



Transportation and Public Works Meeting Agenda

Thursday, January 16, 2020
4:30 PM to 6:00 PM
SeaTac City Hall – Riverton Room

Councilmembers:
Peter Kwon, Chair
Rick Forschler
Pam Fernald

A quorum of the Council may be present

Staff Coordinators: Will Appleton, Public Works Director; Florendo Cabudol, City Engineer;

TIME	TOPIC	PROCESS	WHO	TIME
1	Call to order		Chair	
2	Public Comment	Please raise your hand if you'd like to speak. Public comments are limited to 10 minutes total, 3 minutes per individual. Time may be reduced for each speaker in order to stay within the overall time limit.	Chair	5
3	Prior Minutes Approval	Approval of Dec 12 Special TPW Minutes	Chair	5
4	Right of Way Permits and the First Amendment	Discussion/Action	Mark Johnson	15
5	International Boulevard Safety Study	Discussion/Recommendation	Mason Giem	15
6	Future Meeting Topics: Sound Transit Parking Tax; Tukwila International Blvd. Reconfiguration; Complete Streets Ordinance; 1% for the Arts on PW Projects;			5
7	Adjourn	Adjourn Meeting	Chair	



Special Transportation & Public Works Committee Meeting Minutes

**Approve Prior
Meeting Minutes**

Thursday, December 12, 2019
4:00 PM – 5:00 PM
SeaTac City Hall – Riverton Room

Members:	Present:	Absent:	Commence: 4:04 PM Adjourn: 5:25 PM
Peter Kwon, Chair	X		
Rick Forschler	X		
Pam Fernald	X		

Other Councilmembers in attendance: CM Tombs

Staff Coordinator: Will Appleton, Public Works Director; Florendo Cabudol, City Engineer;

Other Staff Present: Gwen Voelpel, Deputy City Manager; Mark Johnsen, Sr. Asst City Attorney; David Tomporowski, Transportation Planner

Public Comment.	None
1. Approve Prior Meetings' Minutes	Nov 7 Minutes were approved to move to Council
2. SR 518 Transportation Study Presentation	<p>Presentation by WSDOT staff</p> <p>Thomas Noyes, Senior Transportation Planner with WSDOT, presented the outcome of a State Route 518 Corridor Planning Study, The study came out of a legislative proviso to conduct study of SR 518 corridor, updating a previous corridor study from 2002.</p> <p>There has been a rise in population and employment in the area, resulting in higher demands on SR 518 and connecting corridors; capacity levels are already limited; the Airport is experiencing both passenger and air cargo growth; and there are no plans to modify the I-5/I-405 interchange in the near future.</p> <p>Planned I-405 Bus Rapid Transit (BRT) will set the Right of Way footprint on SR 518 near the Tukwila International Boulevard Station (TIBS). A web stakeholder survey was conducted, asking for "what users want done on SR 518?"</p> <p>Crash analysis was also conducted.</p> <p>The results of the study are summarized by Near-Term (0-6 years), Mid-term (7-15 years), and long-term improvements (20+ years). City of SeaTac Committee members were asked to comment on the recommendations. They expressed agreement with the signage improvements and crash reduction items in the near-term</p>

	<p>recommendations, but also expressed the need to meter the traffic flow leaving the Airport Expressway, prior to entering SR518 heading east. Next Steps:</p>
<p>3. Recycling Contamination Reduction Strategies</p>	<p>Discussion/Action</p> <p>This issue will address the issue of continued recycling contamination in the City. In audits by Recology, the City's contamination level in our recycling stream is at 42% citywide (after education and some customer penalties). Some customers have been fined three times or more.</p> <p>Four potential strategies were presented to the Committee.</p> <ol style="list-style-type: none"> 1. Have single family customers sign an agreement that allows Recology to look at their recycling before pick up, and refuse a dirty load. It is currently not legal in Washington State, but other states are doing this. This was not accepted by the Committee. 2. Requiring all food service providers to use only compostable foodservice products. The committee recommended surveying businesses and residents on this topic. The Airport will require this by all providers starting in 2020. 3. Require plastic straws be available on request only. This is a better option than banning all plastic straws, as some handicapped individuals can only drink from straws. Plastic straws are the 6th most common plastic item in trash. The committee recommended surveying businesses and residents on this topic, and to see if companies would voluntarily agree to this action. 4. Plastic Bag Ban; this was discussed thoroughly. Plastic bags are the second most common litter item. It was pointed out that current standards for paper bags require 90% post-consumer material, which is a good match for the paper that is difficult to recycle at this time. The Cities of Burien and Tukwila are starting this ban in 2020. This is also being considered in the City of Kent. After much discussion, the Committee agreed to pursue more education and outreach before implementing a plastic bag ban and to survey businesses and residents on this topic.
<p>4. Des Moines/SeaTac Interlocal Agreement for new Traffic Signal at 24th Ave S & S 208th Street</p>	<p>Discussion/Action</p> <p>An Interlocal Agreement with the City of Des Moines was presented, in which the two cities will party to install a traffic signal system at the intersection of South 208th Street and 24th Ave South, at the south end of our new Connecting 28th/24th Avenue South roadway. Signalizing this intersection is included in our Transportation Master Plan.</p> <p>The intersection is fully within the City of Des Moines at our southern border, but is bounded on three sides by City of SeaTac properties. Currently, there are stop signs on the east/west legs of the intersection, and travel is unimpeded flowing north and south. North/south traffic volumes are expected to increase due to upcoming Sound Transit and SR509 construction.</p>

	<p>The City of Des Moines is taking the helm on this project, and will design, bid and manage the project. It is expected to cost \$608,000, with the City's cost share to be \$300,000. The City of Des Moines will own, maintain and manage the signal and its operation going forward. This project also will create signalized pedestrian crossing, meeting local residents' multiple requests. The Committee approved the ILA to move forward to full council.</p>
5. Adjourn	Adjourn Meeting

**Approve Prior
Meeting Minutes**



MEMORANDUM

To: Transportation and Public Works Committee
Through: William Appleton, Public Works Director
From: Mark Johnsen, Senior Assistant City Attorney *mj*
Date: January 9, 2020
Subject: Right-of-way permits for activities protected under the First Amendment.

Purpose:

Staff is seeking a committee recommendation of approval of a proposed Ordinance that amends the City's right-of-way use code, to ensure that the issuance of permits for activities protected under the First Amendment of the U.S. Constitution complies with existing Federal jurisprudence.

Background:

In June, 2018, the City issued a right-of-way permit for a rally adjacent to the Federal Detention Center. As part of the right-of-way permit review process, the City determined that a significant number of police personnel would be needed due to the size of the proposed rally. The SeaTac Municipal Code provides that the permit applicant is responsible for payment of these costs. Thus, the applicant was billed by the City for these costs.

In December, 2018, the applicant sued the City, alleging that certain provisions of City Code were unconstitutional. SMC 11.10.100 (D) charges event organizers the "actual" cost of public safety resources spent by the City during the course of permitted events. However, the Plaintiff alleges that the costs assessed is determined by the City administration based on the City's own assessment of how the public will respond to the event. This, according to the Plaintiff, is a content-based determination of the fees assessed against an event organizer, and therefore unconstitutional both on its face and as applied, under both the federal and state constitutions. In addition, City Code provides that an applicant is required to get insurance and/or pay a deposit prior to being issued a permit. Although the City waived this requirement with respect to rally at the Federal Detention Center, the Courts have held that such a requirement is an undue burden on someone exercising their First Amendment rights.

The Plaintiff has agreed to dismiss their lawsuit if the City agrees to revise its Code to address the constitutional issues. The attached Ordinance has been reviewed by the Plaintiff and was deemed acceptable. These amendments apply to Class A or Class B right-of-way permits issued for "Expressive Activities" and include:

- Providing a definition of "Expressive Activity" to ensure that the above requirements are limited to the types of First Amendment activities protected by the Constitution.
- Waiving the insurance or security deposit requirement if the cost is financially burdensome and would constitute an unreasonable burden of the right of First Amendment expression.
- Authorizing the collection of up to \$500.00 of direct costs for temporary right-of-way closures, which will be waived if the applicant provides evidence of an inability to pay.
- Limiting cost recovery for permits that do not require closure of the right-of-way to the non-refundable application fee.
- Shortening the permit application deadline from 15 days to 72 business hours.
- Providing that if a permit request is due to a spontaneous event occasioned by news or affairs coming into public knowledge within the past 48 hours, the application deadline would be reduced to 24 hours.

The number of permits issued by the City for activities protected by the First Amendment are few, and there have been no such applications since June, 2018. Therefore, the impact to the City should be minimal.

ORDINANCE NO. _____

AN ORDINANCE of the City Council of the City of SeaTac, Washington, adding a new Section 11.10.105 and amending Sections 11.10.050, 11.10.090, 11.10.100, and 11.10.150 of the SeaTac Municipal Code related to the issuance of right-of-way permits for Expressive Activities.

WHEREAS, the City is authorized through its police powers to regulate the use of its right-of-way; and

WHEREAS, the City requires issuance of a right-of-way use permit for anyone to make private use of any public right-of-way; and

WHEREAS, the City's Right-of-Way Use Code (Chapter 11.10 of the SeaTac Municipal Code) provides that Class A and B permits may be issued for use of a right-of-way for seventy-two (72) or less continuous hours for the purposes which do not involve the physical disturbance of the right-of-way; and

WHEREAS, First Amendment jurisprudence provides that governmental permits for use of the right-of-way demands that regulation of protected activity incorporate narrowly drawn, reasonable and definite standards; and

WHEREAS, fees for right-of-way permits for Expressive Activities are only allowed to cover the actual administrative expenses of the permit; and

WHEREAS, the City must provide clear requirements for the issuance of a right-of-way permit for Expressive Activities; and

WHEREAS, it is necessary to amend certain provisions of the City's Right-of-Way Use Code to ensure the constitutionality of time, place and manner regulations of First Amendment protected speech;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC,
WASHINGTON DO ORDAIN AS FOLLOWS:**

Section 1. Section 11.10.050 of the SeaTac Municipal Code is hereby amended to read as follows:

11.10.050 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

A. "Citation and notice" means a written document initiating a criminal proceeding issued by an authorized peace officer in accordance with the Criminal Rules for Courts of Limited Jurisdiction.

B. "Department" means the Department of Community and Economic Development.

C. "Directive memorandum" means a letter from the City to a right-of-way use permittee, notifying the recipient of specific nonconforming or unsafe conditions and specifying the date by which corrective action must be taken.

D. "Director" means the Director of the Department of Community and Economic Development.

E. "Expressive Activity" means the conduct of activity for which the sole or principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political or religious opinion, views, or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. For purposes of this chapter, Expressive Activity also includes activities related to freedom of the press, including but not limited to, press conferences and press coverage of breaking news. For purposes of this chapter, Expressive Activity does not include fairs, festivals, concerts, performances, athletic events, fundraising events, commercial advertising, or events the principal purpose of which is entertainment.

EF. "Franchised utilities" means utilities that have City approval to use City rights-of-way for the purpose of providing their services within the City, whether by written franchise or otherwise.

FG. "Hazardous waste" includes any and all such materials as defined by RCW 43.200.015 (radioactive wastes) and RCW 70.105.010(5), (6) and (15) (other hazardous wastes).

GH. "Nonprofit" means for charitable purposes and not for monetary gain.

HI. "Notice of violation" means a document mailed to a permittee or unauthorized user and posted at the site of a nonconforming or unsafe condition.

IJ. "One-way trip" means a construction activity related truck trip, whether loaded or empty, engaged in a qualifying material haul that passes a single point in a single direction on a haul route segment. Each passage of the single point in a single direction constitutes a single one-way trip.

~~JK~~. “Permit” means a document issued by the City granting permission to engage in an activity not allowed without a permit.

~~KL~~. “Private use” means use of the public right-of-way, other than as a thoroughfare for ordinary transit of vehicles, pedestrians, or equestrians, for the benefit of a particular person or entity.

~~LM~~. “Qualifying material” means construction materials to include but not be limited to soil, concrete, gravel, building materials and asphalt.

~~MN~~. “Right-of-way” means all public streets, alleys, and property granted or reserved for, or dedicated to, public use for streets and alleys, together with public property granted or reserved for, or dedicated to, public use for walkways, sidewalks, trails, shoulders, drainage facilities, bike ways and horse trails, whether improved or unimproved, including the air rights, subsurface rights, and easements related thereto.

~~NO~~. “Security device” means any and all types of bonds, deeds of trust, security agreements, or other similar instruments.

~~OP~~. “Stop work notice” means a notice posted at the site of an activity that requires all work to be stopped until the City approves continuation of work.

~~PQ~~. “Underground location service” means the underground utilities location center that will locate all underground utilities prior to an excavation.

~~QR~~. “Unsafe condition” means any condition which the Director reasonably determines is a hazard to health, or endangers the safe use of the right-of-way by the public, or does or may impair or impede the operation or functioning of any portion of the right-of-way, or which may cause damage thereto.

Section 2. Section 11.10.090 of the SeaTac Municipal Code is hereby amended to read as follows:

11.10.090 Application and processing of permits.

- A. To obtain a right-of-way use permit the applicant shall file an application with the Department.
- B. Every application shall include the location of the proposed right-of-way use, a description of the use, the planned duration of the use, applicant contact information, and all other information which may be required as specified in the procedures adopted under this chapter, and shall be accompanied by payment of the required fees.
- C. All Class E applications shall also include numbers and sizes of hauling trucks (single or double beds).
- D. The Director or designee shall examine each application submitted for review and approval to determine if it complies with the applicable provisions of this chapter and procedures adopted

under this chapter. Other departments that have authority over the proposed use or activity may be requested to review and approve or disapprove the application. The Director or designee may inspect the right-of-way proposed for use to determine any facts which may aid in determining whether a permit should be granted. If the Director or designee finds that the application conforms to the requirements of this chapter and procedures adopted under this chapter that the proposed use of such right-of-way will not unduly interfere with the rights and safety of the public, and if the application has not been disapproved by a department with authority, the Director or designee shall approve the permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare, and safety and to mitigate any impacts resulting from the use.

E. All applications for permits will be submitted at least fifteen (15) days before the planned need for the permit, or such greater period as may be reasonably required by the Director or designee. If unforeseen conditions require expedited processing the City will attempt to cooperate, but additional fees to cover additional costs to the City may be charged.

F. Notwithstanding SMC 11.10.090 (E), an application for a permit to conduct an Expressive Activity shall be submitted at least seventy-two (72) business hours in advance of the proposed event, unless good cause exists for a shorter time period. Additionally, if a permit request is due to a spontaneous event occasioned by news or affairs coming into public knowledge within forty-eight (48) hours, the applicant shall make application to the City at least twenty-four (24) hours in advance, or as soon as practicable prior to such event.

G. Upon submittal of a completed application, the Department shall collect from the applicant an application fee ~~in the amount set forth in the adopted fee schedule~~ as provided in SMC 11.10.100 (A).

Section 3. Section 11.10.100 of the SeaTac Municipal Code is hereby amended to read as follows:

11.10.100 Permit fees and charges.

The fee for each permit shall be set forth in the City's fee schedule.

A. Application Fee. A nonrefundable application fee shall be charged for each right-of-way use permit application that is accepted for processing, counter service, and recordkeeping.

B. Processing of Application Fee. A fee for the processing of applications may be charged. The amount of the fee shall be determined based upon the time and costs required to review, inspect, research, and coordinate the applicant's data for each permit application. The processing fee may be different depending upon the class of right-of-way use permit involved. However, this fee shall not be charged for Class A or Class B permit applications for Expressive Activities.

C. Daily Use Fee. Permits may include a fee for each day (or part thereof) for use of the right-of-way. The fee will compensate the City for monitoring and inspecting the site or activity. The daily use fee may be different depending upon the class of right-of-way use permit involved. A minimum of one (1) daily use fee per day will be charged for all Class E permit applications. This fee is in addition to reimbursement of actual expenses (subsection (D) of this section) and/or repair and

replacement charges (subsection (E) of this section). However, this fee shall not be charged for Class A or Class B permit applications for Expressive Activities.

D. Reimbursement of Actual Expenses. When a permit is issued, the City will impose a charge based on the actual cost to compensate for its time and expenses. These costs may include street crews, signal crews, and police, if required to assist in the activity. A refundable deposit or other security device may also be required. Costs of damage to City property, or expense of assistance by City employees, may be deducted from the deposit, charged against the security device, or billed to the permittee directly. However, cost recovery shall be subject to the limitations set forth in SMC 11.10.105 (A)(3) with respect to Class A or Class B permits issued for Expressive Activities.

E. Repair and Replacement Charges. If the City should incur any costs in repairing or replacing any property as the result of the permittee's actions, the costs of repair and replacement shall be charged to the permittee. These charges will be for the actual costs to the City. All hauls in excess of fifty thousand (50,000) CY or hauling for more than one hundred (100) working days will require a walk-through and inspection by Department staff of the haul route prior to approval and issuance of the permit. A final walk-through upon completion of the hauling operation is also required. A comparison of pre- and post-haul route conditions will be performed to determine the extent of damage to City streets and right-of-way. The permittee (contractor and/or the owner) will be responsible for all costs associated with clean up, repair and reconstruction to bring the City streets and right-of-way to the pre-haul conditions or better.

F. Utilities. Utilities shall be charged at an hourly rate for City inspections and other services pursuant to the adopted fee schedule.

G. Waiver of Fees. Franchised utilities which must apply for permits because of City-initiated construction projects may be granted a waiver by the Director of normal permit fees. This provision shall only apply to work that would not normally have been done by the utility.

Section 4. A new Section 11.10.105 is added to the SeaTac Municipal Code to read as follows:

11.10.105 Permits for Expressive Activities.

A. When a Class A or Class B permit is sought for an Expressive Activity the following provisions shall apply:

(1) Where the Expressive Activity will not require street closures, cost recovery shall be limited solely to a non-refundable application fee pursuant to Section 11.10.100 (A).

(2) The deposit, security device, and insurance requirement of Section 11.10.150 shall be waived, provided that the applicant has filed with the application a verified statement that he or she intends the purpose of the activity to be an Expressive Activity.

(3) Where the Expressive Activity will require temporary street closures requiring the City to provide services in the interests of public health, safety, and welfare, the Director or designee may condition the issuance of the permit upon an agreement to pay actual direct

costs incurred by the City to a maximum of five hundred dollars (\$500.00), which will be waived if the applicant provides evidence of an inability to pay.

(4) Where a permit is requested for an Expressive Activity, the permit shall presumptively issue except that the City may deny a Class A or Class B permit for an Expressive Activity if the Director or designee makes written findings explaining how any of the following conditions will exist:

(a) The Expressive Activity will substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route; or

(b) The Expressive Activity will cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility; or

(c) The Expressive Activity will block traffic lanes or close streets during peak commute hours on weekdays between 6:00 a.m. to 9:00 a.m. and 3:00 p.m. to 7:00 p.m. on streets classified as Principal Arterials or Minor Arterials by the City's Public Works Department; or

(d) The Expressive Activity will result in the concentration of persons, animals, or vehicles will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets; or

(e) The Expressive Activity will substantially interfere with another activity or event for which a permit has already been granted or with the provision of city services in support of other scheduled activities or events; or

(f) The Expressive Activity will have significant safety impact upon residential or business access and traffic circulation.

(5) With regard to the permitting of Expressive Activities where the provisions in this Section conflict with the provisions in any other section of this Chapter, the provisions of this Section shall prevail.

Section 5. Section 11.10.150 of the SeaTac Municipal Code is hereby amended to read as follows:

11.10.150 Performance deposits, security devices, and insurance.

A. If the Director or designee determines that there is a potential for injury, damage, or expense to the City as a result of damage to persons or property arising from an applicant's proposed use of any right-of-way, the applicant shall be required to make a cash deposit, or to provide a security device or insurance in a form acceptable to the Director or designee for the activities described in the subject permit. The amount of the deposit, security device, or insurance shall be determined by the Director or designee. However, this Section shall not apply for Class A or Class B permit applications for Expressive Activities.

B. The requirements for performance deposits, security devices, and insurance are based on considerations of permittee's prior performance, permittee's ability to pay, nature of the proposed

use, costs of the activity, length of use, public safety, potential damage to right-of-way, and potential liability or expense to the City.

Section 6. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 7. Effective Date. This Ordinance be in full force and effect 30 days after passage and publication as required by law.

ADOPTED this _____ day of _____, 2020, and signed in authentication thereof on this _____ day of _____, 2020.

CITY OF SEATAC

XXXXX, Mayor

ATTEST:

Kristina Gregg, City Clerk

APPROVED AS TO FORM:

Mary E. Mirante Bartolo, City Attorney

[Effective Date: _____]

[Amend Title 11 for Expressive Activities]



MEMORANDUM

To: Transportation and Public Works Committee
Through: William Appleton, Public Works Director
From: Mason Giem
Date: January 16, 2020
Subject: International Boulevard Safety Study

Purpose:

Update the Committee on the scope of the International Boulevard Safety Study that will provide recommendations on enhanced safety improvements for all users/modalities along the International Boulevard Corridor. Completed study will inform the City's capital project plan moving forward.

Background:

International Boulevard in SeaTac is a main transportation corridor and the safety of all transportation modes is a priority. This study includes conducting a comprehensive safety improvement plan (similar to a Local Road Safety Plan) and developing a design of the highest priority project along International Boulevard from South 152nd Street to South 216th Street and along South 176th Street from International Boulevard to 34th Avenue South. The highest priority project will be selected based on the methodology set forth in the plan as well as City input. The consultant will deliver the following services for this project:

- Identify and log safety issues along the corridor
- Analyze WSDOT crash data reports
- Select most common risk factors
- Develop a methodology for identifying future projects
- Develop a systematic list of prioritized projects based on the following:
 - Locations of risks along International Boulevard
 - Description of countermeasures to address risks
 - Identify projects to implement countermeasures
 - List cost/benefit ratio for each identified project
- Present study findings and solicit feedback from community through a public outreach event.

The study must consider the SeaTac Transportation Master Plan, the SeaTac City Center Plan update project, and the Port of Seattle's Sustainable Airport Master Plan in its assessment of the corridor. Some of these safety improvements may include (but are not limited to) crosswalks, sky bridges, fences, lighting and signal changes. Emphasis will be placed on intersections located at:

- South 154th Street
- South 152nd Street
- South 170th Street

- South 176th Street
- South 182nd Street
- South 188th Street
- South 200th Street
- South 176th Street from International Boulevard to 34th Avenue South

Deliverables

1. Report on existing safety conditions with map that utilizes data listed below
2. Recommend improvements with cost estimates that prioritize immediate changes/improvements
3. Work with City to provide a bid ready design of the highest priority project
4. Develop a methodology to identify safety improvements based on traffic and pedestrian volume