



CITY OF MERCER ISLAND CITY COUNCIL MEETING AGENDA

Monday
February 6, 2017
5:30 PM

Mayor Bruce Bassett
Deputy Mayor Debbie Bertlin
Councilmembers Dan Grausz, Jeff Sanderson,
Wendy Weiker, David Wisenteiner
and Benson Wong
Contact: 206.275.7793, council@mercergov.org
www.mercergov.org/council

All meetings are held in the City Hall Council Chambers at
9611 SE 36th Street, Mercer Island, WA unless otherwise noticed
"Appearances" is the time set aside for members of the public to speak to the City Council
about any issues of concern. If you wish to speak, please consider the following points:
(1) speak audibly into the podium microphone, (2) state your name and address for
the record, and (3) limit your comments to three minutes.
Please note: the Council does not usually respond to comments during the meeting.

REGULAR MEETING

CALL TO ORDER & ROLL CALL, 5:30 PM

AGENDA APPROVAL

EXECUTIVE SESSION

Executive Session to discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes.

REGULAR BUSINESS, 7:00 PM

AB 5256 I-90 Loss of Mobility Negotiations Status Report

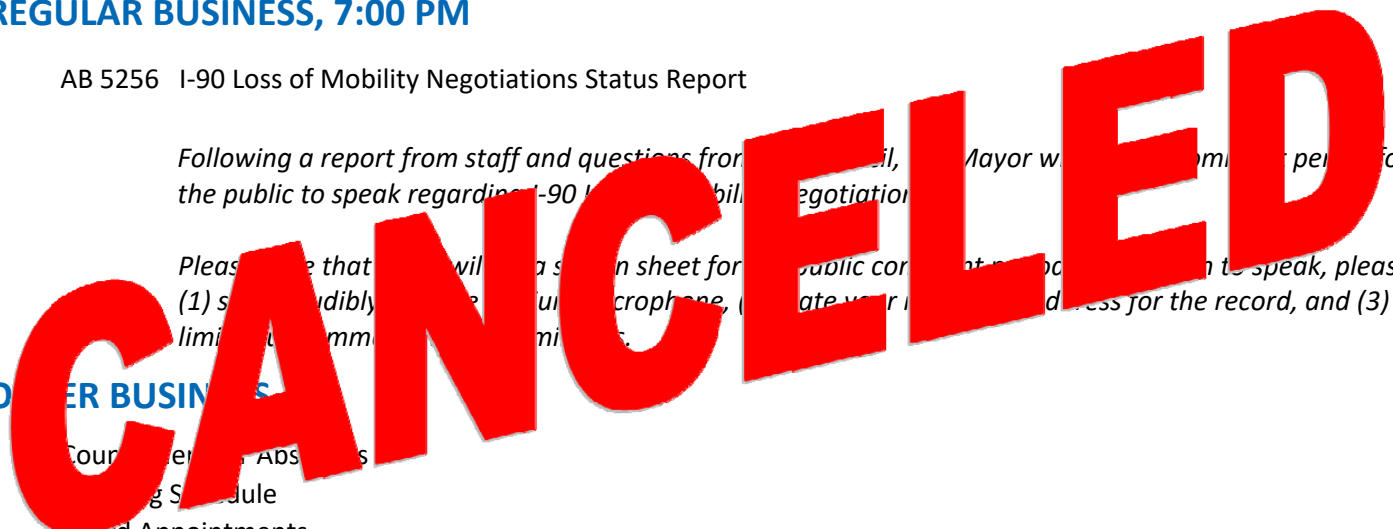
Following a report from staff and questions from Council, Mayor will provide an opportunity for the public to speak regarding I-90 Loss of Mobility Negotiations.

Please note that there will be a sign-in sheet for public comment at the podium. When to speak, please (1) speak audibly into the podium microphone, (2) state your name and address for the record, and (3) limit your comments to three minutes.

OTHER BUSINESS

- Councilmember Absences
- Agenda Schedule
- Board Appointments
- Councilmember Reports

ADJOURNMENT





**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 5256
February 6, 2017
Regular Business**

**I-90 LOSS OF MOBILITY NEGOTIATIONS
STATUS REPORT**

Proposed Council Action:

Provide direction to City staff on next steps.

DEPARTMENT OF

City Manager (Julie Underwood)

COUNCIL LIAISON

n/a

EXHIBITS

1. August 5, 2016 Letter from FHWA to WSDOT and City
2. August 18, 2016 Letter from City to FHWA
3. Comments received via online public comment form (January 19, 2017 to February 1, 2017).
4. February 2, 2017 Letter from WSDOT Secretary Millar to City

APPROVED BY CITY MANAGER

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

In June 2017, the East Link Project is scheduled to close the I-90 reversible center roadway to begin construction on the light rail line. To replace the loss of the I-90 center roadway, the I-90 mainline between Mercer Island and Seattle will be restriped and narrowed from 3-lanes to 4-lanes in each direction. These new I-90 lanes are referred to as R8A lanes. The traffic analysis for the East Link Project assumed that the R8A lanes would be designated as HOV lanes and that single occupancy vehicles (SOVs) traveling to or from Mercer Island would be allowed to use these lanes.

In August 2016, the Federal Highway Administration (FHWA) informed the City of Mercer Island about the potential restriction of Mercer Island SOVs from the I-90 R8A lanes. This is likely to lead to the restriction of SOVs using the Island Crest Way on-ramp to westbound I-90 because it is proposed to connect to a HOV lane. The potential SOV restriction at the Island Crest Way westbound on-ramp would result in traffic being diverted to other I-90 on-ramps, specifically the West Mercer Way on-ramp. This diversion would increase traffic volumes on Mercer Island local streets and negatively impact traffic operations and safety in and around the Town Center and along West Mercer Way.

BACKGROUND

The City, Washington State Department of Transportation (WSDOT) and Sound Transit have historic agreements dating back to 1976 regarding Mercer Island traffic SOV use of HOV lanes between Mercer Island and Seattle. Additionally, the Final Environmental Impact Statement (FEIS) anticipated the continued access for SOVs in the new R8A lanes. The impacts of the closure and the resulting loss of mobility were anticipated and have been the subject of negotiations with Sound Transit for well over a year.

The City held a listening tour in Fall 2015 to engage the community about priorities for the loss of mobility negotiations with Sound Transit. The following guiding principles/goals were developed based on what the Council and staff heard from the community:

1. Secure **access to new R8A lanes** within the context of historic agreements.
2. **Limit and mitigate traffic impacts** in and around Town Center.
3. **Increase commuter parking** options for Mercer Island residents.
4. **Improve “last mile” connections** to light rail through innovative services and on-Island transit options.
5. **Minimize impact of regional bus operations** – no greater than current levels.
6. Require safe, convenient **pedestrian and bicycle access to light rail**.

To achieve the above goals, the City has followed a three pronged strategy: 1) legislative, 2), regional, and 3) legal. The City has worked closely with the State Delegation to identify possible solutions, including funding or legislation. Likewise, Representative Judy Clibborn has been instrumental in assisting the City with the Department of Transportation. We are also working with members of our Congressional Delegation. On a regional strategy we have taken a collaborative approach to negotiating a safe and effective solution with Sound Transit and WSDOT. And with the third strategy, several months ago we retained outside counsel, Harrigan, Leyh, Farmer & Thomsen, to analyze the City’s potential legal remedies if negotiations with Sound Transit and WSDOT are unsuccessful.

More recently, the following significant work has taken place in the latter half of 2016 and early 2017:

1. The Federal Highway Administration (FHWA) Division Administrator sent a letter dated August 5, 2016 to the Washington State Department of Transportation (WSDOT) and City of Mercer Island regarding Interstate 90 High Occupancy Vehicle Operations on Mercer Island (Exhibit 1). This letter commented on HOV Occupancy Requirements under Federal law, Observations on History, and Possible Solutions. This letter, and other related correspondence, are available online at: www.mercergov.org/I-90_Archive
2. The City replied to the August 5 FHWA letter dated August 18, 2016, outlining the City’s disagreement with several of the statements in the FHWA letter, and also raising concern over additional issues regarding access points to I-90 (Exhibit 2). The City also agreed that all parties must now focus on solutions-oriented discussions.
3. The City retained specialized consulting services to analyze impacts on local streets. The City also retained a consultant firm to study current and future demand for commuter parking.
4. The Mayor and Deputy Mayor and top staff from the City, Sound Transit and the State met in a “Principals” meetings in October 2016 and again on January 23, 2017 to discuss the need for access alternatives from Mercer Island to I-90. Several access alternatives are currently being studied by Sound Transit. The City was able to personally hand over the 2,500 signed petitions and PTA letters to WSDOT Secretary Millar at the January 23 meeting.
5. City Council and staff held 10 public outreach meetings in Fall 2016 and one community listening session on January 19, 2017 to provide accurate, updated information to the public and to listen to public questions and concerns regarding access to I-90 and the loss of mobility negotiations.
6. The Mayor and City Councilmembers have engaged with leadership and top staff at FHWA, WSDOT, and Sound Transit to continue making the City’s case for adequate access to I-90 and adequate parking for Island residents to use light rail and other public transportation. Meetings have also been held with Representative Judy Clibborn, Congressman Adam Smith, and staff from Senator Patty Murray and Senator Maria Cantwell’s offices.
7. City staff and consultants developed information to update and inform the public about the details of the I-90/Light Rail loss of mobility negotiations as soon as they became available. The information is available online on the City’s website, including pages containing [“I-90 Agreements and](#)

[Correspondence](#)” Light Rail [“Mobility Discussion and Outreach”](#) and a comprehensive [FAQ page](#). Outreach and education work has been conducted via social media sites used by Islanders, as well as in the City’s weekly E-newsletter, and in articles printed by the local newspaper. The City also maintains an [online comment form](#) to solicit additional input from the public. Forty comments have been received from January 19 to February 1, 2017 (Exhibit 3).

With the community’s concerns and interests in mind, the City has continued to be actively engaged with key representatives at the local, regional, state and national level to respect historic agreements. The City continues to use lobbyists, outside legal counsel and professional consultants to pursue the City’s goals. In fact, since 2015, the City has spent approximately \$550,000 on these services.

STATUS OF NEGOTIATIONS

The City has negotiated in good faith with Sound Transit and WSDOT; however, as indicated by the January 23, 2017 Principals’ Meeting and the subsequent February 1, 2017 [letter from Secretary Millar](#), it is clear that they will not honor the historic agreements (Exhibit 4).

One strategy that has not been openly discussed is the legal strategy; these discussions have taken place in Executive Session as allowed by RCW 42.30.110(1)(i). Many members of the public have endorsed this strategy as a way to ensure the agreements are honored. Nevertheless, it is worth noting some of the risks involved, which include:

- There are significant costs involved in litigation, estimates are as high as \$1 million plus.
- There is no guarantee of the outcome; the decision will move to the courts to decide.
- The outcome of a court decision can take months if not years, especially if there are appeals (this can be considered a pro or a con).
- Parties involved may not want to continue to negotiate.

Overall, the City is striving to mediate mutually agreeable outcomes, whether in the context of litigation or not.

The Council will discuss next steps in open session at their regular February 6 meeting, including the potential of litigation.

OUTREACH

The City will continue to provide clear, timely information to the community. The City will also seek to involve citizens to the greatest extent possible. City Council will discuss possible methods for outreach and input including use of additional social media outlets, mailers and/or a citizen advisory committee.

The next community meeting is scheduled for March 8, 6:30-8:30pm at the Mercer Island Community and Events Center. The community has also asked for additional information about safety and emergency response impacts following closure of the center roadway. Access to light rail and commuter parking are additional important topics in which the City would like more community input.

FISCAL IMPACT

The City Council has and will continue to consider all possible steps to achieve a positive outcome for I-90 access and loss of mobility. The City has budgeted \$400,000 in fiscal year 2017 for I-90 and Light Rail negotiations work. According to the Finance Director, there is at least \$600,000 in additional funding available, if the City pursues a legal strategy, with \$300,000 coming from the unallocated 2015 General Fund surplus, which was being reserved for a different purpose, and an estimated \$300,000 coming from

the Fire Station 92 construction project balance (after the City receives the \$330,000 settlement check and pays the April 13, 2016 mediation settlement cost and final legal costs).

RECOMMENDATION

City Manager

Provide direction to City Staff on next steps.



CITY MANAGER'S OFFICE
CITY OF MERCER ISLAND, WASHINGTON

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August 18, 2016

Mr. Daniel M. Mathis
Division Administrator
Federal Highway Administration
711 Capitol Way, Suite 501
Olympia, WA 98501

Re: Interstate 90 High Occupancy Vehicle Operations on Mercer Island

Dear Mr. Mathis:

The City of Mercer Island is in receipt of your letter dated August 5, 2016, regarding the above-referenced matter. We also appreciated your willingness to meet with us on August 16th to discuss next steps. After reading your letter, reflecting on our meeting, and taking into account the many months that FHWA, WSDOT, Sound Transit and the City of Mercer Island have spent working together on these issues, we find ourselves highly disappointed in where we are today on these issues. Our expectation was that FHWA was eager to work together to find solutions to this unique and important situation for persons working and living on Mercer Island. Instead, it appears that FHWA is now walking away from its previous positions, and is putting up questionable roadblocks to solutions that could be supported by Mercer Island, Sound Transit and WSDOT.

Despite this disappointment, we remain ready and willing to work with you, Secretary Millar and his team at WSDOT, Mr. Rogoff and his team at Sound Transit and others towards that end. What we will not accept is the closure of the Center Roadway to go forward without WSDOT meeting its obligations under the 2004 Amendment to the 1976 Memorandum Agreement, a task that will only become more difficult as a result of the position FHWA is taking.

Furthermore, as you were informed at the meeting, we strongly disagree with several of the statements in your letter, and need to set the record straight both for our citizens and for others involved in this process.

Federal Law on HOV Occupancy Requirements

FHWA says that SOV traffic is entirely barred from HOV lanes under Federal law, other than in the limited situations covered by statute (e.g., HOT vehicles), including even for purposes of ramp access only. We note that the Island Crest Way access to I-90 Westbound was approved previously in the

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FHWA's June 22, 2011 letter to WSDOT Secretary Hammond regarding Sound Transit's Interchange Justification Report. While the FHWA expressed safety concerns as to the Island Crest Way ramp, **it still approved SOV traffic using the HOV access ramp and HOV lane to reach the general purpose lane, subject only to the caveat that it be "monitored and closed to single occupant vehicles use if significant collision frequency and severity begins to occur."**¹

Observations on History

Your letter discusses the 2011 FHWA Record of Decision (ROD) for the East Link Light Rail Transit Project and concludes that you did not approve Mercer Island SOV traffic access to the HOV lanes and "makes no mention of Mercer Island SOV traffic using the HOV lanes." That is not accurate. At page 11 of the ROD, which refers to the East Link construction period, it states:

Before light rail is constructed on I-90, the I-90 Two-Way Transit and HOV Project would be completed. The I-90 Two-Way Transit and HOV Project will provide outer-roadway HOV lanes from Bellevue to Rainier Avenue to improve transit function on the I-90 bridge and allow for future use of the reversible center roadway. The reversible center roadway and D2 Roadway would be closed during construction. **As a result, all bus routes, HOVs, and Mercer Island drivers would be rerouted to the outer roadway HOV lanes.**

(Emphasis supplied). If Mercer Island traffic was intended to be treated the same as all other traffic, there would have been no reason to specifically mention them in this sentence. Given the established history of this segment of I-90, it was logical to assume these "Mercer Island drivers" are the same "Mercer Island traffic" referred to in the 1976 Memorandum Agreement, and more recently, in the September 8, 2005 letter agreement.

Your August 5th letter notes the comments made by the FHWA, specifically DEIS comment #18 and FHWA Approval Action #5. It appears that Sound Transit and WSDOT did not do any additional work prior to issuing the FEIS that would have addressed the FHWA's concerns. Instead, the FEIS analysis assumed Mercer Island SOV access to the HOV lanes. The East Link Project FEIS (July 2011) states at page 3-51 that: "[i]n the build condition, all vehicles traveling to and from Mercer Island were assumed for the traffic analysis to be able to use the outer roadway HOV lanes." The FHWA approved the FEIS analysis in the 2011 ROD. Consequently, **the only NEPA analysis that has ever been done for the East Link Light Rail Transit Project and has ever been approved by the FHWA assumed Mercer Island SOV access to the HOV lanes.**

¹ The fact that this access was intended is clear from the 2011 IJR which describes use of the HOV lane for "merge and acceleration purposes." East Link Project-Interchange Justification Report, May 2011, Sections ES.2 (page ES-5) and 3.2.4 (page PP3-6).

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During our meeting, it was suggested that the result set forth in your August 5th letter (no SOV traffic on any inch of any HOV lane or ramp absent an arrangement such as HOT lanes) was a result that had, in fact, been studied as part of the 2011 Interchange Justification Report and/or 2011 Final Environmental Impact Statement for the East Link Project, both of which the FHWA approved. To be very clear on this point, what the IJR included was a **“traffic analysis [that] assumed Mercer Island single-occupant vehicles (SOVs) would be able to use the HOV lanes in both directions of I-90 between Seattle and Island Crest Way.”**² Similarly, the FEIS states **“all vehicles traveling to and from Mercer Island were assumed for the traffic analysis to be able to use the outer roadway HOV lanes.”**³ Both of these reports demonstrate that the only scenario studied assumed that Mercer Island SOV traffic would be able to use the HOV lanes. There has never been any analysis of the impacts of Mercer Island SOV traffic using the general purpose lanes of I-90.

It was also suggested during the meeting that any consideration of allowing Mercer Island SOV traffic in the R8A outer lanes under a different type of managed lanes (e.g., express lanes) would require further study. In fact, the only scenario that has actually been studied to date is the one that allows Mercer Island SOV traffic in the R8A outer lanes. All the supporting data is already there in the 2011 IJR and FEIS for the East Link Project. Conversely, moving Mercer Island SOV traffic to the R8A general purpose lanes is a scenario that has not been assumed or studied to date, will cause significant adverse impacts, and will not pass legal muster under the existing environmental record for either the I-90 Two-Way Transit and HOV Project or the East Link Light Rail Transit Project.

Additional Issues

Your August 5, 2016 letter observes that there will continue to be 15 access points between Mercer Island surface streets and the future reconfiguration of I-90. To clarify, Mercer Island traffic is, in fact, losing 3 access points, which equates to over 15% of current access points: Westbound entry from 77th Avenue SE to the Center Roadway, the Eastbound exit onto 77th Avenue SE from the Center Roadway, and the Westbound entry from Island Crest Way to the Center Roadway. This was previously acknowledged in the 2011 IJR that was approved by the FHWA.⁴

Furthermore, if SOV access onto Westbound I-90 from Island Crest Way is no longer allowed as your letter would suggest, that would also mean that Mercer Island SOV traffic would be losing yet another significant access point bringing the reduction to more than 20%. The result of this will be gridlock in our Town Center, which will not only impact drivers, but those on buses, and those trying to eventually access the new light rail station. The outcome envisioned by your August 5th letter would result in significant adverse traffic impacts to local streets, ramps, and the Town Center as Westbound

² East Link Project-Interchange Justification Report, May 2011, Sections ES.2 (page ES-5) and 3.2.4 (page PP3-6).

³ East Link Project Final EIS, July 2011, page 3-51.

⁴ East Link Project-Interchange Justification Report, May 2011, Section 3.2 (page PP3-6).

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commuters are suddenly required to traverse anywhere from 5-7 additional traffic lights and the streets in between. These intersections and local streets are those that must also be used by any buses that Sound Transit and King County Metro may want to consider bringing onto Mercer Island, as well as by any drivers seeking to use the existing or any additional park and ride facilities. In short, Mercer Island will end up with gridlock that not only impacts SOV drivers but also transit use.

Possible Solutions

As stated in your August 5, 2016 letter, we agree that our focus must now be solutions-oriented. These solutions must necessarily produce Mercer Island traffic mobility impacts that are the same or better than those identified in the approved 2011 FEIS. It would be massively disruptive to the region and Mercer Island traffic to have either the I-90 Two-Way Transit and HOV Operations Project or the East Link Light Rail Transit Project slowed down by having to reevaluate the assumptions on which the environmental review for these projects was based. Right now, in the absence of solutions, it appears we have a situation where the environmental review for both projects lacked analysis of the impacts on Mercer Island traffic of the new, reconfigured general purpose lanes on I-90, and, yet, the impacts on Mercer Island mobility are also what the State and Sound Transit will be required to mitigate under the 2004 Amendment.

While we are very troubled by the FHWA's positions on these issues, we are looking for a solution that will avoid significant adverse impacts to the segment of I-90 that spans Mercer Island and to local streets providing access to I-90. It is imperative that we find a solution very soon. We look forward to analyzing, discussing, and collaborating with you and others to reach safe, effective, and legal solutions to ensure continued mobility and access to I-90 for Mercer Island traffic. If there are any questions regarding this letter, please let me know.

Sincerely,



Pam Bissonnette
Interim City Manager

Enclosure: Letter from Lancaster to Mathis, dated May 31, 2016

cc: Mercer Island City Council
Roger Millar, Acting Secretary of Transportation, WSDOT
Peter Rogoff, Chief Executive Officer, Sound Transit



**CITY MANAGER'S OFFICE
CITY OF MERCER ISLAND, WASHINGTON**

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May 31, 2016

Mr. Daniel M. Mathis
Division Administrator
Federal Highway Administration
711 Capitol Way, Suite 501
Olympia, WA 98501

Dear Mr. Mathis:

Roger Miller, Acting Secretary of Transportation for the Washington State Department of Transportation (WSDOT), recently sent you a letter regarding access to the I-90 R-8A HOV lanes for Single Occupancy Vehicle (SOV) traffic going to and from Mercer Island, Washington. The City of Mercer Island supports and echoes WSDOT's request for help and guidance on this matter. Specifically, we are requesting your help in finding a solution to allow access to I-90's future R-8A lanes for Mercer Island SOV traffic.

The City of Mercer Island, its regional partners including Sound Transit, and WSDOT did not know until fairly recently that the plans and agreements established over decades of regional collaboration to develop East Link across I-90 while protecting access for Mercer Island traffic to I-90 could be in conflict with federal law. A solution to this matter is critical to mitigating the loss of mobility that will result from the closure of the I-90 Center Roadway and for the timely development and operation of East Link.

We recognize the need to maintain consistency in the application of national transportation policy. However, the uniqueness of the City of Mercer Island's situation, the region's historical and established agreements and statutes for addressing these challenges and the need to increase transportation options via light rail for the central Puget Sound region warrants the federal government's additional consideration.

A. Geography of Our Region and the Location of Our City

Mercer Island is a bedroom community, located in the middle of Lake Washington with Seattle on the western side of the lake and central Puget Sound's 'Eastside' economic centers (Bellevue, Redmond, Renton, Issaquah, etc.) on the eastern side of the lake. Interstate 90 spans

Lake Washington, connecting these economic and employment centers and passing directly through Mercer Island.

I-90 is Mercer Island's sole lifeline. It is the only thoroughfare on and off the island. There are no other public transportation options on and off the island for residents or for any other persons working or otherwise with a need to be on the island. On Mercer Island, employment, most commercial and retail activities, all federal, state and regional governmental facilities, post-secondary education, sports and cultural venues, non-auto transportation, and almost every other requirement of life involving a physical facility or venue other than one's residence, children's basic education, small retail and limited religious institutions require utilizing I-90.

People living and working on Mercer Island depend entirely on I-90. As noted by Acting Secretary Miller:

Given the isolated nature of living in an island community with only one roadway on and off the island, it is imperative the mobility of Mercer Island residents be given serious consideration.

Other than a few islands served only by ferries, there are no other communities in the Puget Sound region that have this or a comparable distinction. Mercer Island's unique location and, therefore, dependence on access to I-90 is a recognized fact of transportation planning in the state and region.

B. History of Mercer Island Traffic Access on I-90

Mercer Island SOV traffic eligibility to use the Center Roadway on I-90 was established in the 1976 Memorandum of Agreement (MOA) that paved the way for an improved I-90 facility between I-405 and Seattle. The 1976 MOA sought to strike a balance between the needs of the region for an improved highway (the expansion of I-90) against the needs of Mercer Island for mobility comparable to that enjoyed by other cities. Mercer Island SOV traffic access to the Center Roadway was the agreed response in 1976 to this situation. What has happened since then is a further agreement among the principal state, regional and local governmental entities that with the closure of the Center Roadway, Mercer Island traffic access to the R-8A HOV lanes is a logical and necessary replacement for the lost Center Roadway access.

In 2004, the 1976 MOA was amended to lay the way for light rail to be developed across I-90. The 2004 Amendment represented an agreement to go forward with the R-8A HOV lanes as a replacement for the Center Roadway that was expected to be converted to high capacity transit. It was the plan to construct the R-8A HOV lanes that, according to the Washington Supreme Court, enabled WSDOT to meet the statutory requirement in RCW 47.12.120 (determining that the Center Roadway was not "presently needed") in order to transfer the Center Roadway to Sound Transit.¹

¹ *Kemper Freeman v. State of Washington*, 178 Wn.2d 387, 404 (2013)

The 2004 Amendment goes further to require that as a condition for replacing the Center Roadway with the R-8A HOV lanes, any "loss of mobility to and from Mercer Island" be mitigated. Specifically, Section 7 of the Amendment requires that measures "shall be identified and satisfactorily addressed" in order to address any loss of mobility.

Since 2004 the state and region have affirmed several times support of allowing Mercer Island SOV traffic access to the R-8A HOV lanes as one of the mitigation solutions to be implemented in order to meet the requirements of the 2004 Amendment. A September 8, 2005 letter from King County, Sound Transit and the Cities of Seattle, Bellevue and Mercer Island to then WSDOT Secretary Douglas MacDonald states:

In the near term, Mercer Island has suggested that a preferred measure to address mobility access for Mercer Island traffic under the terms of the [2004] Amendment (Provision #7) would be to provide access to the R-8A HOV lanes.... [W]e support Mercer Island's request to provide access for Mercer Island traffic as follows.... Once removed from the center lanes, Mercer Island traffic, will have access to the R-8A HOV lanes under the same conditions provided in the MOA for Mercer Island traffic access to the transit lanes.

On December 22, 2006, Secretary MacDonald and Tom Fitzsimmons, the Governor's Chief of Staff, advised the City of Mercer Island as follows:

We have concluded that when the center roadway is converted to high capacity transit, Mercer Island residents should be permitted HOV lane access until the HOV lanes are converted to high occupancy toll (HOT) lanes or another tolling regimen.

On April 23, 2007, King County, Sound Transit and the Cities of Seattle, Bellevue and Mercer Island all received a letter from WSDOT confirming that the I-90 Access Plan had been revised to reflect the commitments made in the December 22, 2006 letter:

To that end, the revised Mercer Island Access Plan restates our intention to allow Mercer Island residents access to the high occupancy vehicle (HOV) lanes in the outer roadway of I-90 when the center roadway is converted to High Capacity Transit and until conversion to high occupancy toll (HOT) lanes or another tolling mechanism.

Furthermore, various enactments by the Washington Legislature specifically require Mercer Island SOV access to the R-8A lanes. The 2007 State Budget included the following requirement:

I-90/Two Way Transit-Transit and HOV Improvements - Stage 1. Expenditure of the funds on construction is contingent upon revising the access plan for Mercer Island traffic such that Mercer Island traffic will have access to the outer roadway high occupancy vehicle (HOV) lanes during the period of operation of such lanes following the removal of Mercer Island traffic from the center roadway and prior to conversion of the outer roadway HOV lanes to high occupancy toll (HOT) lanes.²

For 40 years SOV traffic originating from Mercer Island has had access to the Center Roadway on I-90. The state and the region have and continue to recognized the importance of ensuring Mercer Island traffic can access I-90. Replacing Center Roadway access with R-8A HOV lane access was agreed to as both an essential and common sense means for ensuring that the closure of the Center Roadway, and the resulting loss of mobility, does not cause a substantial disruption to the lives of persons both living and working on Mercer Island.

C. Proceeding with East Link

The City of Mercer Island signed the 2004 Amendment because it believed, and still believes, that East Link will be a great addition to our region. In signing the agreement, the City also felt assured that the state and region could provide Mercer Island the mitigation it needs to make up for losing access to the Center Roadway and withstand years of disruption due to construction by protecting necessary access to I-90.

We recognize that every community with major transportation improvement construction occurring through it faces challenges and inconveniences. Mercer Island's challenges under East Link construction on I-90, however, will likely be unusually difficult primarily because the island is totally dependent on I-90. Its commercial core and key city functions rely on access to I-90, which is and will remain the only route on and off the island.

This is why the 2004 Amendment requires that Mercer Island's loss of mobility first be mitigated³ before the Center Roadway is closed for East Link construction. While discussions are ongoing between Mercer Island, WSDOT and Sound Transit as to the required mitigation, there is nothing now under consideration that would replace Mercer Island SOV traffic access to the R-8A HOV lanes as a key element of the mitigation package. Mercer Island wants East Link to proceed but only once the terms of the 2004 Amendment have been satisfied. From the City's standpoint, this will require Mercer Island SOV traffic access to the R-8A HOV lanes be permitted prior to Center Roadway closure.

² HB 1094/SB 5136, Sec. 305(3).

³ The data in the Sound Transit 2011 Interchange Justification Report (e.g., Tables 3-9, 3-10, 3-11 and 3-12) demonstrate the loss of mobility that Mercer Island SOV traffic will confront with the closure of the Center Roadway. The Level of Service that now exists in the Center Roadway will not be close to being matched in the general purpose lanes of the Outer Roadways.

As you are aware, there have been a series of decisions by your office and by the Federal Transit Administration (FTA) that have enabled East Link to reach its current point in the regulatory review process. In the earlier decisions, we believe that Mercer Island traffic was never at issue. The initial approvals sought by WSDOT and Sound Transit all related to the implementation of the R-8A HOV lanes. These included: (i) the April, 2004 I-90 Two-Way Transit and HOV Operations King County, Washington Final Environmental Impact Statement; (ii) the September, 2004 FHWA I-90 Two-Way Transit and HOV Operations Project Record of Decision; (iii) the 2005 FHWA Access Point Decision Report; (iv) the 2007 FHWA Reevaluation of the 2004 Record of Decision; and (v) the April, 2011 FTA Record of Decision.

What all of these actions had in common was an underlying assumption that the I-90 Center Roadway would remain in operation in its current configuration. While they all recognized the possibility of the eventual closure of the I-90 Center Roadway, that closure would be the subject of future governmental action and was not an issue in these earlier decisions. Consequently, no one was required to confront in these decisions the question of Mercer Island SOV traffic access to the R-8A HOV lanes because that traffic was assumed to still have access to the Center Roadway.

Starting with the June 2011 FHWA approval of Sound Transit's Final Interchange Justification Report, however, the Sound Transit/WSDOT requests and the FHWA and FTA decisions appear to assume a use of the R-8A HOV lanes at odds with the agreements and commitments made between 2004-07. Interestingly, however, those requests acknowledge that Mercer Island SOV access to the R-8A HOV lanes was assumed in the traffic analyses done by Sound Transit and WSDOT. It is not clear to us how the decisions beginning with the 2011 FHWA Approval and continuing thereafter were able to proceed without either an acknowledgement as to access to the R-8A HOV lanes or another plan to address the Mercer Island SOV traffic loss of mobility.

D. Safety Issues

FHWA's June 22, 2011 letter to WSDOT Secretary Hammond regarding Sound Transit's Interchange Justification Report, discusses SOV traffic entering I-90 from Island Crest Way having to cross the westbound R-8A HOV lane as a safety concern. It suggests the possibility of preventing all SOV traffic from using that entry point which would effectively force these vehicles to use the entry at 76th Ave. SE and North Mercer Way.

It is the City's position that closing the Island Crest Way entry point to SOV traffic should not be viewed as a possibility. We believe that doing so would create a congestion nightmare in our Town Center as well as on other City streets as all of the traffic that now uses this entry point would be diverted to other entries – primarily the entry point at 76th Ave. SE and North Mercer Way but also the West Mercer Way entry.

Island Crest Way is the busiest roadway on Mercer Island serving as the main artery for the majority of Islanders accessing I-90 – thousands of vehicles daily. After the Center Roadway closure, there will be only four westbound entry points. Closure of Island Crest Way to SOV

traffic would force all of these vehicles to two of the other entry points requiring travel either through the Town Center (to reach the 76th Ave. SE entry) or residential neighborhoods in order to reach the West Mercer Way entry (the East Mercer Way entry would not be used as it is in the wrong direction for westbound traffic and would also require travel through residential areas). Traffic going through Town Center could not physically be handled by the existing street grid and would greatly interfere with vehicles trying to use transit by parking at the North Mercer Way Park and Ride. Going to the West Mercer Way entry point would primarily be gained by Island Crest Way traffic turning west onto SE 40th St. and having to drive by the West Mercer elementary school. Neither of these are viable options.

To compound the problem, creating this additional congestion on Mercer Island with the resulting loss of mobility would trigger additional mitigation obligations on the part of WSDOT and Sound Transit pursuant to the 2004 Amendment; these might include, for example, constructing additional and very expensive I-90 exit and entry ramps taking traffic either over or under our Town Center. Consequently, the only practical way to address the safety concern identified in FHWA's June 22, 2011 letter is by enabling Mercer Island traffic, including SOV traffic, to use the R-8A HOV lanes.

This safety issue will still be there when East Link becomes operational in 2023. While the commencement of East Link service will address some of the loss of mobility, the analyses done by Sound Transit acknowledges that much like every other community, a significant majority of people will continue traveling by vehicle rather than rail. Combining this with the predictions of population growth means that access to the R-8A lanes will continue to be necessary even after Eastlink becomes operational.

Together with WSDOT and Sound Transit, the City of Mercer Island is eager to work with our federal partners to find a way forward. Our Mayor, Bruce Bassett, is scheduled to be in Washington, DC, on June 22nd for meetings regarding this matter. We would welcome the opportunity to discuss this with you in advance of that trip and during that trip as our goal is to work with your office, WSDOT and Sound Transit to find a mutually acceptable solution. Thank you in advance for your consideration.

Sincerely,



Steve Lancaster
Interim City Manager

cc: Roger Miller, Acting Secretary - WSDOT
Peter Rogoff, Sound Transit Chief Executive Officer
Mercer Island City Council



U.S. Department
of Transportation

**Federal Highway
Administration**

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August 5, 2016

HDA-WA/WA342

Roger Millar
Acting Secretary of Transportation
Washington State Department of Transportation
Olympia, Washington

Steve Lancaster
Interim City Manager
City of Mercer Island
Mercer Island, Washington

**Interstate 90 High Occupancy Vehicle
Operations on Mercer Island**

Dear Mr. Millar and Mr. Lancaster:

I am writing in response to your May 16, 2016 and May 31, 2016 letters, respectively, regarding Interstate 90 (I-90) High Occupancy Vehicle (HOV) operations on Mercer Island and the access of Mercer Island to those lanes. Mr. Millar's letter notes:

“In order to ensure mobility of its residents when the center roadway closes next year and the new HOV lanes open, Mercer Island would like a commitment that all traffic to and from Mercer Island, including SOVs, can continue to access the new HOV lanes.”

The letter further asks whether it is within the authority of USDOT to grant either permanent or temporary single occupant vehicle (SOV) access to the new HOV lanes for Mercer Island traffic. Currently, the only exceptions for SOVs in designated HOV lanes are for motorcycles, public transportation vehicles, high occupancy toll (HOT) vehicles, and low emission and energy-efficient vehicles.

We have consulted with our Headquarters Offices of Chief Counsel, Operations, and Innovative Program Delivery. Based on a review of the relevant statutory provisions in 23 USC Sections 129 and 166, FHWA has determined that USDOT does not possess legal authority to grant either a temporary or permanent waiver to permit SOV access to HOV lanes.

The remainder of this letter discusses Federal law on HOV occupancy requirements, our observations on the history of this issue, and finally some possible solutions moving forward.

Federal Law on HOV Occupancy Requirements

There were no Federal HOV regulations or policy in the 1970s and 80s when the I-90 roadway across Mercer Island was being planned, designed, and constructed. The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and Transportation Equity Act for the 21st Century (TEA-21) of 1998 both contained sections that allowed states to set HOV occupancy requirements at two or more occupants, with the exception of motorcycles (and bicycles, unless it creates a safety hazard).

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), enacted in 2005, required states to establish an HOV occupancy requirement at no fewer than two persons per vehicle with mandatory exceptions for motorcycles (and bicycles, unless it creates a safety hazard) and optional exemptions for public transportation vehicles, low-emission and energy-efficient vehicles, and HOT vehicles (ineligible vehicles willing to pay a toll to use the facility). See 23 USC 129(a)(10)(A), 166(a)(2), and 166(b).

It is important to note that these provisions do not allow an exception to the occupancy requirements in HOV facilities for a narrowly defined group of drivers or residents (e.g., within a specific geographic location) or for a specific access point (e.g., a direct access ramp to HOV lanes). Federal law also does not differentiate between vehicles initially accessing an HOV facility or being allowed to continue in the HOV facility. Even if a vehicle accesses the HOV lane via a direct access ramp and immediately merges into a general purpose lane, that vehicle is using the HOV facility and is subject to 23 USC 129 and 166.

Observations on History

Mr. Lancaster's letter provides an insightful summary of the history of this issue, dating back to the 1976 Memorandum of Agreement (MOA). The FHWA has reviewed this information, along with our own files. The 1976 MOA was between the City of Mercer Island, City of Seattle, City of Bellevue, King County, Metro, and Washington State Highway Commission. The 2004 amendment to the MOA was between the City of Mercer Island, City of Seattle, City of Bellevue, King County, Central Puget Sound Regional Transit Authority, and Washington State Transportation Commission. The FHWA was not a party to either the original or amended MOA. Further, FHWA has no record that it was consulted during the development of the 2006 and 2007 letters mentioned on Page 3 of Mr. Lancaster's letter.

The 2004 FHWA Record of Decision (ROD) for the I-90 Two-Way Transit and HOV Operations Project, in which Alternative R-8A was selected to add HOV lanes on the outer roadway, does not in any way grant approval or imply future approval of allowing Mercer Island SOV traffic to use the HOV lanes on the outer roadway. Rather, the ROD states:

“Alternative R-8A will provide HOV lanes on the outer roadways. It will retain the existing reversible operations on the center roadway, with both lanes operating in the same direction, westbound in the AM and eastbound in the PM. SOVs will only be allowed to use the center roadway between Rainier Avenue in Seattle and Island Crest Way on Mercer Island. The center and outer roadway HOV lanes will likely operate with a 2+ occupants per vehicle restriction.”

The 2011 FHWA Record of Decision (ROD) for the East Link Light Rail Transit Project also does not give approval or imply future approval of allowing Mercer Island SOV traffic to use the HOV lanes on the outer roadway. Furthermore, the ROD makes no mention of Mercer Island SOV traffic using the HOV lanes. The FHWA submitted the following comments to the Draft Environmental Impact Statement (DEIS) in 2009 with respect to Mercer Island SOV traffic in the HOV lanes, specifically DEIS comment #18 and FHWA Approval Action #5:

“18. Page 3-43, second column and Page 3-92, second column

The text states vehicles to and from Mercer Island would be allowed to use the outer roadway HOV lanes as long as the lanes meet performance standards or until such a time as they are managed differently based on the WSDOT and the Mercer Island Access Plan. The paragraph below then states that the HOV lanes already operate unacceptably near Rainier Ave S and would also fail near Island Crest Way. If the HOV lanes already do not meet performance standards, why is there a proposal to allow the SOVs to Mercer Island to use the HOV lanes? In addition, it is likely their movements from the HOV lanes to the ramps on Mercer Island would introduce additional weave, resulting in impacts to safety and operations. Lastly, how would the HOV lanes be enforced through this stretch? FHWA currently does not have enough information to be able to support allowing Mercer Island SOV traffic to use the HOV lanes.

5. Page 3-43, second column and Page 3-92, second column

The text states vehicles to and from Mercer Island would be allowed to use the outer roadway HOV lanes as long as the lanes meet performance standards or until such a time as they are managed differently based on the WSDOT and the Mercer Island Access Plan. (See NEPA comment 18 above)

Since this plan would modify the eligibility of who qualifies to use the HOV lanes, FHWA believes we would have to concur in allowing this usage. With parts of the HOV lanes already not meeting performance standards, the potential safety and operations issues from weaving, and the enforcement issue, we are not sure we can support allowing Mercer Island SOVs using the HOV lanes.”

Also in 2011, FHWA approved the East Link Transit Project Interchange Justification Report (IJR). However, based on meetings and discussions, it is clear that FHWA consideration of Mercer Island SOV traffic in the outer roadway HOV lanes was not part of the IJR. Page ES-5 of the IJR states:

“With the access modifications from the I-90 Two-Way Transit and HOV Operations Project and the East Link Project, the traffic analysis assumed Mercer Island single-occupant vehicles (SOVs) would be able to use the HOV lanes in both directions of I-90 between Seattle and Island Crest Way. This was assumed to demonstrate that it does not affect the results of the analysis and represents a worst-case condition. This assumption does not represent approving SOVs using the outer roadway HOV lanes or the eastbound left-side off-ramp to Island Crest Way. Any changes to the HOV lane eligibility— such as tolling, managed lanes, or Mercer Island SOV use—would need to be addressed in a future analysis, approval, and agreement.”

During project development of the I-90 Two Way Transit and HOV Operations and East Link Light Rail Transit projects, our assumption was that with a major change to the typical section of I-90, the revised typical section and operations would meet current law, hence our concerns noted above in the ROD and IJR.

Between the two RODs, the IJR, and various meetings and informal discussions over the past decade, it should have been abundantly clear to all parties that our formal actions did not constitute official approval of Mercer Island SOV usage of the new outer roadway HOV lanes, nor should they be implied as such. It has always been our understanding that this matter would be addressed at a future date.

In late 2015, I was contacted by Lorena Eng (WSDOT Northwest Region Administrator) informing me that WSDOT, Sound Transit, and the City of Mercer Island would begin developing a Concept of Operations for the HOV lanes that at a minimum considers performance standards, enforcement, and cost

of operations. It was further explained that this effort would serve as a decision-making framework to consider whether or not to pursue Mercer Island SOV access to the new outer roadway HOV lanes. During these discussions, WSDOT formally asked for FHWA input, and in January 2016 I informed Lorena that allowing Mercer Island SOV access to the new outer roadway HOV lanes would violate Federal law.

Possible Solutions

We understand the unique importance of I-90 to Mercer Island as its sole access on and off the island. Keeping this in perspective, it is our understanding that there are 15 access points (entrance and exit ramps) to and from I-90 and Mercer Island surface streets today, and that after the center roadway is closed and the outer roadway HOV lanes are complete, there will continue to be 15 total access points.

While FHWA is restricted by Federal law in allowing SOV access to HOV lanes, we are eager to find a solution that works for all users of the I-90 roadway and upcoming East Link Light Rail line. We are particularly interested in solutions that do not adversely impact the safety or operation of I-90. A few possible solutions that would warrant further investigation and discussion include:

- Designating the new outer roadway mainline lanes for part-time HOV usage, such as during daytime hours or peak periods, and otherwise allowing non-HOV usage during off peak times.
- Designating the new outer roadway lanes as HOT lanes, thereby allowing Mercer Island SOV traffic to use the lanes for the prevailing price.
- Pursuing other project mitigations, such as new or modified access points, traffic operations improvements, and/or demand management strategies.

We regret any confusion that may have arisen regarding FHWA's authority and position on the issues raised in your letters. I look forward to continuing our discussions so that we can reach a fair and legal solution. Please let me know if you have any questions or need additional information.

Sincerely,



DANIEL M. MATHIS, P.E.
Division Administrator

cc via email: Gregory Nadeau, David Kim, Butch Waidelich, Jan Brown, David Howard, Tom Echikson, Jeff Lindley

Light Rail Impacts & I-90 Access Comments

1/19/2017 to 2/1/2017

#	Date	Name	Comment
1	1/19/2017	Sue Robboy	Please be aggressive in defending our mobility
2	1/20/2017	Lisa Casterella	What is going to happen to all of the drivers from the Bellevue P and R who will need parking when their P and R closes? Are permits going to be issued on MI for residents to use the parking spaces on MI? How are medical units going to arrive here safely during peak hours? Going the wrong way during rush hours sounds like a disaster waiting to happen? What is going to happen to people who get in accidents due to the narrowed lanes (under 12 ft wide-Fed Standard)? How will the emergency vehicles be able to get to all of the accidents that will occur? I'm very concerned for our many elderly with health problems and kids who might have accidents and need quick access to the hospitals and EMT. This could have long term impact on home values schools employees trying to get to their jobs on and off the Island.
3	1/20/2017	Scott Fallis	My main concern is the loss of the ICW Westbound on-ramp. Also concerned that Buses will not have proper access to entering and exiting the freeway on MI with the closure of so many on/off-ramps. In my opinion the MICC should be seeking an update to the outdated EIC (in court if necessary) prior to center lane closures. Once closed it seems like we lose any leverage we currently have.
4	1/20/2017	Patrick E. Sheehan	1. SOV access must be satisfactorily resolved before I-90 closure -- either WB SOV access via current ICW on-ramp or new WB SOV on-ramp built from ICW or agreement to allow SOV from current ICW ramp until new ramp is opened. 2. Commuter parking must be addressed e.g. expansion/use of either Community Center parking or use of "Kite Hill". No parking garage in TC. 3. Increased (frequency/hours) bus service to feed the P&R. 4. Bus intercept makes sense as long as it is not an increase from current bus traffic on MI e.g. 504 550.
5	1/20/2017	Bart Dawson	WSDOT plans to eliminate the one entrance in Town Center to the westbound HOV lanes. This significant traffic revision will require all HOV traffic from the high density Town Center to travel approximately an additional two miles south to SE 40th Street in order to use the Island Crest westbound HOV on ramp. Forcing additional travel is unacceptable. ... Please rebuild the intersection of SE 30th Street Island Crest Way and the HOV on ramp to accommodate turns from SE 30 Street north to the HOV on ramp. This change will require traffic lights at the modified intersection. The costs of the intersection modifications should be paid by WSDOT and/ or Sound Transit.
6	1/21/2017	Roberta Lewandowski	I'm very concerned about impacts to our city center if all the ICW traffic is diverted to another I-90 entrance. The center is already having too many ped/car collisions. I also think it's unrealistic to keep SOV access to HOV lanes unless they are tolled. There is already congestion on the HOV lanes some times of day and one lane will disappear. Tolling is the best way to manage congestion on the HOV lanes and maybe the general purpose lanes as well.
7	1/21/2017	carol heltzel	I think it important for the city to record listening sessions. Certainly there must be a way. One islander manages to do so at every city meeting without very sophisticated equipment.
8	1/25/2017	Brad myers	Please use all means necessary to keep our access

Light Rail Impacts & I-90 Access Comments

1/19/2017 to 2/1/2017

#	Date	Name	Comment
9	1/25/2017	Claire Marks	I would like the Mercer Island City leaders to be lobbying for massively increased bus transit on Mercer Island so that all island residents can access the light rail. The reduction of route 204 to once an hour (happened 2.5 years ago) has rendered it nearly useless. It needs to run every 15 minutes so that people can use to get around effectively. We also need expanded routes that allow most residents a quick easy access to the light rail and people who live off island to easily access on island work places (school teachers for example). I feel that a very vocal minority is skewing public perception of what most islanders want. A large group of us support light rail and public transit and don't want SOV in HOV lanes. What I do want is to be able to park at the park and ride at any time of day and take my kids on the bus/light rail to Seattle or Bellevue. I also want much better on island bus transportation.
10	1/25/2017	Elizabeth Sherpa	I strongly disagree with allowing light rail to take away existing lanes on I-90. I also strongly disagree with the proposed loss of SOV access for Islanders and creating a bus park in our downtown. Current Island government has shown no vision or comprehension of the consequences of these ill planned developments. The strongest legal measures should be taken to block all of them.
11	1/25/2017	Toni Okada	I attended the Listening Session with the new City Manager. A major concern that was expressed was the lack of access for emergency vehicles when the center roadway of I90 is shut down. I think we should ask Sound Transit to pay for a heliport on Mercer Island as part of the mitigation fee. I also am very much in favor of the proposal submitted by David Giuliani "Get Maximum Value from the I-90 Center Roadway". Light rail is old technology. There are much better technologies available now which would not require the center roadway to be used exclusively for rail. By the time the light rail is finished we will be that much further behind the developing technologies. Now is the time to rethink light rail - before it is built.
12	1/25/2017	Jenny Selby	The only two options may be: 1) litigation and 2) extending ICW to a new legal on ramp to the outside lanes of I-90. To do nothing is not an option. MI will be strangled and the lives of every MI citizen endangered due to an inability to access medical care swiftly.
13	1/25/2017	Kathryn Hoffman	I am very concerned about the anticipated loss of access to I-90 for Mercer Islanders both in terms of the loss of express lane access and the loss of single occupancy access at Island Crest. Currently one can encounter eastbound access backups in the downtown district. With the changes being proposed I am concerned there will also be considerable congestion on the north end related to drivers trying to access west bound I-90 including in the residential areas. This would last for several years even if it was mitigated somewhat when the light rail was actually completed. (That mitigation assumes that Islanders will be able to find parking to access the light rail.) The congestion will only be exacerbated by the increased bus traffic proposed. This congestion is likely to be severely detrimental to both the lifestyle and property values of Islanders. Addressing this should be the city's top priority. I believe the city council should take all action necessary to ensure better highway access and avoid these serious losses for Islanders. Thank you for your attention to these concerns.
14	1/25/2017	DEBRA GIBBS	Revoke the SEPA permit. Simple you need to step up and play hardball before being railroaded into some mitigation package that is akin to putting a band aid on a gunshot wound. I want to hear what city officials see as leverage other than that? Are there consequences unknown to the public in going that route. I feel this issue is being handled very opaquely and wonder why the city did not anticipate this problem two years ago?

Light Rail Impacts & I-90 Access Comments

1/19/2017 to 2/1/2017

#	Date	Name	Comment
15	1/26/2017	DM	(Please redact email and name should comment be posted for public view.) Out of the box workaround strategy for success: Attain support from new transportation Secretary Elaine Chao (http://www.biography.com/people/elaine-l-chao-214142#profile). Previous Fed Transportation was denied but new opportunity to try again. Wa Light Rail is dependent on Federal funding and not listening to those directly impacted.
16	1/30/2017	Ed Weaver	PROBLEM: The studies model impacts but there is much uncertainty because of questionable assumptions not taking important factors into account not accounting all the impact (such as queuing through diversion routes) general uncertainty with models and distrust with ST & WSDOT. The ST models don't meet the sniff test. SOLUTION: Do EMPIRICAL test of closing ramps and diverting traffic as proposed for 2 weeks and MEASURE & DOCUMENT the impacts: - If the impacts are not so bad then the test will help alleviate the deep fears of MI residents. - If the impacts are bad then the models are flawed and and ST & WSDOT will be compelled to reconsider the options. Of course careful planning will be required to measure ALL the impacts (time street volumes accidents pedestrian impacts access to town center w/o leaving MI access to park & ride LOS at all intersections ramp queues school children risks school bus delays peak AND non-peak impacts etc. etc.). This is not my idea but I reiterate it because it has a chance to either resolve the concerns OR provide objective data to challenge the models and compel aggressive counter-action.
17	1/30/2017	Ed Weaver	Please address: 1) Timing of I-90 center roadway closure and station construction. Some suggest the center roadway could be left open up to 4 years longer than planned while other parts of construction taking place. True or false? 2) What truly are the legal options for MI? What leverage does the SEPA Permit provide: Can it be pulled? Until when? What happens if pulled? Etc.
18	1/31/2017	Jennifer Selby	Why did the City Council sign the shoreline permit for Sound Transit without negotiating any benefits to Mercer Island? Based on the recent City Council meetings I have attended it appears as if The City Council is not getting any agreements in writing from Sound Transit or WSDOT for things like notice of BV park and ride closure deadlines for submitting design feedback agreements on MI Park and Ride license plate studies and so on. Why doesn't the MI City Council get agreements in writing?
19	2/1/2017	Eric Dahlberg	in my opinion the city should be pulling the shoreline permit and beginning legal action to influence the light rail project. we aren't wielding any leverage in current negotiations and time is running out. thus far the city has consistently been played for a fool in negotiations with WSDOT Sound Transit etc. we are not negotiating from a position of strength and every day that ticks by weakens our position even more. the city council has failed to stand up for and successfully advocate for the best interests of citizens but it isn't too late. time to find a backbone and introduce some hardball into the conversation.
20	2/1/2017	Annie Robbins	Very concerned about lack of Island Crest on-ramp and what that will do to traffic. The impact this will have on teachers traveling to the island. Would consider a move back to Seattle if traffic increases significantly.
21	2/1/2017	Patrick Yung	The use of the HOV lane to and from Seattle from Mercer Island is a key aspect of both my wife and my commute and why we chose to live in Mercer Island. Irrespective of the other changes we both feel that keeping this provision is a key right of being a Mercer Island resident that we need to fight to preserve.

Light Rail Impacts & I-90 Access Comments

1/19/2017 to 2/1/2017

#	Date	Name	Comment
22	2/1/2017	sara seumae	I work in downtown seattle. Although there is a bus that can take me to and from work I'm unable to get my kids off to school and be able to park at the park and ride in the mornings. So I am left to drive. I was delighted to hear about the building of the lightrail but see now that it will have a more negative impact on residents. This is not a fix to our congestion problem it's a band aid that will be removed. At least now I can take the carpool lane to downtown seattle in the morning and be at work on time. I'm concerned about how I can do this with the lightrail.
23	2/1/2017	Leah Gale	I think the city and state are underestimating the negative impact all of this will have on traffic. A big worry is for the teachers that don't live on Mercer Island but need to commute from Seattle or the Eastside.
24	2/1/2017	Meena Millman	Please take a hardline stand! I am particularly concerned about the following: 1. Loss of Single Occupancy Vehicle (SOV) access to I-90 W from Island Crest Way ramp and the elimination of the 77th Street westbound express lane ramp will divert 1100 cars per hour during peak times. 2. Inadequate M.I. Park and Ride capacity. 3. Extensive back-ups at I-90 on and off ramps. 4. Safety Concerns on I-90: a.New skinny lanes just 10.5' wide b.Elimination of vehicle shoulders for breakdowns and collisions c.Limitations on emergency responders and capabilities 5. Increased commute times. 6. Adequate "last mile" connections to light rail.-- problems for teachers! 7.MISD teacher and staff retention. 7.Possible decrease in housing values. 8.Planned bus turnaround (bus staging area for all eastside buses) clogging northend streets. 9.Environmental impacts including air quality safety and noise. AT ANY RATE--MUST INCREASE EMERGENCY SAFETY FOR RESIDENTS. NEED LADDER FIRE TRUCK ACCESS TO HEALTH CARE IN AN EMERGENCY.
25	2/1/2017	Sara Weiss	Both my husband and I are physicians. The proposed changes to I-90 will greatly impact our ability to work in Seattle and could compromise patient care. We are counting on the city of MI to advocate on behalf of our community to preserve our mobility. Thank you.
26	2/1/2017	Graeme Gibson	I have followed the ongoing issue of Light Rail I-90 mobility and access since my family moved to Mercer Island a year ago. From what had been publicly available I have been surprised that the rights and access ways to Mercer Island have not been protected in spite of the past agreements that have been made. While I believe the loss of access to freeway onramps and HOV access by SOV may cause property values to decrease as well as desirability to live on Mercer Island I have larger concerns regarding on and off Island emergency services and accessibility by employees who work on Mercer Island. This includes government workers maintenance and most importantly teachers and administrative staff who work at our numerous schools. This lack of access or even potential tolls will potentially limit quality applicants and current teachers from maintaining their positions. Mercer Island has a history of making smart planning decisions and is effectively being punished by the changes being forced upon us or being agreed to by the city decision makers. As a resident and in defense of our teachers and fellow commuters I expect our city council members and Mayor to use every resource to maintain our access points and agreements that were signed back in 1976. Sincerely Graeme Gibson
27	2/1/2017	Lam Nguyen-Bull	Really concerned about the effects to ICW with loss of SOV access to I90 from ICW. My husband and I each commute to Seattle my children are school-aged and participate in many activities that take us off-Island to the West and to the East. This change seems like it will have the effect of causing congestion all over the Island. Already with the addition of Northwood Elementary night-time traffic around the school is nervewracking because of increased pedestrian traffic in the dark. It's just hard to see people crossing the streets around the school.It's already bad - it will only get worse. Let's make sure people are safe! And that we don't spend additional hours of our lives in traffic.

Light Rail Impacts & I-90 Access Comments

1/19/2017 to 2/1/2017

#	Date	Name	Comment
28	2/1/2017	Ray Martial	The reason we chose MI as the place to live 6 yrs ago was "MI was U.S #2 best place for live and learn". I want and hope MI continue to hold onto that reputation. Losing the HOV lane will definitely have impact on the value of MI.
29	2/1/2017	Mike Schreck	City Council Please do not take our ingress/egress away from us on I-90. Life time concerned resident Mike Schreck
30	2/1/2017	Alice	As one of the majority of MISD teachers who live off the island proposed tolls and limited access of I-90 could make working here much more difficult. I read the letter sent by MISD and agree wholeheartedly with their proposals. I appreciate you taking them into consideration and taking the time to understand how such proposals to I-90 can adversely impact us.
31	2/1/2017	Alison Stovall	While it is essential that as a region we improve our mass transit options in the future it is important that Mercer Island maintains an appropriate transportation infrastructure that does not diminish the safety or functionality of our community during and after light rail implementation. My concerns include but are not limited to: - Proposed Sound Transit traffic diversion plan that will divert traffic by West Mercer Elementary. MISD teacher and staff retention - see MISD School Board Letter. - Loss of Single Occupancy Vehicle (SOV) access to I-90 W from Island Crest Way ramp and the elimination of the 77th Street westbound express lane ramp will divert 1100 cars per hour during peak times. - Gridlock on Town Center streets and intersections. - Pedestrian cyclist and vehicle safety. - Inadequate M.I. Park and Ride capacity. - Extensive back-ups at I-90 on and off ramps. - Safety Concerns on I-90: New skinny lanes just 10.5' wide elimination of vehicle shoulders for breakdowns and collisions limitations on emergency responders and capabilities - Increased commute times. - Adequate "last mile" connections to light rail. - Possible decrease in housing values. - Planned bus turnaround (bus staging area for all eastside buses) clogging northend streets. - Environmental impacts including air quality safety and noise. Please continue to advocate for our community's best interests.
32	2/1/2017	Nate Larson	I'm excited about the increase in property values and the DECREASE in commute times regional transit access will bring compared to doing nothing. Our community's off-island workers including teachers will soon have ALL DAY access to an HOV lane from EACH direction (which is BETTER for emergency vehicle access not worse) rather than the current system that ONLY favors island residents who commute to Seattle. The plan is not perfect and there are issues Sound Transit and the FHWA need to address but MI staff and Council should acknowledge that many of the sentiments that form the basis of the points in the PTSA statement and recent petition are not informed by current facts or sufficiently complex reasoning. Negotiate and decide based on science not emotion and take pride in doing the best you can even if someone else is convinced they could have done better.
33	2/1/2017	amie fahey	Please look out for Mercer Island residents - one of the reasons we moved here is because of the convenience of living on MI with the express lanes and the island crest way on ramp. How can you possibly be considering letting it go away? Be firm in your negotiations - the island relies on you!!
34	2/1/2017	Claudia Harner-Jay	PLEASE be more proactive about solutions. If we lose mobility why hasn't the city started investigating shuttle buses for residents to get to the bus and ultimately light rail? Much like the Microsoft Connector buses? You are focused on the issue in front of us- limited access to lanes- but how else can we solve these challenges especially for commuters?
35	2/1/2017	Carmen Angiuli	Concerned about the impact of mobility both on and off Island. Ability to attract and keep teachers who live off Island.

Light Rail Impacts & I-90 Access Comments

1/19/2017 to 2/1/2017

#	Date	Name	Comment
36	2/1/2017	Angela Brown	Members of the city council are not acting in the best interest of island residents. WAKE UP CALL FOLKS!! Why aren't they drawing a hard line against ST and against developers who want to build build build and overpopulate our island? Why are they bowing down to Seattle and Bellevue and big development and not standing up for islanders? The only reason I can see is to generate personal political gain create their personal legacy in the political arena to better their political careers! It isn't 'okay' and it isn't 'right' -- YOU ARE SUPPOSED TO REPRESENT US!! We want to maintain our quality of life. City Council members: STOP the insanity NOT JUST with ST BUT ALSO with developers who are overbuilding and over populating our island!!
37	2/1/2017	Thellea Leveque	Four critical issues: 1) do not divert traffic past a school (Northwood or west mercer) 2) consider traffic mitigation strategies throughout the north half of the island such as widening streets 3) sov access on Hov lane is a MUST! 4) due to increased traffic/congestion on/off island EMS based on mercer island is a MUST!
38	2/1/2017	Eric Radman	The City needs to put a "Full Court Press on WSDOT and get much more aggressive with them. Not just issuing a passive statement about lawsuits but you need to actively look for any way to gain leverage against WSDOT. The City needs to be ready to fight with every option available. I'm not convinced this is happening. What leverage can the City use to get a favorable outcome? Get creative and brainstorm ideas with lawyers city planners and others. What do we have that WSDOT wants? Can we join forces with other cities? This is not a time to be Mr."Niceguy" as this access issue is a huge concern.
39	2/1/2017	Sharon Singh	I have only lived on Mercer Island for 18 months (moved from Kirkland)and only in the last couple of months come up to speed on this project. Please please this is a nightmare situation not only to retain good quality teachers to the island and especially the south end when they have to deal with gridlock traffic but now also the idea of losing the west bound on ramp the traffic around our school will be incredibly dangerous. I see children walking and biking all over. Please Do Not let this go through.
40	2/1/2017	Carlo Malaguzzi	It is evident that we will have a light rail that was approved as part of a more general enthusiasm for public transport and regional goodwill but will have a lot of downsides for islanders; and that our city council has not appreciated in time the importance of the impacts on islanders or put up an aggressive approach to optimize the situation. I-90 traffic will be a growing mess (a downside for all the region but with repercussions on the quality of our city center in terms of gridlock pollution and safety) while islanders won't be able to derive enough benefits because there are no solutions to the parking or last mile access. R8A changes are not only insufficient (lanes size closure of too many ramps) but demonstrate that ST and WSDOT have not coordinated at all this plan since buses won't be able to use the HOV lanes one of the requirements to allow the closure of the central lanes. On top of this previous rights of islanders (SOV preferential access) have been forfeited without even discussing them. All this is very disappointing and at this point there may be little that we could do; but I do believe that we should do all that is still possible (including revoking the EIS permits or what enables the R8A) until either some acceptable mitigation is offered or SOV access is approved or HOT lanes are implemented (with special MI year-round fees).



**Washington State
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February 1, 2017

The Honorable Bruce Bassett
Mayor, City of Mercer Island
9611 SE 36th St.
Mercer Island, WA 98040

Dear Mayor Bassett,

Thank you for meeting with Representative Clibborn, Sound Transit CEO Peter Rogoff and me on January 23, 2017 to continue our dialogue on the I-90 re-evaluation analysis. At that meeting you requested that I provide you with a letter indicating WSDOT's intent on the issue of Mercer Island access to and from I-90. Please consider this letter an update in response to your request.

For decades now, we have actively engaged and consulted with both affected and interested parties regarding the future operation of I-90 between Mercer Island and Seattle. This engagement dates back to the 1970s as well as studies that led to the selection of Alternative R-8A in 2004, through the ongoing I-90 Two-Way Transit and HOV Operations project, and looking forward to the imminent construction start of Sound Transit's light rail system within a decommissioned I-90 center roadway in June 2017. As we were moving forward to consider options to address Mercer Island's access to I-90, information came from the Federal Highway Administration in an August 2016 letter that removed some options from the table. That letter stated unequivocally "that USDOT does not possess legal authority to grant either a temporary or permanent waiver to permit [single occupancy vehicle] SOV access to [high occupancy vehicle] HOV lanes." This statement was specific to both access via a freeway ramp entering a mainline HOV lane and travel within the mainline HOV lane.

At our January 23rd meeting you reiterated that it is essential that SOV access be maintained to I-90 via Island Crest Way. As detailed in the August 2016 FHWA letter, once the new HOV lanes are in operation and the center roadway is closed, federal law prohibits allowance of SOV traffic in the HOV lanes. This is a federal requirement that the State cannot change and with which WSDOT obligated to comply.

Since this past August WSDOT, City of Mercer Island, Sound Transit and FHWA staff have met regularly and worked together to identify 12 alternatives for I-90 access to and from Mercer Island. The team also analyzed 12 additional alternatives proposed by the citizens of Mercer Island. After all of that productive work, we believe there are three long-term options we could move forward to study and consult upon further to address access to I-90 from Island Crest Way. All three of these options will need a regional conversation about whether or not they are operationally and financially feasible and if the larger region is interested in pursuing them. Those three options are:

- 1) **Build a new on ramp connecting Island Crest Way to the right side of westbound I-90.** As part of the interagency meetings, the City requested investigating the potential for a new ramp. It is our understanding that preliminary work to date has yielded several very costly options, likely exceeding \$60 million. FHWA has not yet been consulted on this idea related to requirements such as Interstate interchange spacing, layout specifics, and other design and operational considerations. It is our understanding that staff expect to finish work on this idea and issue a briefing paper within the next few weeks.
- 2) **Convert some portion of the I-90 HOV lanes to High Occupancy Toll (HOT) lanes.** FHWA has stated that if Island Crest Way were converted to a HOT ramp, it would need to connect to a HOT lane on the mainline. There are many requirements for a HOT lane, including meeting performance requirements and allowance for adequate ingress and egress opportunity for motorists traveling on I-90. If there is regional interest in this option and funding were made available by the Legislature, WSDOT could study this option. Amongst other actions, a HOT lane alternative will require legislative authorization, funding for and completion of an operations and tolling analysis, FHWA approval, regional concurrence on implementation, Washington State Transportation Commission action on toll rates and exemptions, and ultimately funding from the Legislature to construct, maintain and operate.
- 3) **Convert the R-8A HOV lanes to General Purpose lanes between Island Crest Way and Seattle.** This option would require a regional policy discussion to alter the goals of regional mobility and management of the Interstate system. Travel impacts to transit and HOV-eligible vehicles along the entire Eastside I-90 corridor would need to be taken into account. Additional considerations would include environmental review, as well as potential repayment of both local and federal funds that have already been invested in the HOV lanes on this portion of I-90.

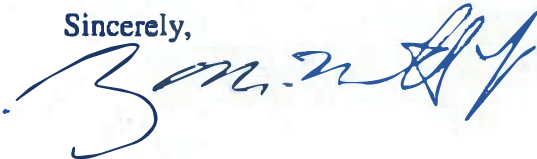
While we continue to discuss these long-term alternatives with the affected parties, including the City, we will be turning the center lanes over to Sound Transit this summer to build the East Link project. When we take that step, we want to make every reasonable effort to provide additional mitigation impacts to Mercer Island traffic, as identified in the transportation analysis being conducted by Sound Transit and WSDOT. Moving forward, WSDOT's intent is to:

- 1) **Continue to work with the City of Mercer Island and Sound Transit to summarize key data analysis assumptions used within the most recent Sound Transit/WSDOT traffic analysis and the City's separate traffic analysis.**

- 2) Continue to work with City of Mercer Island and Sound Transit staff to finalize a list of necessary on ramp and potential local street improvements to accommodate future changed operations, and develop scope, schedule and design to complete implementation as soon as practical.
- 3) Continue to work in coordination with Sound Transit, and in consultation with the City of Mercer Island and FHWA to document recent analysis and conclusions on the effect of Mercer Island mobility in the future with I-90 HOV lanes and light rail in construction and operation.
- 4) Successfully complete the I-90 Two-Way Transit and HOV Operations project allowing regional light rail construction to begin on I-90.

Thank you again for our recent discussion and the furtherance of our ongoing dialogue. I look forward to continuing to consult with you and the other parties involved to find solutions that can address Mercer Island's mobility needs.

Sincerely,

A handwritten signature in blue ink, appearing to read "Roger Millar", written over a light blue horizontal line.

Roger Millar, PE, AICP
Secretary of Transportation

Cc: The Honorable Dow Constantine, Executive, King County
The Honorable John Stokes, Mayor, City of Bellevue
The Honorable Ed Murray, Mayor, City of Seattle
Mr. Peter Rogoff, Chief Executive Officer, Sound Transit
The Honorable Judy Clibborn, Washington State House of Representatives



CITY COUNCIL PLANNING SCHEDULE

All meetings are held in the City Hall Council Chambers unless otherwise noted.
 Special Meetings and Study Sessions begin at 6:00 pm. Regular Meetings begin at 7:00 pm.
 Items listed for each meeting are not in any particular order.

FEBRUARY 3 (FRIDAY) – 5:00 PM–7:00 PM

<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
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FEBRUARY 4 (SATURDAY) – 8:30 AM–5:30 PM

	2017 PLANNING SESSION (MICEC)	
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FEBRUARY 6 – 5:30 PM

Item Type	Topic/Presenter	Time
<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
<i>Regular Business</i>	I-90 Loss of Mobility Negotiations Status Report – J. Underwood	30

FEBRUARY 14 (TUESDAY) – 9:00 AM–10:30 AM

<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
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FEBRUARY 21 (TUESDAY) – 5:30 PM

Item Type	Topic/Presenter	Time
<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
<i>Consent Calendar</i>	Open Space Conservancy Trust Board Annual Report and Work Plan – A. Sommargren	--
<i>Consent Calendar</i>	ARCH 2016 Trust Fund Recommendation – A. Van Gorp	--
<i>Consent Calendar</i>	ARCH 2017 Administrative Budget and Work Program – A. Van Gorp	--
<i>Regular Business</i>	I-90 Loss of Mobility Negotiations Status Report – K. Taylor	30
<i>Regular Business</i>	Outdoor I-90 Sculpture Gallery Name Change – K. Fulginiti	30
<i>Regular Business</i>	Closing Criminal Justice Fund (2017-2018 Budget Amendment) – C. Corder	30
<i>Regular Business</i>	Parks & Recreation Department Name Change – B. Fletcher	30
<i>Regular Business</i>	Island Crest Park Ballfield Advertising – D. Fletcher	30

FEBRUARY 28 (TUESDAY) – 9:00 AM–10:30 AM

<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
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MARCH 6 – 5:30 PM

Item Type	Topic/Presenter	Time
<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90

<i>Special Business</i>	Presentation from King Council Councilmember Claudia Balducci	10
<i>Consent Calendar</i>	Department of Social & Health Services Interlocal Agreement for Respite Care Services Reimbursement – D. Mortenson	--
<i>Regular Business</i>	I-90 Loss of Mobility Negotiations Status Report – K. Taylor	30
<i>Regular Business</i>	Code Amendment Modifying MICC Chapter 3.32 Pertaining to Emergency Management Administration (1st Reading) – A. Spietz	10
<i>Regular Business</i>	Code Amendment Modifying MICC Chapter 4.20 Pertaining to Claims for Damages (1st Reading) – A. Spietz	10

MARCH 14 (TUESDAY) – 9:00 AM–10:30 AM

<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
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MARCH 20 – 5:30 PM

Item Type	Topic/Presenter	Time
<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
<i>Regular Business</i>	I-90 Loss of Mobility Negotiations Status Report – K. Taylor	30

MARCH 28 (TUESDAY) – 9:00 AM–10:30 AM

<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
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APRIL 3 – 5:30 PM

Item Type	Topic/Presenter	Time
<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
<i>Study Session</i>	NPDES Stormwater Code Update – P. Yamashita	60
<i>Regular Business</i>	I-90 Loss of Mobility Negotiations Status Report – K. Taylor	30
<i>Regular Business</i>	NPDES Stormwater Code Update (1 st Reading) – P. Yamashita	60
<i>Regular Business</i>	General Sewer Plan Update – A. Tonella-Howe	45

APRIL 11 (TUESDAY) – 9:00 AM–10:30 AM

<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
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APRIL 17 – 5:30 PM

Item Type	Topic/Presenter	Time
<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
<i>Regular Business</i>	I-90 Loss of Mobility Negotiations Status Report – K. Taylor	30
<i>Regular Business</i>	Fourth Quarter 2016 Financial Status Report & Budget Adjustments – C. Corder	45

APRIL 20 (THURSDAY)

	JOINT MEETING WITH MISD BOARD	
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APRIL 28 (TUESDAY) – 9:00 AM–10:30 AM

<i>Executive Session</i>	To discuss (with legal counsel) pending or potential litigation pursuant to RCW 42.30.110(1)(i) for 90 minutes	90
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OTHER ITEMS TO BE SCHEDULED:

- Code Enforcement Ordinance Update – A. Van Gorp (Q1 2017)
- Light Rail Station Design Oversight – K. Taylor
- Mercer Island Center for the Arts (MICA) Lease – K. Sand
- PSE Electric Franchise – K. Sand
- Zayo Telecom Franchise – K. Sand
- Six Year Sustainability Plan – R. Freeman

COUNCILMEMBER ABSENCES:

- Bassett: February 21