



Meeting Summary
SR 520 Legislative Workgroup Meeting #2
Tuesday, September 22, 2009
10 a.m. to 1 p.m.
Puget Sound Regional Council Board Room

Attendees:

In attendance:

- Representative Scott White, 43rd District, Co-chair
- Senator Rodney Tom, 48th District, Co-chair
- Speaker Frank Chopp, 43rd District
- Representative Jamie Pedersen, 43rd District
- Representative Ross Hunter, 48th District,
- Representative Deborah Eddy, 48th District
- Representative Larry Springer, 45th District
- Senator Ken Jacobsen, 46th District
- Representative Judy Clibborn, House Transportation Committee Chair

- Washington Transportation Secretary Paula Hammond

Not in attendance:

- Senator Ed Murray, 43rd District
- Senator Dan Swecker, 20th District
- Senator Mary Margaret Haugen, Senate Transportation Committee Chair
- Representative Dan Roach, 31st District
- State Transportation Commissioner Richard Ford
- Senator Eric Oemig, 45th District

Welcome and Introductions (Rep. White and Sen. Tom)

Rep. White and Sen. Tom, Workgroup co-chairs, welcomed the group to the meeting and reviewed the meeting agenda.

Report on 9/15 Westside Subgroup Meeting (Rep. White)

Rep. White briefly summarized the Westside Subgroup meeting held on Sept. 15, 2009.

The complete PowerPoint [presentation](#) from the subgroup's meeting is available on the SR 520 Legislative Workgroup [Web site](#).

Community presentations on westside interchange options (Option A, K and L proponents)

Representatives from community groups presented on the three west side interchange options that were developed during the mediation process. A question and answer period followed the presentations.

Option K – Fran Conley and Jonathan Dubman.

Proponents presented information about their new hybrid design option. The K proponents developed modifications to option K in an effort to reduce costs of tunnel construction. The [handout](#) provided by the presenters is available on the Web site.

Option A – Larry Sinnott and Virginia Gunby.

Proponents started their presentation by responding to the new K “hybrid” design proposal. Proponent member, Larry Sinnott, highlighted the different environmental footprints for Option A and Option K. The A proponents articulated their concern about WSDOT’s analysis for Option A, which includes sub-options, such as the Lake Washington Boulevard ramps. The [handout](#) provided by the presenters is available on the Web site.

Option L – Mark Weed.

The Option L proponent highlighted the need for a timely decision. The Greater Seattle Chamber of Commerce supports Option L because it seems to best balance capacity, transit, community and economic considerations, and they believe it could be a compromise solution. Mr. Weed also noted that Chamber would consider other options that would ensure public safety, enhance mobility, respect the surrounding community and neighborhoods, and create a solution that was fiscally responsible. The [handout](#) provided by the presenter is available on the Web site.

QUESTION: If telecommuting increases as projected, will the north/south back-ups at I-5 and Montlake increase as you have predicted? (Sen. Jacobsen)

RESPONSE: *(Jonathan Dubman- K Proponent) Yes, those issues have been considered in the studies. It is part of the toolbox that WSDOT has been assuming will be in place.*

QUESTION: Does the modified Option K tunnel accommodate the option of adding high capacity transit in the future to SR 520, and specifically across the Montlake Cut? (Reps. Clibborn and Hunter)

RESPONSE: *The Option K tunnel is being designed for four lanes in a configuration of two, two-lane tunnels under the Montlake Cut. If future high capacity transit is a fixed guideway system [such as light rail], the geometry of the tunnel would not be able to accommodate it and an additional structure would be needed.*

Note: Additional structures and costs associated with future HCT over or under the cut are not included in any of the options. HCT is accommodated within the SR 520 corridor.

QUESTION: Didn’t Sound Transit make it very clear that they were not going to install light rail on SR 520 and instead use I-90? (Spkr. Chopp)

RESPONSE: *(Rep. Clibborn) That is the current plan, but the discussion has been around wanting to make sure the design of the new SR 520 would not preclude future expansion.*

QUESTION: If Bus Rapid Transit was expanded in the future across the corridor, that new capacity would have to merge into the existing configuration as this option constructs it, that the model? (Rep. Hunter)

RESPONSE: *That is correct.*

Environmental regulatory requirements and westside interchange options (State and federal resource agencies)

State and federal resource agency directors shared with Workgroup their agency's regulatory requirements and how they would be applied to the three Westside design options. Some directors also shared initial thoughts on potential mitigation measures.

Federal Highway Administration (FHWA) (Dan Mathis) – FHWA has responsibility for ensuring the National Environmental Policy Act (NEPA) is complied with, and is also responsible for compliance with Section 4(f), which protects parks and some historic resources. FHWA is responsible for the final design of the project and any tribal trust treaties. FHWA did not have specific comment about the design options. Additional information about the grades and curvatures of the proposed tunnel option is still needed.

Recreation and Conservation Office (RCO) (Kaleen Cottingham) – RCO is not a regulatory agency, but administers grants from state and federal funds that are used for parks. Two grants were awarded for the development of parks in the area. Currently four parks are impacted by the project. It is the responsibility of WSDOT to buy other land in the area to mitigate for the loss of park land funded by these specific grants. RCO has no preferred option, but Option A has the least impact to protected park land. ([Slides 14-29](#) in the presentation include additional information.)

QUESTION: Who made the determination that the replacement park for land that was impacted would need to be in the City of Seattle? (Rep. White)

RESPONSE: *RCO staff and the board made the decision that a replacement park would need to be within the city limits.*

QUESTION: How much money did the Legislature originally receive for the trail in the Arboretum? (Rep. Pedersen)

RESPONSE: *\$45,000 in 1966, \$75,000 in 1988.*

COMMENT: It is astounding that the Legislature is spending millions of dollars to mitigate for park impacts when the original grant was so little. The legislature should consider carefully accepting similar grants in the future next to state highway right-of-way. (Rep. Pedersen)

COMMENT: How much is an acre valued at in the area? (Sen. Tom)

RESPONSE: *WSDOT would have a better figure. RCO conducted an appraisal of the land and it was valued at \$1 million an acre.*

US Environmental Protection Agency (EPA) (Rick Parkin) – The EPA is responsible for NEPA review and also has co-responsibility with the US Army Corps of Engineers for regulating wetland impacts. EPA is especially concerned with the wetland impacts

associated with each design option. It is the responsibility of the EPA to recommend the option that is the least environmentally damaging. EPA has no specific comment about the design options at this time.

US Army Corps of Engineers (Corps) (Muffy Walker) – The Corps regulates direct impacts and secondary impacts. Authority to regulate these guidelines falls under Section 404 of the Clean Water Act. The goal is to find the alternative that has the least amount of impact to the aquatic resources. The Corps must permit the design option that is least environmentally damaging. Wetland impacts, endangered species impacts, known archeological sites, potential cumulative impacts, and impacts to tribal treaty rights are of most concern. It is important to note that WSDOT cannot “buy down” the impacts to the aquatic resources through compensatory mitigation. Currently, Options A and L affect the least amount of wetlands.

QUESTION: How does the Corps determine the project purposes that need to be met for the various alternatives, if that is part of the basis of your permit approval process? (Rep. Pedersen)

RESPONSE: *The Corps basic premise is wetland protection. The purpose and need statement for this project is to improve safety and mobility.*

QUESTION: What is the source for determining the project purpose? (Rep. Pedersen)

RESPONSE: *The Corps will work with WSDOT and FHWA to determine the project purpose and scope of the project to meet the project needs. But, it is ultimately up to the Corps to determine the project purpose to be used for permit approval.*

QUESTION: Does the purpose and need statement in the EIS help define the project purpose? (Secretary Hammond)

RESPONSE: *Yes.*

QUESTION: When the Corps evaluates issuing a permit, the option with the least environmental impact is recommended. Would it then be unlikely for the Corps to permit any option that was not least damaging? (Rep. Hunter)

RESPONSE: *At this point in time, all the details are not available yet to make a decision about which option would be permitted. There is some flexibility if the alternatives are similar in their impacts. Option K does have substantially more impacts than the other options, so it is very unlikely that it would get through the permit process.*

QUESTION: The alternatives may address the purpose and need in differing ways technically. Does the Corps look at the proposed improvements from a larger perspective than just the immediate impacts in affected areas? (Rep. Eddy)

RESPONSE: *The Corps is evaluating the impacts to the aquatic resources. The Corps does do a public interest review that takes into account the other technical elements. However, that happens after the preferred alternative is selected.*

QUESTION: If the legislature were to make a statement about the purpose of the project, would the Corps give any deference or does the Corps simply make its own decision about why this project is needed? (Rep. Pedersen)

RESPONSE: *The Corps does take it into consideration, but it is ultimately up to the Corps to outline the project purpose for its permitting process.*

Department of Ecology (Ecology) (Jeannie Summerhays) – Ecology regulates water quality, wetland protection, and manages and protects shorelines. Secondary impacts are also regulated, such as shading from the bridge structure and stormwater runoff. It is important that WSDOT avoids or minimizes effects from the project. The wetlands in the area are very unique and need to be carefully analyzed for impacts. Option A has the least environmental impacts on resources that are regulated by Ecology. ([Slides 31-33](#) in the presentation include additional information.)

National Marine Fisheries Service (NMFS) (Mike Grady) – The project has stormwater impacts to the list of species that NMFS regulates. It should be noted that NMFS stormwater standards are three times as stringent as the state regulations. A combination of Option A and L would be the best option for the regulatory purposes under NMFS. It should also be noted that Option A has the greatest impact to NOAA's Montlake's facilities where most national and international research occurs for facilities across the country.

QUESTION: Does NMFS have regulatory permitting authority, or does NMFS plan to consult with the legislature about some of the issues presented? (Rep. Springer)

RESPONSE: *NMFS does formally consult on this project with FHWA and the Corps, which means that from the analysis and studies provided by FHWA, we will prepare a biological opinion. This information will then be used as the core for moving the project and the permitting processes forward.*

QUESTION: Are there other advanced mitigation opportunities other than what was listed? (Sen. Jacobsen)

RESPONSE: *Yes, NMFS is in discussion about all potential mitigation sites and they are being refined right now. Mitigation could be improving fish passage, enhancing near shore habitat, or improving wetlands, as examples.*

QUESTION: For Section 7 of the Endangered Species Act (ESA), is NMFS charged with avoidance or minimization opportunities or is NMFS simply limited to advising WSDOT of what would constitute an incidental take? (Rep. Eddy)

RESPONSE: *NMFS uses a similar sequencing as part of its evaluation - avoidance, minimize, and mitigate - like the Corps, but the group is under the constraint of a fixed budget. It will be a few years before mitigation and construction impacts are determined. NMFS would like to mitigate for lost function in the project area in advance when the cost of land is lower.*

QUESTION: What happens if an incidental take becomes too big, or are all takes incidental? (Rep. Eddy)

RESPONSE: *All takes are not incidental. In the process of construction and the long term operation of the project, species could be potentially impacted. NMFS also analyzes the level of jeopardy to species in the area from project impacts.*

US Fish and Wildlife (USFWS) (John Grettenberger) – The USFWS has similar responsibilities as NMFS. The agency’s primary authority is under ESA in the project area. Other regulatory authority comes from NEPA. USFWS analyzes studies of the impacts of the project to make sure the project does not jeopardize the species in the area. USFWS has not yet analyzed the options and therefore has no design option preference.

Washington Department of Fish and Wildlife (WDFW) (Greg Hueckel) – WDFW regulates fish life and any work that will change habitat as a result of project impacts. Based on information about the temporary and permanent loss of fish habitat in the area, a combination of options A and L would be preferred. The shading effects of the project will encourage predatory fish in the area, which will affect native fish. (Slides [35-36](#) in the presentation include additional information.)

QUESTION: How is bull trout impacted by activity in Lake Washington? (Sen. Jacobsen)

RESPONSE: *(John Grettenberger- USFWS) Bull trout is classified and regulated by USFWS. Fish from other systems migrate into Lake Washington and forage for food, not spawning habitat. It is important to maintain and improve that area.*

Department of Archaeology and Historic Preservation (DAHP) (Allyson Brooks) – DAHP has authority under state and federal law to protect cultural resources. Under federal law, authority is derived under Section 106 of the National Historic Preservation Act. Under state law, archeological sites are protected on both public and private land. There are historic properties in the project area under all alternatives. Currently DAHP does not know what archeological and cultural resources are located in the area. The studies are still being performed. DAHP does not have a preferred alternative at this time until more specifics are developed.

QUESTION: Is the Duwamish recognized in the area? (Sen. Jacobsen)

RESPONSE: *The Duwamish only has legal standing under state law.*

QUESTION: Have any tribes used Foster Island as a burial ground since Lake Washington was lowered? Is there a large amount of land on Foster Island that was not used for a burial ground? (Rep. Hunter)

RESPONSE: According to the tribes, the northern end of Foster Island was likely used for a burial ground. In addition, Foster Island is culturally important to the tribes, regardless if they used it as a burial ground.

SR 520 Independent Cost Review (Don Forbes)

Don Forbes, cost panel chair, presented preliminary findings from the three-day SR 520 Independent Expert Panel workshop convened to conduct a comprehensive evaluation of the cost estimating process used for the west side interchange options A, K and L. He reminded Workgroup members that the charge of the panel was to evaluate the cost estimating process used to date, and that the panel’s observation was that it had been applied fairly. Forbes also presented some preliminary observations from the panel regarding technical issues that are likely to impact costs for options A, K and L. ([Slides 39 to 51](#) include additional information.)

QUESTION: Given that construction costs are relatively low right now an argument could be made to begin construction sooner rather than later. Is that the conclusion that the Workgroup should draw? (Rep. Hunter)

RESPONSE: *Yes, that would be one of the conclusions.*

QUESTION: Is there a large enough group of savings that would bring Option K back into the \$4.65 billion range? (Rep. Hunter)

RESPONSE: *It is very likely that there is a combination of things that you could do with that option that would result in substantial savings. Whether they approach \$1.5 billion to \$2 billion dollars is still unknown. A truism in the highway construction industry is that costs are related to the volume of construction.*

SR 520 Finance Plan Update (David Dye, Amy Arnis, Ellen Evans)

David Dye, WSDOT Deputy Secretary of Transportation, Amy Arnis, WSDOT Chief Financial Officer, and Ellen Evans, Office of the State Treasurer, [presented on SR 520 Program financing](#) (slides 53-65). The presentation focused on the financing history of the SR 520 program, tolling information, the current funding gap and preliminary future funding options.

Arnis provided a summary of legislative direction to date related to tolling, including the work completed in 2008 by the Tolling Implementation Committee as well the outcomes included in 2009 legislation. ESHB 2211 defined the project cost at \$4.65 billion, authorized pre-completion tolling on the existing SR 520 bridge to help finance construction of the new bridge, and outlined a variable toll rate structure and single point tolling. In addition, ESHB 1272 authorized up to \$1.95 billion in bond sales for the SR 520 program.

Evans presented information about the sources and timing of the secured \$1.99 billion in funding. She also shared information with Workgroup members about the \$2.37 billion funding gap, including information about potential future revenue sources as well as bonding opportunities.

Workgroup members were asked to provide feedback to WSDOT on what financing options should be analyzed in support of the finance plan the group needs to prepare by the end of the year.

COMMENT/QUESTION: There are people that have figured it's cheaper to work at home than to drive. Has this been factored in the impact of drivers avoiding the toll on SR 520 once tolling begins? (Sen. Jacobsen)

RESPONSE: *In the modeling that was done last year during the Tolling Implementation Committee, there was a lot of work done on how many people would choose not to cross the bridge. People could choose to telecommute and that scenario was considered in the analysis.*

QUESTION: Is early tolling on schedule so that we can start to accumulate some money for the project or is it being delayed? (Rep. Pedersen)

RESPONSE: *An Expert Review Panel working with the Joint Transportation Committee presented their findings recently. The panel concluded that it would be wise to be more deliberate in the process and not expect a fully operational system by November 2010. The panel suggested that if WSDOT allowed the contractor some flexibility in their timeline for implementation, substantial funding could be saved. The decision to allow the contractor more time made sense from a business perspective by providing a window between November 2010 and June 2011 that tolling could begin. There are incentives available the contractor to accelerate implementation. Also the disincentives for delayed implementation are significant.*

QUESTION: If I-90 were tolled, how much would the funding gap close? (Sen. Jacobsen)

RESPONSE: *During the Tolling Implementation Committee work that was completed, there were a few scenarios that evaluated tolling both bridges. If WSDOT could toll both bridges and obtain that revenue stream, some scenario's would generate enough revenue to fund a \$4.65 billion project.*

QUESTION: Are there other financing ideas beyond just tolling I-90? Or with I-90 tolls, the gap would be virtually eliminated? (Rep. Springer)

RESPONSE: *The gap would be virtually eliminated with I-90 tolls. WSDOT would like to hear what other sources of funding should be considered beyond tolling I-90.*

QUESTION: If the toll policy set by the legislature was that the toll rate is set to ensure that the bonds would be paid off to the investors, would that not affect the state's constitutional and statutory debt limitation for repayment from the general fund if that risk was taken on? (Rep. Hunter)

RESPONSE: *The middle part of the triple pledge is the gas tax pledge. So these bonds would not be subject to the constitutional debt limit, nor are any of the gas tax funds.*

QUESTION: Even though the bonds would not be subject to that to the constitutional debt limit, the rates would be more appealing, correct? (Rep. White)

RESPONSE: *When WSDOT issues bonds now, they are issued on two pledges: one, the various purpose pledge, which is backed by the full faith and credit of the state. The second pledge is the motor vehicle fuel tax funds, which is first payable from those excise taxes, and also backed by the full faith and credit. The two are priced identically in the marketplace, which right now is a very attractive rate because of our credit rating.*

QUESTION: Does this financial scenario harbor the idea that nobody can say with any certainty that peak tolls will be limited to \$4.85? (Rep. Eddy)

RESPONSE: *That is correct. The toll policy is that WSDOT will raise tolls so that the bondholders can be paid back. WSDOT is modeling against that medium toll rate scenario. At this point, there are no assumptions of a higher toll scenario.*

QUESTION: The Workgroup is charged with the task of producing a financing plan with actionable steps for building the bridge. The workgroup needs to pick an option that falls within the \$4.65 billion limit, recommend a Westside design option, and produce a financing plan. Is the list presented the shopping list for financing the project? (Rep. Hunter)

RESPONSE: *For the \$4.65 billion, that is the shopping list as developed by WSDOT. The question for the Workgroup is what are other ideas should be considered as ways to finance the corridor.*

QUESTION: What exactly is meant by local/regional funding? (Rep. Clibborn)

RESPONSE: *The Regional Transportation Investment District that was rejected by voters was one option, and the question is whether in the future that would be a possibility. It could also be a local investment district, or a government structure on both sides of the lake, which have individual taxing authority. This is a brainstorming list and feedback from the legislature members would be helpful.*

COMMENT: An idea would be to take the information from studies such as the Joint Transportation Committee study, and put it in a matrix to show some of the potential sequencing, particularly with the I-90 issue. (Rep. Eddy)

COMMENT: It is too early to take anything off the list. There are potential federal sources between the federal stimulus grant for major projects and future state contributions are unknown at this point. I-90 is a possibility but we need to provide that those other sources are not a possibility. (Rep. Clibborn)

Follow-up Items (Barbara Gilliland)

- Produce a matrix of financing options per Rep. Eddy's request.