



April 19, 2018

Via E-mail Only (Shefali.Ranganathan@seattle.gov)

Shefali Ranganathan
Deputy Mayor
City of Seattle

Re: *Proposed offer to settle pending appeals of the Missing Link Project*

Dear Deputy Mayor Ranganathan,

On behalf of the Coalition, I am writing to express how deeply disappointed it is in the City's settlement proposal. The punitive and anti-business proposal continues a nearly 20-year pattern of ignoring agreements and commitments and now suggests eliminating an operating railroad serving industrial/maritime Ballard to replace it with a ridiculously expensive (+\$25MM) recreational trail. The City's coercive proposal will put maritime and industrial businesses that provide union- and family-wage jobs out of business. The Coalition has no choice but to reject the City's proposal.

Instead of proposing a simple solution to end years of litigation, the City is once again forcing the Coalition to seek protection through legislation or, failing there, in the courts. As it has done for nearly two decades, the Coalition will continue working with the Council to find a reasonable, logical and inexpensive solution for completing the Missing Link while at the same time pursuing its legal remedies.

The Coalition has a simple solution to this situation: Compromise by moving the middle section of the Missing Link located on Shilshole Avenue NW (i.e., on Shilshole between 17th Ave NW and NW Market Street) to NW Leary Way/Ave. The City already agreed to build the western section (from NW 24th to the Locks) on Market Street, which the Coalition supports. If the City moves the middle section to Leary, the Coalition will not object to construction of the eastern section (from NW 11th to NW 17th) on NW 45th Street. This compromise will end decades of strife and litigation and allow the parties to move forward together.

If the City agrees to this simple solution, the Coalition will work with the City to build further support for a Leary compromise. The Coalition has already garnered support from 12 businesses located on Leary for this route compared to SDOT only being able to find 2 businesses on Shilshole that support its route. Without question, the majority of Ballard businesses favor the Leary route over SDOT's route (approximately 50 to 2).

Not only would this simple compromise end years of litigation and facilitate completion of the Missing Link, the Ballard Terminal Railroad (BTRR) could continue operating under its 30-year franchise instead of being forced out of business by the City. Instead of trying to

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eliminate the BTRR, the City should be working to support this important asset, which, as the Directors of OPM, SEATRAN (now SDOT) and OED told Council President Drago in 1997, the BTRR

... provide[s] significant economic, recreational and mobility benefits to Seattle's citizens, businesses, the City as a purveyor of utilities and transportation infrastructure, and the region.

To put it concisely, the terms of [the BTRR] franchise will yield more than was anticipated when the City began its study of how to extend the Burke-Gilman Trail. Not only will the city retain ownership of a valuable public use corridor, it will be able to complete a significant section of the trail, while preserving rail service when and where it is still needed.¹

The City's current attempt to drive BTRR out of existence undercuts and ignores years of hard work by Coalition members to forge workable solutions with the City. In the mid-1990's Coalition members worked hand-in-hand with the City to create this one-of-a-kind rails-with-trails partnership based on specific promises that:

- The City would **NOT** build the Missing Link along Shilshole;
- The City **WOULD** complete it along Leary Way/Ave and Market Street as shown on Exhibit D to BTRR's Operating Agreement; and
- The City **WOULD** grant and honor a 30-year franchise so BTRR could operate a short-line railroad in this corridor.

Based on the City's promises and long-term commitments, BTRR spent millions of dollars to construct and operate its railroad. The City's paltry offer of financial remuneration pales in comparison to the amount of BTRR's investment and its importance to this community and region.

Instead of trying to buy and shut down an operating railroad, the City should honor its promises memorialized in Resolutions, an Ordinance, and signed contracts. In 1996, the City Council adopted Resolution 29474 stating the *City preferred the Leary and Market route to complete the Missing Link.*

To achieve that goal, the Council adopted Ordinance 11873 in 1997 granting BTRR a 30-year franchise to operate within Ballard's industrial corridor. And that same year, the City entered into an Operating Agreement with BTRR consistent with the franchise and Resolution 29474.

BTRR has relied on those agreements and promises and sees no reason to now abandon its 30-year franchise as the City proposes. The BTRR remains an important asset that, as three

¹ September 9, 1997 Memorandum from Judy Bunnell, OPM Director, Daryl Grigsby, SEATRAN Director, and Mary Jean Ryan, OED Director, to Jan Drago, Council President.

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City Department Directors opined, *“provide[s] significant economic, recreational and mobility benefits to Seattle’s citizens, businesses, the City as a purveyor of utilities and transportation infrastructure, and the region.”*

The City’s settlement proposal also continues decades of disingenuousness treatment of BTRR and the Ballard maritime and industrial communities. The ink was barely dry on the franchise and Operating Agreement before the City backed away from them by refusing to honor fundamental portions of those deals. The contracts between the City and BTRR require the City sell a parcel of land, the Bright Street Parcel, to BTRR for its locomotive facility. Before it could do so, the Bright Street Parcel had to be created by subdivision, which BTRR achieved. Despite that, to this day, the City refuses to sell the Bright Street Parcel to BTRR—even after BTRR agreed to the City’s demand to pay fair market value instead of the price set in the Operating Agreement. It is clear the City wants to replace the railroad with a recreational trail as part of changing Ballard from a working community to a high-cost/high-income residential community.

The City began that process in 2001 when it convened the Ballard Corridor Design Study to “relook” at the preferred route for the Missing Link even though that route was clearly stated in Resolution 29474 and the agreements with BTRR. In 2003, the City took the next step by adopting Resolution 30583, moving the preferred route for the Missing Link away from Leary and Market to Shilshole. The City has spent the last 15 years trying to paper up its unrelenting desire to locate the Missing Link in the exact same location as proposed in 2003. The EIS was just another step in the City’s long march to achieve this goal.

The City’s settlement proposal is further proof that it pays lip-service claiming to support maritime and industrial businesses and the union- and family-wage jobs they create while at the same time pursuing actions and policies that undermine both. In the last 20-years the City has eliminated approximately 200 arterial lane miles, thereby increasing congestion and making it harder and harder for freight to move in Seattle. Eliminating an active railroad and locating a recreational trail on a Major Truck will further exacerbate the difficulty of moving goods and services in this city and region. Instead of proposing an unenforceable “goal” or “policy” be added to the Comprehensive Plan, the City should never even consider locating a recreational trail through this area where kids and inexperienced cyclists will come into constant conflict with large trucks and machinery: It is not a question of whether someone will get killed on this route, just when.

The City’s settlement proposal also exposes its real intention to eliminate these industries and jobs and replace them with further gentrification. Eliminating the BTRR and replacing it with a recreational trail is just the first step in that process. Ballard’s unique economy is an agglomeration of interrelated industries that rely on their co-locational proximity to survive. Eliminating BTRR is like pulling the thread on an economic quilt, which, the longer the City pulls, will eventually unravel.

Even the Cascade Bicycle Club (CBC) knows this to be true. In 2014, CBC’s Policy & Government Affairs Manager, Brock Howell, wrote to its Executive Director, Elizabeth Kiker, saying:

I would love to go around the litigation. ***Our best bet is to get this C.D. Stimson development project funded & built. Once it's built, the operations of Salmon Bay Sand & Gravel and other light industry will likely have to be limited during evening hours due to noise issues — especially if the development is a hotel, apartment or condo.*** Once their operations are impacted, it's only a matter of time before they sell out and give up the litigation.²

The City should not allow cyclists to force maritime and industrial businesses out of business just so CBC members can recreate.

The City should actively protect this area ***and*** be a better steward of its budget. The City stopped SDOT's construction of the First Avenue street car because it was approximately 30% over budget. That percentage pales in comparison to the Missing Link. Last year Council Member O'Brien and SDOT estimated the City could complete the Missing Link for approximately \$14 million.³ Now they say it will cost \$25 million or more. This is a nearly 100% cost overrun/budget increase. The City should require SDOT be a better fiscal steward of our communities' resources and build a less expensive alternative on Leary.

Instead of spending \$25-30 million building 1.4 miles of recreational trail on a Major Truck street, we urge you to work with us to achieve a win-win-win for bicyclists, the City, and for Ballard's working industrial and maritime community by building a less expensive alternative on Leary. The Coalition remains ready and willing to work with the City to achieve the Leary compromise, which will be safer because trail users will not mix with heavy trucks and machinery, and which protects the union- and family wage jobs that fuel Ballard's economy.

Unless the City is willing to consider a Leary compromise or other alternative location, the Coalition has no choice but to continue pursuing a legislative solution with the Council and its legal appeals to protect and preserve working Ballard since no one else will.

Looking forward to working with you on a viable compromise,

/s Paul Nerdrum

The Ballard Coalition
Paul Nerdrum
Salmon Bay Sand & Gravel Company

² A copy of their email exchange is attached.

³ <http://www.seattlechannel.org/mayor-and-council/city-council/2016/2017-sustainability-and-transportation-committee/?videoid=x70666> beginning at 1:00:18.

Sent: Tue, 28 Oct 2014 16:23:00 -0700
Subject: Re: Josh Brower's jacket
From: Brock Howell <brock.howell@cascadebicycleclub.org>
To: Elizabeth Kiker <elizabeth.kiker@cascadebicycleclub.org>

I would love to go around the litigation. Our best bet is to get [this C.D. Stimson development project](#) funded & built. Once it's built, the operations of Salmon Bay Sand & Gravel and other light industry will likely have to be limited during evening hours due to noise issues ---- especially if the development is a hotel, apartment or condo. Once their operations are impacted, it's only a matter of time before they sell out and give up the litigation.

Also, Brower's "Plan B" will likely be completed in 2016 during a major maintenance project to Leary Way/Ave. Or, rather, we'll at least get a road diet with bike lanes on Leary. So, in terms of meeting the needs of bicyclists in Ballard, some of the pressure should be lifted from us, and we can push for a true completion of the Burke-Gilman Trail no matter how long it takes.

In the interim, I'm looking forward to shoulder improvements to Shilshole Ave, which is supposed to go to bid this November (basically 1.5 years late) with construction soon there after.

The Connect Ballard team is working on an end-run-around the anti-business framing by building a business coalition in support of fixing the Missing Link. And Mary & I have talked about using Ballard as an ideal pilot neighborhood for creating Seattle's first Bike-Friendly Business District.

So lots of good things potentially happening. With 240 Connect Ballard team members, hopefully we can make some things happen quickly.

-Brock

Brock Howell, Policy & Government Affairs Manager, Cascade Bicycle Club
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