future years, the policy decision will be brought to the Executive Committee at its second meeting in April and to the Board in early May.

### Consent Calendar

January 28, 1999 Board Meeting Minutes

**It was moved by Mr. Nickels, seconded by Mr. Earling, and carried by the unanimous vote of all Board members present that the January 28, 1999 minutes be approved.**

### Action Items

Motion No. M99-17 - Authorizing the Executive Director to execute a contract with Shannon and Wilson, Inc. for geotechnical engineering services for design support on the Central Link Light Rail Project in an amount not to exceed \$7,736,407 including a 10% contingency

**It was moved by Mr. Nickels and seconded by Ms. Gates that Motion No. M99-17 be approved as presented.**

Mr. Nickels stated that the motion was reviewed by the Finance Committee, the funds are included in the 1999 budget, and the Finance Committee is recommending approval. He advised that the Finance Committee recommends two changes (copy on file).

1. Adding a sentence on page four of the background and comments to the end of the first paragraph, which reads as follows: This negotiated amount for Phase II would cover costs for geotechnical work for any alignment in Segment A designated by the Board.
2. Language added to the last phrase of the motion to read as follows: "...including a 10% contingency, of this amount \$6,641,311 will be authorized at this time."

**It was moved by Mr. Nickels and seconded by Mr. White that the amendments approved by the Finance Committee be included in Motion No. M99-17.**

(Board members Sullivan and Sims arrived at this time.)

**The motion to accept the amendments approved by the Finance Committee was carried by the unanimous vote of all Board members present.**

Mr. McIver expressed his concern with mentioning anything dealing with a portal at 65<sup>th</sup>. He stated that the Board has not selected an alignment and to continue mentioning the staff recommended LPA is inappropriate at this time.

**It was moved by Mr. McIver and seconded by Ms. Sullivan that all language dealing with a portal at 65th be removed from the motion.**

Mr. Nickels asked staff to explain what language was altered in the background materials since the Finance Committee acted.

(Board member Enslow arrived at this time.)

Mr. Bay stated that the motion was not changed, but the background language was written to clarify that before doing any geotechnical work between 45<sup>th</sup> and Northgate, the Board would have to adopt an alignment.

(Board member McKenna arrived at this time.)

Ms. Sullivan asked if the geotechnical work can be done for the same price whether the portal is at 60<sup>th</sup> or at 76<sup>th</sup>.

Mr. Bay answered yes. He stated that the costs are based on the lineal feet of drilling that would have to be done and based on the information available, the amount of drilling on any of the alignments is very near the same. The number of holes and how deep they would have to go would be similar under any of the alignments.

Mr. McIver asked to remove a portion of the first sentence which read, "...and the staff recommended north portal near NE 60th Avenue.", and replace it with "Northgate." He requested removing references to any alignment or portal in the background information.

Mr. Miller stated that Phase II is removed and that the motion is to instruct staff within the background for Motion No. M99-17 to remove any references to specific alignments north of N. 45<sup>th</sup>, and instead to speak to the destination of Northgate. He stated that the purpose of this amendment was to clarify the legislative background and intent for staff to work from.

**The amendment was approved by the unanimous vote of all Board members present.**

Mr. Miller advised that the Board would now vote on the main motion to approve Motion No. M99-17.

**The motion to approve Motion No. M99-17, as amended, was carried by the unanimous vote of all Board members present.**

Motion No. M99-10 - Appointing a member to the Citizen Oversight Panel (COP)

**It was moved by Mr. Nickels and seconded by Mr. Sims that Motion No. M99-10 be approved as presented.**

Mr. Miller advised the Board that the motion was reviewed and recommended for approval by the Executive Committee.

Mr. McKenna stated that he, Ms. Hague, and Mr. Russell were pleased to recommend Mr. Larry Shannon to replace Judge Lukens on the COP. He mentioned that Mr. Shannon was the immediate past chairman of the Bellevue Transportation Commission, has been a strong advocate for high occupancy transit, and has had a long career in large project management.

**The motion to approve Motion No. M99-10 was approved by the unanimous vote of all Board members present.**

Motion No. M99 - 15 - Reappointing eight members to the Citizen Oversight Panel whose terms expire March 1999

**It was moved by Mr. Nickels and seconded by Mr. White that Motion No. M99-15 be approved as presented.**

Mr. Miller advised the Board that the Executive Committee has reviewed the motion and recommends approval.

**The motion to approve Motion No. M99-15 was carried by the unanimous vote of all Board members present.**

Resolution No. R99-9 - Confirming the Executive Director's authority to authorize legal/administrative actions, suits and appeals.

**It was moved by Mr. Sutherland and seconded by Mr. Earling that Resolution No. R99-9 be approved as presented.**

Mr. Miller advised the Board that the Executive Committee had met earlier in the week and approved Resolution No. R99-9, subject to ratification by the Board.

Mr. Sims stated his concern with the Executive Director being able to take an action even if there hasn't been consultation with Board members.

Mr. Brown, Chief Legal Counsel, explained that the purpose behind the language was to deal with situations where the agency would be faced with a filing deadline without a Board meeting or Executive Committee meeting to consult formally with Board members.

Mr. Sims asked whether the language requires the Executive Director to get approval from the Board Chair.

Mr. Brown answered that it does not say the Executive Director must have approval by the Board Chair; however, the assumption was the Chair would be consulted. He stated that if the Chair told the Executive Director not to file an action, the Board would be the authority. Mr. Brown stated that the purpose of this resolution was to confirm some language included in Resolution No. 78-1 which was not very explicit.

Mr. Sims suggested dropping the language referring to "initiate and/or defend legal..." which refers to litigation. He expressed his disagreement with allowing the Executive Director to take a legal action without consultation with any Board members.

Mr. Brown stated that the proposed language wasn't intended to initiate legal actions. He said with affirmative actions, there would always be the opportunity to consult with the Board.

Mr. Sims asked to delete "...in the event the ED cannot consult."

Mr. Brown stated that the language was included for the purpose of filing appeals, not for filing a lawsuit. It was intended to give the agency the ability to be responsive to preserve its rights.

Mr. Sims agreed with Mr. Brown, but stated that the language in the resolution was more expansive than dealing only with permits.

Mr. Brown explained that the intent was to allow the Executive Director to lodge an appeal, prior to Board action, in an instance where a permit has been denied and the next step would be to file an appeal to the Superior Court, with a five- to ten-day appeal window.

Mr. Sims stated that if a lawsuit is being initiated, someone on the Board should be responsible the authorization.

Mr. McKenna agreed with Mr. Sims. He suggested the Resolution No. R99-9 be held over and thought through.

Ms. Sullivan questioned whether this had been enacted by the Executive Committee.

Mr. Brown answered yes, it was enacted by the Executive Committee.

Ms. Sullivan then asked if the resolution was before the Board for information only.

Mr. Brown stated that the resolution was before the Board for ratification.

Mr. Sutherland stated his understanding that the language was written to be able to assume a circumstance where the Chair or Chairs of the committees were not available for contact in a timely manner. He suggested amending the resolution to include a mechanism where staff can pursue and move ahead with these issues. He proposed striking the language requiring consultation with other designated members of the Executive Committee, and add language directing the Executive Director to consult with "...the Chair of the Board or other Board members as appropriate." He also suggested striking the language stating "...provided that in the event that the Executive Director is unable to consult with Boardmembers before taking the action...."

**It was moved by Mr. Sutherland and seconded by Mr. Earling that the language read as follows: "The Executive Director is authorized to initiate and defend legal or administrative actions, suits and appeals as deemed necessary to protect Sound Transit, after appropriate consultation with the Chair of the Board,**

**chairs of each committee or other Boardmembers as appropriate. The action shall be subject to ratification by the Board."**

Mr. Sims requested the resolution come back to the Board.

Mr. White stated that what was bothering him the most was not the reference to lawsuits but the overall land use regulations. He said there should be language allowing the Executive Director to move ahead with appeals, but there needs to be some Board approval of lawsuits.

Mr. Miller asked for a clarification between lawsuits and appeals. He stated that during March, there was a 28-day period in which the Board did not meet. He said often times the response time to lawsuits and appeals is 20 days. He asked if an issue is appealed to a hearings examiner who has denied it and it has to be moved on to Superior Court, would it still be an appeal or would it be a lawsuit?

Mr. Brown stated that was why he chose the word "suit." He said it would technically be an appeal through a writ of review to Superior Court, but a lawsuit is filed.

Mr. Earling requested an executive session to have discussion with legal counsel.

Mr. Miller stated that before the Board was an amendment clarifying some of the concerns raised by Mr. Sims, specifically providing for ratification by the Board following the action. He stated that this was a prime example where, through lack of notice or time, a response which would preserve the rights of the agency as they relate to any land action, appeal, or suit would be subject to ratification by the Board. He felt it was appropriate to have a requirement that the Executive Director consult with the leadership of the Board Chair or chairs of our committees before taking action to preserve those rights. He also felt it was appropriate that the Board ratify the action. He stated that the Board could overturn the Executive Director's action and a decision regarding appeal and remove the lawsuit and appeal. He expressed his concern that missing time lines for appeals or filings puts Sound Transit at a disadvantage.

The Board recessed into executive session at 3:44 p.m. and was called back to order at 4:15 p.m.

**It was moved by Mr. Sutherland, seconded by Mr. White, and carried by the unanimous vote of all Board members present that discussion and action on Resolution No. R99-9 be set aside until May 13 at which time revised language might be prepared and presented to the Board.**

## Committee Reports

### Finance Committee Report

Mr. Nickels reported that the Finance Committee has begun reviewing the agency's financial history and current financial plan and ability to meet promises made in Sound Move.

He advised the Board that Deloitte & Touche made a presentation of the completed 1998 audit and awarded Sound Transit with a clean audit.

Mr. Nickels stated that the Finance Committee passed Motion No. M99-18 which approved a contract extension to the basic communication work, not to exceed \$100,000 over two years for policy and program development services and publication of a diversity newsletter.

Mr. Miller advised the Board that Mr. Earling would Chair the remainder of the meeting.

### Public and Government Affairs Committee

Mr. Earling mentioned that the Public and Government Affairs Committee has been following several pieces of legislation in Olympia. He stated that the proof of payment legislation was working its way through and he felt

optimistic that it would be successful. He said HB 1703, regarding surplus property, was being sponsored by Representative Cooper and had not met with any opposition. He also stated that the public disclosure legislation, SB 5064, had had some agreement with some of the adversaries and he felt it would move forward to a satisfactory conclusion.

On the federal level, Mr. Earling reported that Mr. McKenna, Mr. Miller, Mr. Sharp, and staff went to Washington, D.C. and met with four of the Congressional delegation, talking about how the LPA would impact their districts and some of the issues they are concerned about.

He thanked Mr. McIver for accompanying Mr. Gorton Linton on a tour of the district when he was in town for a Federal Transit Administration (FTA) workshop.

Mr. Earling said that Mr. Mort Downey was in town the day before and brought with him a \$9 million check.

He concluded his report by stating that the FTA recently released its New Starts report, the 3J report, to Congress. He announced that overall, the Sound Transit project received their highest recommendation for Link light rail and a recommended grading on the Sounder. He said this will bode well for Sound Transit in the next phase of appropriation cycles.

#### Executive Committee

Mr. Earling stated that the Board had already dealt with the Executive Committee's report in its discussion of Resolution No. R99-9.

#### Performance Audit Committee

Mr. Earling advised that the Performance Audit Committee had met following last week's Executive Committee meeting. Deloitte & Touche presented findings from the recent audit and listed the key findings as follows:

- ◆ Financial reporting systems for ST are improving and the evolving nature is typical for a new start-up agency
- ◆ In the area of cost distribution and rule-making no major problems were found. ST has already implemented several recommendations regarding standardized procedures and practices. Deloitte & Touche indicated this would lead to improvements in effectiveness and cost efficiencies
- ◆ In the area of contracting and change order management, Deloitte & Touche recommended the hiring of additional staffing to assist with these tasks, and suggested ST use some performance indicators utilized by other transit agencies.

He stated that the Committee made a tentative decision that performance audits in 1999 will evaluate real estate acquisitions and public involvement practices.

#### Other Business

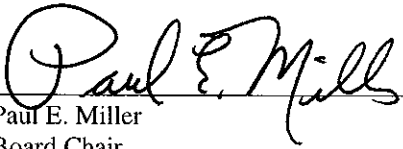
None.

#### Next Meeting

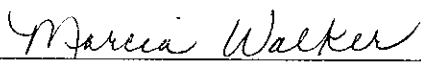
Thursday, April 8, 1999 - 2:30 to 4:30 p.m.  
Tacoma Landmark Convention Center  
47 St. Helens Avenue  
Tacoma, WA

Adjourn

The meeting was adjourned at 4:25 p.m.

  
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Paul E. Miller  
Board Chair

ATTEST:

  
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Marcia Walker  
Board Administrator

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