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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeal of:

SEATTLE MOBILITY COALITION

From a Determination of Nonsignificance issued
by the Seattle City Council.

Hearing Examiner File:

W-18-013

**VERBATIM TRANSCRIPT OF
TESTIMONY – KETIL FREEMAN**

The undersigned certifies that this is a true and correct transcription of portions of the
audio recording of the Hearing held on June 10, 2019.

Hearing Examiner Audio June 10, 2019

Part 3 - 54:30 – 1:00:15

Liza Anderson: Does the proposal require that council adopt a Transportation Impact Fee
program?

Ketil Freeman: It does not.

LA: And why not?

KF: This is an initial step, and perhaps even the only step. But sort of as a general practice in the
city is that initially a policy proposal is adopted, after that policy proposal is adopted,
implementing regulations are adopted. And that is informed in part by the fact that

1 Councilmembers may disagree amongst themselves, and they may disagree with the Council
2 about what the proposal may be, and as a consequence it could be changed or modified through
3 the course of council deliberations. There's also kind of a go/no-go question sometimes with
4 policy proposals, and this arguably is one of those as well. So it could be the case that an
5 outcome of this is that no impact fee program is developed at all.

7 LA: So is it your understanding that this proposal – that it's the entirety of some Transportation
8 Impact Fee program?

9 KF: No, future steps would be needed to implement a regulatory program.

10 LA: And what future steps do you believe may be required?

11 KF: The Council would need to finalize a rate study. The Council would need to make policy
12 choices about the magnitude about potential Transportation Impact Fees, whether impact fees
13 should vary by planning geography, and also what kind of mechanisms should be in place for
14 exemptions for affordable housing, and also for individualized determinations.

16 LA: Why was this proposal for a Comprehensive Plan amendment put forward in advance of a
17 proposal for a Transportation Impact Fee program, and I believe you've addressed that briefly
18 but if you could provide any additional information?

20 KF: Sure, I mean, as I mentioned there's sort of a go/no-go decision here when it comes to
21 Transportation Impact Fees. I think it's sort of theoretically possible that the Council could either
22 amend this proposal or reject this proposal. Also the Council could accept this proposal but
23 establish a different timeframe for implementation, and that timeframe could be anywhere, um,
24 who knows what. So there are changes that could happen through council deliberations that
25 modify the current Comprehensive Plan proposal and could inform whether there are future steps
26 and what those future steps might be.

1 LA: And did you hear the prior testimony that this proposal requires the council to adopt an
2 Transportation Impact Fee program?

3 KF: I did.

4 LA: Do you agree with that assessment?

5 KF: I don't.

6 LA: And why not?

7 KF: Any - if and when this proposal is in front of the council for decision-making, they could
8 amend some of the policy language that is in the SEPA proposal that we're talking about here
9 today, and they could also reject it as well.

10 LA: And so in particular, can you point me to the policy language that proposes a change, and I
11 believe the existing language, if you could just read the existing language.

12 KF: Sure, the existing language is "Consider use of transportation impact fees to help fund
13 transportation system improvements needed to serve growth"

14 LA: And what is the proposed revision?

15 KF: So the proposed revision would be "Use transportation impact fees to help fund a
16 transportation system improvements needed to serve growth" so that would be the policy change.

17 LA: And is it your opinion that that policy change would not require the council to adopt a
18 Transportation Impact Fee program?

19 KF: If they adopted the language as is, it would become something that is more affirmative, but
20 affirmative under what timeframe is kind of an open question. It could be implemented over, you
21 know, a broad planning horizon.

22 LA: And is it your testimony that the council has discretion to determine if or when they would
23 adopt a TIF program?
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1 KF: It is.

2 LA: All right. Now, did you hear the testimony of Mr. Steirer that the entire program – so,
3 Comprehensive Plan and development standards – should have been prepared and submitted to
4 council for consideration at the same time?

5 KF: I did.

6 LA: And is it your testimony that, I guess, do you agree with his opinion?

7 KF: I do not.

8 LA: Okay. Um, and...

9 KF: As I mentioned before, it's unclear what the council will do with this current proposal. They
10 may adopt it as it's currently proposed. They may amend it based on discussion. And they also
11 may reject it.

12 LA: And do you have any information about what, in fact, you think would be likely?

13 KF: No, it would be speculation on my part.

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18 **Part 4 - 15:39-28:02**

19 Courtney Kaylor: So, you testified at a few different points about what the proposal would do or
20 not do. And first I just want to ask you, turning to what has been marked Exhibit 2, which is the
21 proposal, first I'd like to ask you about attachment 1, page 2. And specifically the change to
22 policy 10.7... I believe that you testified that this policy change would not require the council to
23 adopt impact fees, was that your testimony?

24 Ketil Freeman: No, I don't think it was. I think my testimony was that as this is written now, this
25 would be affirmative, so at some point in the future, the council would need to implement an
26 impact fee program. However, this is not a final proposal. Whatever is eventually adopted by the
27

1 Council, if they adopt anything, would be subject to council discussion and deliberation and
2 amendment. So I don't yet know what the final policy may be after that process.

3 CK: Alright, thank you for clarifying and I appreciate that. So let me just be sure that I
4 understand your clarification. So the clarification is that this particular language would require
5 the Council to adopt impact fees.
6

7 KF: Yeah, we would need to have consistent development regulations with our polices at some
8 point in the future.

9 CK: Thank you.

10 [18:10]

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13 [23:25]

14 CK: And so, do - we had some testimony earlier about that maximum supportable cost. And we
15 looked at what has been marked as Exhibit 4... I don't know if that's one of the exhibits in front
16 of you - I can provide you a copy if it's not.

17 KF: I don't think I do - I don't have it.

18
19 CK: And if you can flip to the last page of that exhibit, which is a table, which we have looked at
20 previously, is this a calculation of that maximum defensible fee?

21 KF: It is.

22 CK: And so this proposal, the Comprehensive Plan Amendment language that we have here in
23 front of us as Exhibit 2, would that allow adoption of the maximum defensible fee by Council?
24

25 KF: It would allow it, although that is a very unlikely outcome.

26 CK: And why do you believe it's unlikely?
27
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1 KF: I guess I would support Mr. Shook's testimony that the city has been pretty good about
2 trying to keep its regulatory, sort of the costs associated with regulating land use relatively low.
3 It seems unlikely that the Council would support a fee that might thwart achieving other
4 Comprehensive Plan goal objectives like accommodating 70,000 new households and 115,000
5 new jobs.
6

7 CK: And why would adopting the maximum defensible fee thwart that goal?

8 KF: As Mr. Shook testified, it may have a negative effect on development, make development
9 infeasible.

10 CK: Okay. But there's nothing in this proposal here that prevents the Council from doing that -
11 from adopting the maximum defensible fee?
12

13 KF: No.

14 CK: A maximum defensible fee would be consistent with the methodology that's described on
15 attachment 2 page 1, would it not?
16

17 KF: Um remind myself what attachment 2, page 1 is...

18 CK: Well that's what we were just looking at, that language.

19 KF: Yes it would.

20 CK: So you identified a number of factors that you said make an analysis of impacts at this point
21 speculative. And I'm not going to recall all of them, but I believe some of them had to do with
22 who the decisionmakers would be on council when a development regulation coming before
23 council, and which CMs would support or not support, ultimately, a particular fee or a fee at all,
24 is that accurate?
25

26 KF: That is one factor. Yeah.
27
28

1 CK: Okay. And was it another factor that you could not know whether ultimately a development
2 fee would be adopted?

3 KF: That is another factor. Yeah.

4 CK: So isn't it always true that a proposal may not move forward?

5
6 KF: Yes, it is always true that a proposal may not move forward. There is always the – there's
7 always a do-nothing alternative.

8 CK: And SEPA review is required before a decision is made on a proposal, correct?

9 KF: That's correct.

10 CK: So for any given project, the proposal that is being analyzed under SEPA, for any given
11 proposal, must be analyzed at a time before whoever the proponent is decides to move forward
12 or not move forward, correct?

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14 KF: That's correct.

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16 Respectfully submitted this 19th day of July, 2019.

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20 By: s/Alexander R. Brenner
Alexander R. Brenner, Legal Assistant

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McCULLOUGH HILL LEARY, P.S.