AGENDA

City of Lynnwood

Transportation Benefit District (TBD) Board

Council Chambers, City Hall
19100 44th Avenue W, Lynnwood, WA, 98036

Special Meeting
July 27, 2016
7:00 P.M.

10 Call to Order

20 Roll Call

30 Approval of Minutes – June 29, 2016 Special Meeting

40 Citizen Comments and Communications

50 Ordinance #10 – Increased or decreased vehicle license fee

- **A** Public hearing
- **B** Consideration, discussion and possible action or other disposition related to said Ordinance

60 Scheduling Upcoming Special Meeting(s)

70 Adjournment

City of Lynnwood
Transportation Benefit District Board

Item 30

Special Meeting
July 27, 2016
7:00 P.M.

TITLE: Approval of Minutes – June 29, 2016 Special Meeting

DEPARTMENT: Public Works

DEPARTMENT CONTACT: David Mach

BACKGROUND: The June 29, 2016 special meeting was the most recently held Board meeting.

ACTION: Approve the meeting minutes from the June 29, 2016 special meeting

ATTACHMENTS: June 29, 2016 special meeting

CITY OF LYNNWOOD
TRANSPORTATION BENEFIT DISTRICT BOARD SPECIAL MEETING MINUTES
June 29, 2016

10. CALL TO ORDER – The June 29, 2016 Special Meeting of the City of Lynnwood Transportation Benefit District (TBD) Board, held in the Council Chambers of Lynnwood City Hall, was called to order by Board President Cotton at 7:01 p.m.

20.

ROLL CALL	OTHERS ATTENDING
Board President Ian Cotton	Public Works Director Franz
Board Vice President Benjamin Goodwin (absent)	Deputy PW Director Elekes
Board Member M. Christopher Boyer	Resident Capital Project Eng. Mach
Board Member Ruth Ross (absent)	Executive Assistant Morris
Board Member Shannon Sessions	Finance Director Springer
Board Member Shirley Sutton	Board Attorney Larson
Board Member George Hurst	

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30 Approval of Minutes – April 20, 2016 and May 31, 2016 Special Meetings

Motion made by Board President Cotton, seconded by Board Member Sessions, to approve the minutes of the April 20, 2016 and May 31, 2016 Special Meetings. Motion passed unanimously.

40. Citizen Comments and Communications

Loren Simmonds, PO 2193, Lynnwood, WA 98036, spoke to the TBD strategy and scheduling related to a potential ballot measure resolution for increased sales tax and or increased or decreased vehicle license fee funding option. He reminded the Board that any ballot measure they submit on November 8, 2016 will be in competition with at least three other ballot measures. He noted that if they move forward they will be reducing their chances of succeeding because of the number of similar measures presented within the same timeframe. He also encouraged the Board to not consider eliminating the existing TBD licensing fees at this time, but possibly take a look at it later.

50. Presentation, discussion and possible action or other disposition related to a potential ordinance for increased or decreased vehicle licensing fee funding options including but not limited to:

- Schedule
- Scheduling of a public hearing
- Other potential documents and procedures

Staff Presentation:

Director Franz stated that when the legislation allowing TBDs to form was put into place it allowed jurisdictions to implement $20 vehicle license fees councilmatically. The TBD Board put that into place several years ago, and it generates $500,000 a year which has to be used for transportation purposes. Recently the legislature changed the law to allow an additional $20 fee (for a total of $40) to be implemented councilmatically. Anything beyond $40 requires a public vote.

Resident Engineer Mach referred to the sample ordinance in the Board's packet on page 50-2. He stated that that the Board is advised hold a public hearing to get public comment if they want to move forward with this. Once the ordinance is passed it will be a little over six months until the fees go into effect.

Deputy Director Elekes reminded the Board that the City Council approved a contract for the City to go out and re-rate the pavement citywide. The first wave of the data from that will be completed in July which will help inform the Pavement Management Program going forward.

Board Questions and Comments:

Board Member Sessions asked if there have been any complaints about the current $20 license tab fees. Resident Engineer Mach stated that in the first year there were three or four calls, but after that there haven't been any. Board Member Sessions asked about restrictions for the funds. Director Franz stated that the intent was to heavily use them toward pavement overlays. In the last budget there were some constraints on General Funds that went into the Streets Fund so in order to balance the Street Fund they are using $150,000 per year to use for street operations. He stated that he hoped that through the budgeting process the money can be diverted back into pavement management more than the operations. Resident Engineer Mach stated that the Board can choose to change the list of projects by holding a hearing.

Board Member Boyer asked about the date of the Tim Eyman initiative years ago when he slashed the fees. Director Franz thought it was in the mid to late 90's. He noted the fees were much higher then, and they went into the State General Fund. Board Member Boyer asked if there have been any studies done recently about how Washington State citizens stand vis-à-vis the rest of the country on those fees. Director Franz did not know of any studies. Board Member Boyer noted that citizens here have expressed that they feel unfairly taxed, but he doesn't get the sense that they feel the tab fees are a major issue. Deputy Director Elekes commented that before the Tim Eyman initiative was passed the public felt that the fees were increasing and were out of control. This seems to be more palatable even though it is a challenge for some at lower income levels. Board Member Boyer agreed. He stated this appears to be an appropriate opportunity to raise the fees to address an issue that impacts all the businesses, residents, and visitors to the City. The $20 increase still seems fair and appropriate. Board Member Sessions noted that I-695 was passed by voters in 1999.

Board Member Sutton asked how much the City needs a year for the paving program. Director Franz said it was approximately $4 million to keep up with the program, but the consultant is currently re-rating the program, so there will be new numbers to share soon.

Board Member Sessions stated that the reason she likes the car tabs is because it goes directly to the streets. What she doesn't like about the car tabs is that it's going directly on the shoulders of Lynnwood residents. She isn't ready to vote in support of increasing the tabs to $40 because they still need to hear about the re-rating of the pavement as well as the fact that this is a budget year, and they don't know yet how money will be allocated for streets in the budget. She also noted that they won't know until November if the ballot measure passes which could completely change things.

Board Member Hurst asked what surrounding cities are doing as far as tab fees. Resident Engineer Mach replied that the Department of Licensing's website lists out all the other cities that have put the vehicle tabs into effect. He thought that there were 60 or more cities that have the $20 fee, and a few have gone up to $40.

Board President Cotton commented that $20 can be a hit for some households, but noted that it's equitable in its size. He spoke to the immediate needs for streets in the city. He asked if there was consensus to hold a public hearing as a next step. It appeared that there was.

Board Member Boyer commented that the longer they wait the deeper into 2017 it pushes the date when the City starts receiving revenue. He spoke in support of holding a public hearing as soon as possible. There was discussion about when to proceed with a hearing and the general timeline.

Board Member Sessions commented that holding a public hearing on this particular item seems like a waste of time when the Board isn't even sure about it. If they do hold a public hearing, she would rather do it sooner rather than later so it doesn't get confused with the ballot measure in October.

Board Member Hurst spoke in support of holding a public hearing as soon as possible because of the upcoming budget and elections in the fall.

Board Member Sutton also spoke in support of holding a public hearing soon in order to adequately inform the public.

Motion made by Board Member Boyer, seconded by Board Member Hurst, to schedule a Special TBD Board Meeting on July 27 at 7 p.m. for the purpose of holding a public hearing on the vehicle license fee funding options. Motion passed (4-1) with Board Member Sessions voting against the motion.

60. Prohibition on Use of Public Facilities to Support or Oppose Ballot Measures

Board Attorney Rosemary Larson made a brief presentation regarding actions that the TBD Board Members may or may not take in connection with the ballot measure. She explained

that the RCW prohibits elected officials and public employees from making any use of public facilities to support or oppose a ballot proposition or candidates for office. She discussed a memo she included in the Board's packet which summarized the regulations.

There are three exceptions to the rule. One of them is that a legislative body can pass a resolution expressing their collective support or opposition to a ballot proposition. Another exception is that an elected official may make a statement at a press conference or respond to a direct inquiry. The final exception states that a public agency is allowed to do any activity that is part of their normal and regular conduct. The agency can prepare a single, factual statement regarding a ballot proposition. She encouraged the Board members to read through the memo and contact her if they have any questions.

Board Member Sessions asked about social media. Board Attorney Larson explained that council members' and city staff's first amendment rights are not suppressed by this. As private individuals they can make whatever statements they want on their personal social media, but not on the City's Facebook page.

Board Member Hurst asked for more information about a PDC investigation related to the TBD's last sales tax campaign that he read about in the *Herald*. Board Attorney Larson explained that a public survey created by a consultant for the TBD contained some questions that were deemed objectionable because they asked people how strongly or what percentage they would support various sales tax increases. Under the PDC's interpretation of their guidelines, an agency should not be asking a survey question like that because then the local agency could use that information to craft their ballot proposition so it will best succeed. Under that theory, they are using public funds to support a ballot proposition. Board Member Hurst asked if the consultant had asked her to review of the survey. Board Attorney Larson replied she had not seen the survey, but noted the consultant had done similar surveys for many other public agencies and had never been objected to before.

70. Presentation, discussion and possible action or other disposition related to a ballot proposition to impose a sales and use tax including but not limited to:
    - Schedule
    - Explanatory statement
    - Appointment of Pro/Con committee members
    - Other potential documents and procedures

Staff Presentation:

Resident Engineer Mach explained that there are three things the Board has to submit to the State Auditor's Office in order to get a proposition in place. They have already passed a resolution which was one of the items. Another item the Board needs to provide is an Explanatory Statement. Staff has provided one in the TBD packet which is similar to the one that was used two years ago with some slight revisions. He solicited comments from the Board on this Statement, but noted that ultimately it is the Board Attorney who will write a letter saying that either she drafted it or she approved it. The last item is to appoint Pro/Con committee members. He explained that staff advertised for two weeks for anyone interested in serving and got three members interested in serving on the Pro Committee and one person

interested in serving on the Con Committee as listed on page 70-3 of the TBD packet. It's up to the Board to decide if they want to appoint these individuals. If they do not appoint anybody then the Auditor's Office will put out a notice and try to get Pro/Con committee members. The deadline to get that in is August 2.

Board Comments and Questions:

Explanatory Statement

Board Member Boyer referred to the Explanatory Statement and asked if it is allowable for this Statement to include staff's previous estimate of $3.5 to $4 million needed to adequately fund the pavement projects. Board Attorney Larson said she did not know of any reason why not. Board Member Boyer suggested that this factual information be included. Board Attorney Larson indicated she would try to incorporate it unless she determines for some reason they weren't allowed to.

Board Member Hurst asked if there was any interest among the TBD Board members to withdraw this ballot proposition and instead refer a levy lid lift proposition to the City Council. Because of the recent developments with the County putting up their measure in August he thinks that getting an increase in sales tax is a losing proposition.

Board Member Boyer disagreed with that interpretation. He stated that the facts seem to show that when the voters are presented with a clear line between taxes asked for and what those taxes are going to that there is a much higher percentage voting in the affirmative. He thinks they have a really strong case by stating that the City needs $4 million a year to keep the roads in the kind of condition the experts say they need to be in and asking the public for $2 million towards that. Regarding a levy lid lift, he noted that the City Council has heard from their consultant on prior issues that a property tax measure will be necessary if there is an RFA that moves ahead. He doesn't want a levy lid lift to come into competition with something else that the City is trying to do.

Board Member Sessions said she liked the suggestion of adding the verbiage about the cost as suggested by Board Member Boyer. She also likes that the Explanatory Statement mentions some specific problem areas because it makes it helpful for people to visualize. She stated she is still in favor of moving forward with a November ballot measure.

Motion made by Board Member Boyer, seconded by Board Member Hurst, that the Transportation Benefit District Board appoint Ian Cotton, Charles Dean, and Tony Mangefeste to the Pro Committee and Ted Hikel to the Con Committee. Motion passed unanimously.

80. Scheduling Upcoming Special Meetings

Scheduled above under item 50.

90. Adjournment

Motion made by Board Member Boyer, seconded by Board Member Hurst, to adjourn the meeting. Motion passed unanimously.

The meeting was adjourned at 8:08 p.m.

Ian Cotton, TBD Board President

Sonja Springer
Finance Director, Acting as Board Treasurer

City of Lynnwood

Transportation Benefit District Board

Item 50

Special Meeting
July 27, 2016
7:00 P.M.

TITLE: Ordinance #10 – Increased or decreased vehicle license fee

A Public hearing

B Consideration, discussion and possible action or other disposition related to said Ordinance

DEPARTMENT: Public Works

DEPARTMENT CONTACT: Bill Franz/Jeff Elekes/David Mach

BACKGROUND: At previous meetings, the Board has discussed the potential for increasing or decreasing the existing $20 vehicle license fee. The following table summarizes the annual revenue impacts for various vehicle license fee funding options:

#	Vehicle License Fee Funding Options	Annual Revenue Impact
A	Postpone decision or no changes	$0
B	Decrease existing $20 vehicle tab fee to $0	($0.5M)
C	Increase existing $20 vehicle tab fee to $100	$20 to $40 - $0.5M* $20 to $60 - $1.0M $20 to $80 - $1.5M $20 to $100 - $2.0M

*** NOTE:** Due to recent legislative changes, increasing the vehicle tab fee from $20 to $40 does not require a public vote. If the Board decides to move forward with this option, the Board would need to adopt an ordinance to this effect.

ACTION: Public hearing, consideration, discussion and possible action or other disposition

ATTACHMENTS: Ordinance #10 (sample for $20 to $40 increase)

CITY OF LYNNWOOD
TRANSPORTATION BENEFIT DISTRICT

ORDINANCE NO. 10

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, TRANSPORTATION BENEFIT DISTRICT, INCREASING THE VEHICLE LICENSE FEE ESTABLISHED IN ORDINANCE NO. 2 AND AUTHORIZING CERTAIN PROJECTS TO BE FUNDED; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE, AND SUMMARY PUBLICATION.

WHEREAS, Chapter 36.73 RCW and RCW 35.21.225 authorize the City of Lynnwood City Council to establish a Transportation Benefit District within the City's jurisdiction for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels; and

WHEREAS, the City Council of the City of Lynnwood found it to be in the best interests of the City to establish a citywide Transportation Benefit District consistent with Chapter 36.73 RCW, to protect the City's long term investments in that infrastructure, to reduce the risk of transportation facility failures and improve safety, to continue optimal performance of the infrastructure over time, and to avoid more expensive infrastructure replacements in the future; and

WHEREAS, in Ordinance No. 2837, the City Council of the City of Lynnwood established a Transportation Benefit District as authorized by RCW 35.21.225 and subject to the provisions of RCW 36.73; and

WHEREAS, the Transportation Benefit District includes the entire City of Lynnwood as the boundaries currently exist or as they are expanded upon annexation; and

WHEREAS, RCW 36.73.065 authorizes a Transportation Benefit District to impose, by majority vote of the district's governing board, up to forty dollars ($40) of the vehicle license fee authorized in RCW 82.80.140, provided an annual vehicle license fee of twenty dollars ($20.00) has been imposed for at least twenty-four months; and

WHEREAS, in Ordinance No. 2 passed on November 30, 2010, the Lynnwood Transportation Benefit District Board established an annual vehicle license fee in the amount of twenty dollars ($20.00); and

WHEREAS, on _____, 2016, the Lynnwood Transportation Benefit District Board held a public hearing to solicit public comment regarding a proposal to increase the annual vehicle license fee to forty dollars ($40.00), among other funding options, and the projects to be funded with those revenues; and

WHEREAS, the Board of the City of Lynnwood Transportation Benefit District finds it in the best interests of the District to increase the annual vehicle fee from twenty dollars ($20.00) to forty dollars ($40.00) for the purpose of making transportation improvements that preserve, maintain, and improve the transportation infrastructure of the City of Lynnwood, consistent with Chapter 36.73 RCW; and

WHEREAS, the Board of the City of Lynnwood Transportation Benefit District has determined that fee increase shall begin as of <insert date>; and,

WHEREAS, the Board of the City of Lynnwood Transportation Benefit District finds it in the best interest of the District to fund Street Fund 111 and various projects/programs in the City of Lynnwood Capital Facilities Plan, as stated in Section 3 below; NOW, THEREFORE,

THE BOARD OF THE CITY OF LYNNWOOD, WASHINGTON, TRANSPORTATION BENEFIT DISTRICT, DO ORDAIN AS FOLLOWS:

Section 1. Increase of the Annual Vehicle Fee. The annual vehicle license fee established in Ordinance No. 2 in the amount of twenty dollars ($20.00), is increased to forty dollars ($40.00), consistent with RCW 36.73.065, to be collected by the Washington Department of Licensing on qualifying vehicles as set forth in RCW 82.80.140 and Chapters 36.73 and 46.16 RCW.

Section 2. Effective Date of Fee Collection. The increased vehicle license fee shall take effect for vehicle license renewals due on or after <insert date>, or as soon thereafter as the Washington Department of Licensing is reasonably able to incorporate collection of the $40 fee. The increased vehicle license fees will not be collected sooner than six months after approval as provided in RCW 82.80.140. The existing annual vehicle license fee established by Ordinance No. 2 in the amount of twenty dollars ($20.00) shall remain in effect and be collected by the Department of Licensing until the effective date of the increased vehicle license fee established by this Ordinance.

Section 3. Projects. Funding shall be used for the following transportation improvements: preventative and routine pavement maintenance and reconstruction, street and traffic maintenance and operations, and other capital project as identified in the City's Transportation Plan.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase or word of this ordinance.

Section 5. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED this _____ day of _____, 2016 and signed in authentication of its passage this _____ day of _____, 2016.

_____
Ian Cotton
TBD President

ATTEST:

_____
Sonja Springer
Finance Director, acting as
Board Treasurer

APPROVED AS TO FORM:

_____
Rosemary Larson
City Attorney, acting as Board Attorney

FILED WITH ADMINISTRATIVE SERVICES: _____
PASSED BY THE TRANSPORTATION BENEFIT DISTRICT BOARD: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NUMBER: _____

City of Lynnwood
Transportation Benefit District Board

Item 60

Special Meeting
July 27, 2016
7:00 P.M.

TITLE: Scheduling Upcoming Special Meeting(s)

DEPARTMENT: Public Works

DEPARTMENT CONTACT: Bill Franz/Jeff Elekes/David Mach

BACKGROUND: At the March 14th 2016 regular meeting the TBD Board amended the TBD Charter to revise the regular meeting dates to be held on the third Wednesday of March and the third Wednesday of October of each year at 7:00 PM. However, the TBD Board may elect to schedule special meetings from time to time. The next regular meeting is scheduled for October 19th 2016.

ACTION: Consider, discuss, and possibly schedule upcoming special meetings

ATTACHMENTS: None