

SEATTLE CITY COUNCIL

600 Fourth Ave. 2nd Floor
Seattle, WA 98104



Journal of the Proceedings of the Seattle City Council

Tuesday, October 24, 2023

2:00 PM

Council Chamber, City Hall

600 4th Avenue

Seattle, WA 98104

City Council

Debora Juarez, Council President

Lisa Herbold, Member

Andrew J. Lewis, Member

Tammy J. Morales, Member

Teresa Mosqueda, Member

Sara Nelson, Member

Alex Pedersen, Member

Kshama Sawant, Member

Dan Strauss, Member

Chair Info: 206-684-8805; Debora.Juarez@seattle.gov

A. CALL TO ORDER

The City Council of The City of Seattle met in the Council Chamber in City Hall in Seattle, Washington, on October 24, 2023, pursuant to the provisions of the City Charter. The meeting was called to order at 2:00 p.m., with Council President Juarez presiding.

B. ROLL CALL

Present: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Excused: 1 - Morales

Motion was made, duly seconded and carried, to excuse Councilmember Morales from the October 24, 2023 City Council meeting.

C. PRESENTATIONS

There were none.

D. PUBLIC COMMENT

The following individuals addressed the Council:

Christy Robertson
Nate Moxley
Jessica Ray
Ashley Clayton
Jamie Fackler
Alisha Geory-Davis
John Otto
Desiree Hunter
Lee Lambert

E. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR:

[IRC 412](#) **October 24, 2023**

Motion was made, duly seconded and carried, to adopt the Introduction & Referral Calendar (IRC) by the following vote:

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

F. APPROVAL OF THE AGENDA

Motion was made, duly seconded and carried, to adopt the proposed Agenda.

G. APPROVAL OF CONSENT CALENDAR

Motion was made, duly seconded and carried, to adopt the Consent Calendar.

Journal:

[Min 446](#) **October 10, 2023**

The item was adopted on the Consent Calendar by the following vote, and the President signed the Minutes:(Min):

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

Bills:

[CB 120676](#) **AN ORDINANCE appropriating money to pay certain claims for the week of October 02, 2023 through October 06, 2023 and ordering the payment thereof; and ratifying and confirming certain prior acts.**

The item was passed on the Consent Calendar by the following vote, and the President signed the Council Bill:

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

[CB 120678](#) **AN ORDINANCE appropriating money to pay certain claims for the week of October 09, 2023 through October 13, 2023 and ordering the payment thereof; and ratifying and confirming certain prior acts.**

The item was passed on the Consent Calendar by the following vote, and the President signed the Council Bill:

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

H. COMMITTEE REPORTS

CITY COUNCIL:

1. [Appt 02682](#) **Appointment of Patience M. Malaba as member, Payroll Tax Oversight Committee, for a term to October 31, 2025.**

Motion was made and duly seconded to confirm Appointment 2682.

The Motion carried, and the Appointment (Appt) was confirmed by the following vote:

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

2. [Appt 02683](#) **Appointment of Gabriel Neuman as member, Payroll Tax Oversight Committee, for a term to October 31, 2026.**

Motion was made and duly seconded to confirm Appointment 2683.

The Motion carried, and the Appointment (Appt) was confirmed by the following vote:

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

3. [Appt 02684](#) **Appointment of Aly Pennucci as member, Payroll Tax Oversight Committee, for a term to October 31, 2026.**

Motion was made and duly seconded to confirm Appointment 2684.

The Motion carried, and the Appointment (Appt) was confirmed by the following vote:

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

4. [Appt 02685](#) **Appointment of Shaunie Wheeler James as member, Payroll Tax Oversight Committee, for a term to October 31, 2026.**

Motion was made and duly seconded to confirm Appointment 2685.

The Motion carried, and the Appointment (Appt) was confirmed by the following vote:

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

5. [Appt 02686](#) **Appointment of Katie Wilson as member, Payroll Tax Oversight Committee, for a term to October 31, 2026.**

Motion was made and duly seconded to confirm Appointment 2686.

The Motion carried, and the Appointment (Appt) was confirmed by the following vote:

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

6. [CB 120677](#) **AN ORDINANCE authorizing the Seattle Department of Transportation Director to approve the transfer of the railway franchise granting the right, privilege, and accompanying authority to locate, lay down, construct, maintain, own, and operate standard gauge railway tracks along the Burlington Northern and Santa Fe Railway Company's former Washington Branch Line right-of-way, between 6th Avenue NW and NW 67th Street, from the Ballard Terminal Railroad Company to the Meeker Southern Railroad, subject to the operating agreement and all other conditions approved under Ordinance 118734; and ratifying and confirming certain prior acts.**

ACTION 1:

Motion was made and duly seconded to pass Council Bill 120677.

ACTION 2:

Motion was made by Councilmember Strauss, duly seconded and carried, to amend Council Bill 120677, as presented in Attachment 1 to the Minutes, and to include a new Attachment 1 to Council Bill 120677.

ACTION 3:

Motion was made and duly seconded to pass Council Bill 120677 as amended.

The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Council Bill (CB):

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE:

7. [CB 120668](#) **AN ORDINANCE relating to funding for housing and community development programs; adopting the 2024-2028 Consolidated Plan for Housing and Community Development (“Plan”) and authorizing its submission to the United States Department of Housing and Urban Development (HUD).**

The Committee recommends that City Council pass the Council Bill (CB).

In Favor: 4 - Herbold, Mosqueda, Nelson, Pedersen

Opposed: None

Absent(NV): 1 - Lewis

The Council Bill (CB) was passed by the following vote, and the President signed the Council Bill (CB):

In Favor: 8 - Juarez, Herbold, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

Opposed: None

I. ITEMS REMOVED FROM CONSENT CALENDAR

There were none.

J. ADOPTION OF OTHER RESOLUTIONS

There were none.

K. OTHER BUSINESS

Councilmember Herbold presented a Proclamation declaring November 2023 to be Family Caregiver Support Month in Seattle for signature.

The following Councilmembers affixed their signature to the Proclamation:
8 - Herbold, Juarez, Lewis, Mosqueda, Nelson, Pedersen, Sawant, Strauss

L. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 2:52 p.m.

Emilia M. Sanchez, Deputy City Clerk

Signed by me in Open Session, upon approval of the Council, on November 7, 2023.

Debora Juarez, Council President of the City Council

Att 1: Action 2 of Council Bill 120677

Attachment 1 - ACTION 2 of Council Bill 120677

Amendment A Version 1 to CB# 120677 – BTRR Franchise Transfer ORD

Sponsor: Councilmember Strauss

Clarifying that the City Council approves of the amendment and assignment of an Operating Agreement

Effect: This Amendment contains technical and substantive changes to CB 120677 that clarify and document the actions taken between the City, Ballard Terminal Railroad Company, and its related entity Meeker Southern Railway. The amendment specifies that the rights of Ballard Terminal Railroad Company as contained in its Franchise Agreement are assigned, rather than transferred, to Meeker Southern Railway. The terms and conditions of the assignment are contained in an Operating Agreement, which has been signed by the parties. This Amendment attaches the Operating Agreement as Attachment 1 to the bill.

1. Amend the first WHEREAS paragraph of CB 120677 as follows:

WHEREAS, in 1997, the Burlington Northern and Santa Fe Railway Company (“BNSF”) expressed its intention to abandon that part of its former Washington Branch line between BNSF Milepost 0.09 and BNSF Milepost 02.70 in the Ballard area of Seattle and the City took possession of this rail right of way to preserve the corridor for future rail and trail purposes; and

2. Amend the seventh WHEREAS paragraph of CB 120677 as follows:

WHEREAS, Meeker Southern Railroad and the City have ~~has~~ agreed to modifications to the current Operating Agreement and Assignment of the Operating Agreement to Meeker Southern Railroad contingent on the passage of this ordinance ~~that it may not use the rail line until it enters into an Operating Agreement consistent with this ordinance and Ordinance 118734;~~ and

3. Amend the eighth WHEREAS paragraph of CB 120677 as follows:

WHEREAS, Meeker Southern Railroad will obtain insurance for the portion of the rail line it seeks to use and occupy ~~operate~~ before commencing operations; and

4. Amend Section 1 of CB 120677 as follows:

Section 1. The City consents to and approves ~~the transfer~~ an assignment of the Franchise Agreement memorialized by Ordinance 118734, with all the rights, privileges, conditions and terms consistent with the Ordinance 118734, from Ballard Terminal Railroad Company to Meeker Southern Railway.

5. Amend Section 2 of CB 120677 as follows:

Section 2. The Seattle Department of Transportation Director is authorized to approve an Operating Agreement consistent with the above recitals and the provisions of Ordinance 118734 to Meeker Southern Railway, substantially in the form of the agreement attached to this ordinance as Attachment 1, and any contingency in an amendment or assignment of the Operating Agreement to Meeker Southern Railroad is satisfied by the enactment of this ordinance.

6. Amend CB 120677 to include Attachment 1, the signed Operating Agreement between Seattle Department of Transportation, Ballard Terminal Railroad Company, and Meeker Southern Railway.

FIRST AMENDMENT TO OPERATING AGREEMENT

This First Amendment (the “**Amendment**”) to the Operating Agreement (“**Operating Agreement**”) dated September 14, 1997 is made this 17th day of October, 2023 (the “**Effective Date**”) by and amongst **Ballard Terminal Railroad Company, L.L.C.**, a Washington limited liability company (“**BTRR**”), Meeker Southern Railroad LLC, a Washington limited liability company (“**MSR**”), and the City of Seattle, a Washington Municipal subdivision acting through its Department of Transportation (the “**City**”), each a “**party**” and together the “**parties**.”

RECITALS

WHEREAS, in 1997, the Burlington Northern and Santa Fe Railway Company (“**BNSF**”) expressed its intention to abandon that part of its former Washington Branch line between BNSF Milepost 0.09 and BNSF Milepost 02.70 in the Ballard area of Seattle and the City took possession of this rail right-of-way to preserve the corridor for future rail and trail purposes; and

WHEREAS, in 1997, in ongoing support of rail-served businesses, the Seattle City Council (“**Council**”) passed Ordinance 118734, granting a franchise (the “**Franchise**”) for this segment of rail to the BTRR, which was formed to provide rail service to businesses in the Ballard industrial area; and

WHEREAS, contemporaneously with the City’s grant of the Franchise, the parties entered into the Operating Agreement; and

WHEREAS, the parties now wish to transfer the Franchise and the Operating Agreement to BTRR’s related entity, MSR, for the remainder of the 30-year term of the Franchise, which expires on September 29, 2027, subject to all conditions approved under Ordinance 118734 and all terms and conditions of the Operating Agreement except as amended as provided herein; and

WHEREAS, in exchange for the City’s approval of the assignment from BTRR to MSR, BTRR and MSR agree that the City may cover a section of the tracks under the 15th Avenue North West bridge with asphalt; and

WHEREAS, following assignment, MSR agrees that it will not seek to renew use of the section of rail to be covered by asphalt unless it first obtains insurance to operate in that area pursuant to the terms of the Franchise and the Operating Agreement; and

WHEREAS, MSR agrees that should it obtain insurance and seek to renew rail use of the portion of the rail line to be covered by asphalt, it will provide notice to the City sufficient for the City to reroute the existing multi-use path that crosses the rail line to a different location before the asphalt is removed; and

WHEREAS, MSR agrees that it may not use the rail line until it enters into this Amendment assigning the Operating Agreement consistent with Council Bill 120677 and Ordinance 118734; and

WHEREAS, MSR will obtain insurance for the portion of the rail line it seeks to use and occupy before commencing operations; and

WHEREAS, BTRR, MSR, and the City agree that this assignment shall not alter any of the legal rights or claims that the parties may have against one another; and

WHEREAS, the parties agree that, except as otherwise expressly amended as provided herein, the terms and conditions of the Franchise and the Operating Agreement shall remain in full force and effect and are hereby ratified by the parties.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment of Franchise. Subject to Council passage of Council Bill 120677, and pursuant to Section 9 of Ordinance 118734, the City consents to and approves an assignment of the Franchise memorialized by Ordinance 118734 from BTRR to MSR consistent with the above Recitals and the provisions of Ordinance 118734.




2. Assignment of Operating Agreement. Subject to Council passage of Council Bill 120677, and pursuant Section 15 of the Operating Agreement, the Seattle Department of Transportation, acting through its Director, approves an assignment of the Operating Agreement from BTRR to MSR consistent with the above Recitals and the provisions of Ordinance 118734.

3. Terms In Force/Control. All terms in the Franchise and Operating Agreement not otherwise specifically amended as provided herein shall remain in full force and effect. In the event of a conflict between the the Operating Agreement and this Amendment this Amendment shall control.

4. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, and when taken together shall constitute on and the same Amendment.

(signatures to follow)

IN WITNESS WHEREOF, the parties execute this Amendment, effective as of the Effective Date.

<p>Ballard Terminal Railroad Company, L.L.C.</p> <p>By: </p> <p>Paul Nerdrum, its Managing Member</p> <p>Executed this 17th_ day of October, 2023</p>	<p>Meeker Southern Railroad LLC</p> <p>By </p> <p>Paul Nerdrum, its Managing Member</p> <p>Executed this 17th_ day of October, 2023</p>
<p>Seattle Department of Transportation</p> <p>By: </p> <p><small>Greg Spotts (Oct 17, 2023 19:13 PDT)</small></p> <p>Greg Spotts, its Director</p> <p>Executed this 17th_ day of October, 2023</p>	