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3 **AGENDA**
4 **City of Lynnwood**
5 **Transportation Benefit District (TBD) Board**
6 **Council Chambers, City Hall**
7 **19100 44th Avenue W, Lynnwood, WA, 98036**

8 **Special Meeting**
9 **July 21, 2014**
10 **7:00 P.M.**

11
12 **10 Call to Order**

13
14 **20 Roll Call**

15
16 **30 Approval of Minutes – Special Meeting June 30, 2014**

17
18 **40 Voucher Approval**

19
20 **50 Consideration, discussion, and possible action on Resolution #5 and other various**
21 **documents and procedures associated with a ballot proposition to impose a sales**
22 **and use tax**

23
24 **60 Prohibition on Use of Public Facilities to Support or Oppose Ballot Measure**

25
26 **70 Adjournment**
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**City of Lynnwood
Transportation Benefit District Board**

Item 30

**Special Meeting
July 21, 2014
7:00 P.M.**

38 **TITLE:** Approval of Minutes -- Special Meeting June 30, 2014

39
40 **DEPARTMENT:** Public Works

41
42 **DEPARTMENT CONTACT:** David Mach

43
44 **BACKGROUND:** At the May 24, 2010 Business Meeting, the Lynnwood City Council
45 approved Ordinance #2837, which amended the Lynnwood Municipal Code enacting a new
46 chapter, Transportation Benefit District (TBD), effectively establishing the district. The
47 governing board of the TBD is the Lynnwood City Council acting in an ex officio and
48 independent capacity per RCW 36.73.020(3).

49
50 The June 30, 2014 TBD meeting was the most recent meeting of the TBD Board.

51
52 **ACTION:** Approve the meeting minutes from the June 30, 2014 special meeting.

53
54 **ATTACHMENTS:** June 30, 2014 special meeting minutes
55

CITY OF LYNNWOOD
TRANSPORTATION BENEFIT DISTRICT BOARD SPECIAL MEETING MINUTES
June 30, 2014

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2 10. CALL TO ORDER – The June 30, 2014 Special Meeting of the City of Lynnwood
3 Transportation Benefit District (TBD) Board, held in the Council Chambers of Lynnwood
4 City Hall, was called to order by Board President Simmonds at 7:44 p.m.
5

6 20.

ROLL CALL

Board President Loren Simmonds
Board Vice President Sid Roberts
Board Member Van AuBuchon
Board Member Benjamin Goodwin
Board Member M. Christopher Boyer
Board Member Ruth Ross
Board Member Ian Cotton

OTHERS ATTENDING

Public Works Director Franz
Deputy PW Director Elekes
Project Manager Mach
Finance Director Hines
Community Devt. Director Krauss
Council Assistant Morris
Asst. City Admin. Ceneza

PRR Consultants:

Katherine Schomer
Kimbra Wellock

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8
9 30. APPROVAL OF MINUTES – Special Meeting March 10, 2014

10
11 *Motion made by Board Member Boyer, seconded by Board Member AuBuchon, to approve*
12 *the minutes of the March 10, 2014 Meeting as presented. Motion passed unanimously.*
13

14 40. VOUCHER APPROVAL

15
16 *Motion made by Board President Simmonds, seconded by Board Member Boyer, to approve*
17 *claims in the amount of \$44,422.30. Motion passed unanimously.*
18

19 50. PRESENTATION AND DISCUSSION: COMMUNITY EDUCATION /OUTREACH
20 AND PUBLIC SURVEY

21
22 Director Franz introduced consultants from PRR, Kimbra Wellock and Katherine Schomer,
23 who helped the City through an education and outreach process and survey. Ms. Wellock
24 gave a PowerPoint presentation as contained in the Board's packet reviewing the education
25 and outreach portion. Ms. Schomer then completed the PowerPoint presentation and
26 discussed the survey results.
27

28 Council Questions and Answers:

29
30 Board Member Cotton thanked the consultants for putting this together. He asked them if
31 the 10% response rate was normal. Ms. Schomer replied it is a little low for a mail survey,

32 but it is not unusual. Project Manager Mach added that the goal was to get a 5% margin of
33 error. They actually exceeded that at 4.6% because they got more people that returned the
34 survey than they expected. Board Member Cotton asked about the purpose of the online
35 survey. Ms. Wellock explained that they chose to offer the separate online survey so that
36 people who weren't selected as part of the random sample of 5,000 had an opportunity to
37 weigh in as well.

38
39 Board Member Boyer commended the consultants on their work.

40
41 Board President Simmonds acknowledged that he was shocked to see the #2 project on the
42 survey is 196th. He reviewed options available to the Board for proceeding with the topic at
43 hand and asked for input from the Board.

44
45 Board Member Boyer asked about the forecast for revenue if they were successful in getting
46 voter approval of a 0.2 of 1% increase in sales tax. Project Manager Mach said they are
47 currently working with the Finance Department to get more current numbers, but the older
48 numbers were around \$4 million annually. If it was enacted, it could only be in place for 10
49 years and would generate a total of about \$40 million with sales tax fluctuation. Board
50 Member Boyer asked if \$4 million annually would achieve the goals of the City. Director
51 Franz replied that it would. It would also have a positive impact on the General Fund
52 overall. Board Member Boyer commented that the numbers show a 57% overall support for
53 a ballot measure of some kind in this area and at least a 45% support for no more than 0.2 of
54 1% sales tax. He commented that potential electoral support seems good. Director Franz
55 commented that after questioning the consultant indicated that the level of support could go
56 even higher depending on how the ballot measure language is crafted. For this reason, it
57 might be necessary for the TBD to meet again to review sample ballot measure language.

58
59 Board Member Roberts asked Director Franz if the revenue would go for roads only or if it
60 would go towards other things too. Director Franz explained that is one of the things they
61 are working on. Based on what they heard in the survey he would recommend the bulk of it
62 go to pavement overlay, but that some also go to other street maintenance. However, all of
63 the money would go towards roads. Board Member Roberts asked Finance Director Hines if
64 there are other sales tax measures that are due to sunset during the next 5 to 10 years.
65 Director Hines said he wasn't aware of any. Board Member Roberts asked what would
66 happen at the end of 10 years. Director Franz replied that it would just go away and would
67 need to be revoted.

68
69 Board Member AuBuchon spoke in support of Director Franz' recommendation to bring this
70 back as a proper ballot measure.

71
72 Board President Simmonds summarized that it appeared the Board was in support of moving
73 forward with this.

74
75 *Motion made by Board Member Boyer, seconded by Board Member Cotton, to instruct staff*
76 *to move ahead with the writing of a potential ballot measure to be presented to the public at*
77 *the earliest opportunity to institute a 0.2 of 1% increase in sales tax for the purpose of street*
78 *maintenance and repair. Motion passed unanimously.*

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Director Franz commented that it might be wise to have City Attorney Larson give the Board a brief review of the process at the next TBD meeting.

60. ADJOURNMENT

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

There was discussion about the need for a Special TBD Meeting in the near future. The meeting was adjourned at 8:23 p.m.

Loren Simmonds, TBD Board President

Lorenzo Hines, Jr.
Finance Director, acting as Board Treasurer

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**City of Lynnwood
Transportation Benefit District Board**

Item 40

**Special Meeting
July 21, 2014
7:00 P.M.**

67 **TITLE:** Voucher Approval

68
69 **DEPARTMENT:** Finance/Public Works

70
71 **DEPARTMENT CONTACT:** Lorenzo Hines, Jr./David Mach

72
73 **BACKGROUND:** Due to the close proximity between the June 30, 2014 and July 21, 2014
74 special meetings, there will be no voucher approval at this time. Voucher approval will be
75 brought to the TBD Board at a future meeting.

76
77 **ACTION:** No action needed at this time.

78
79 **ATTACHMENTS:** None

80

82 **City of Lynnwood**
83 **Transportation Benefit District Board**
84

85 **Item 50**
86

87 **Special Meeting**
88 **July 21, 2014**
89 **7:00 P.M.**
90

91
92
93 **TITLE:** Consideration, discussion, and possible action on Resolution #5 and other various
94 documents and procedures associated with a ballot proposition to impose a sales and use tax
95

96 **DEPARTMENT:** Public Works
97

98 **DEPARTMENT CONTACT:** Bill Franz/Jeff Elekes/David Mach
99

100 **BACKGROUND:** At the June 30, 2014 meeting, the TBD Board authorized staff to prepare
101 various documents providing for a ballot proposition for the November 4, 2014 general
102 election for a 0.2% sales and use tax increase to be used on various transportation
103 improvements. Staff and the Board Attorney have reviewed similar documents from other
104 Snohomish County TBD's and have drafted Resolution #5 and an explanatory statement for
105 the Boards review and potential action.
106

107 **ACTION:** Consider, discuss, and possibly adopt Resolution #5 and associated explanatory
108 statement.
109

110 **ATTACHMENTS:**

- 111 1) Resolution #5
112 2) Explanatory Statement
113

1 **LYNNWOOD TRANSPORTATION BENEFIT DISTRICT**

2
3 **RESOLUTION NO. 5**

4
5 A RESOLUTION OF THE CITY OF LYNNWOOD,
6 WASHINGTON, TRANSPORTATION BENEFIT DISTRICT
7 BOARD, PROVIDING FOR A BALLOT PROPOSITION TO BE
8 SUBMITTED TO THE QUALIFIED ELECTORS OF THE
9 DISTRICT ON NOVEMBER 4, 2014, TO IMPOSE A SALES
10 AND USE TAX IN THE AMOUNT OF TWO-TENTHS OF ONE
11 PERCENT (0.2%) WITHIN THE BOUNDARIES OF THE
12 DISTRICT FOR A PERIOD OF TEN YEARS TO FUND OR
13 FINANCE SPECIFIED TRANSPORTATION
14 IMPROVEMENTS.

15
16 WHEREAS, the City of Lynnwood (the "City") approved Ordinance No. 2837 on May
17 24, 2010, creating the Lynnwood Transportation Benefit District ("TBD") of the City of
18 Lynnwood, Washington (the "District") pursuant to Chapter 36.73 RCW; and

19
20 WHEREAS, the City has identified the sales and use tax as an authorized source of
21 revenue identified in Chapter 36.73 RCW to finance various transportation improvements and
22 operation, preservation, and maintenance of transportation facilities within the City; and

23
24 WHEREAS, the District is authorized pursuant to RCW 36.73.040(3)(a) to impose a
25 sales and use tax in accordance with RCW 82.14.0455 in the amount of two-tenths of one
26 percent (0.2%) for a period of ten years upon a favorable vote of the qualified electors within the
27 District for the purpose of funding or financing certain transportation improvements; and

28
29 WHEREAS, with voter approval, the District may impose a sales and use tax upon the
30 occurrence of any taxable event within the boundaries of the District to fund or finance
31 transportation improvements; and

32
33 WHEREAS, if approved by the voters, the sales and use tax will apply to persons who
34 shop and thereby use the roads in the City and not just to City residents; and

35
36 WHEREAS, the sales and use tax is estimated to generate an average of \$4,000,000 of
37 additional revenue per year, which will be used entirely to fund the shortfall in funding for the
38 projects included in the City's Transportation Plan, and as allowed by State law; now, therefore

39
40 THE BOARD OF THE CITY OF LYNNWOOD, WASHINGTON,
41 TRANSPORTATION BENEFIT DISTRICT, DO RESOLVE AS FOLLOWS:

42
43 **Section 1. Current Purpose and Need.**

44
45 The Governing Board of the District (the "Board") hereby finds that the best interests of the
46 inhabitants of the District require the District to impose a sales and use tax through this

50-2

47 Resolution in the amount of two-tenths of one percent (0.2%) pursuant to RCW 36.73.040(3)(a)
48 and RCW 82.14.0455 for the purpose of providing a portion of the funds necessary to finance
49 transportation improvements.

50
51 The following items are identified as transportation improvements:

- 52
53 1) Preventative and routine pavement maintenance and reconstruction which extends the life
54 cycle of the street pavement section, including but not limited to pavement repair, sub-
55 base reconstruction, overlay, chip seal, and patching;
- 56 2) Street and traffic maintenance and operations, including but not limited to signing,
57 striping, sidewalks, and traffic signals; and
- 58 3) Other projects as identified in the City's Transportation Plan
- 59

60 The cost of all necessary design, engineering, financial, legal and other consulting services,
61 inspection and testing, administrative and relocation expenses, and other costs incurred in
62 connection with the foregoing TBD improvements shall be deemed a part of the costs of the
63 TBD improvements.

64

65 The Board shall determine the application of moneys available for the TBD improvements so as
66 to accomplish, as nearly as may be practical, all of the TBD improvements. In the event that the
67 proceeds of sales and use taxes authorized herein, plus any other money of the District legally
68 available therefore, are insufficient to accomplish all of the TBD improvements, the Board shall
69 use the available funds for paying the cost of those portions of the TBD improvements deemed
70 by the Board most necessary and in the best interests of the District.

71

72 The Board shall determine the exact locations and specifications for the elements of the TBD
73 improvements as well as the timing, order, and manner of implementing or completing the TBD
74 improvements. The Board may alter, make substitutions to, and amend the TBD improvement
75 descriptions as it determines is in the best interests of the District consistent with the general
76 descriptions provided above and in accordance with the material change policy adopted by the
77 Board and the notice, hearing, and other procedures described in Chapter 36.73 RCW, including
78 RCW 36.73.050(2)(b), in each case as the same may be amended from time to time.

79

80 If the Board shall determine that it has become impractical to acquire, construct, or implement all
81 or any portion of the TBD improvements by reason of changed conditions, incompatible
82 development, costs substantially in excess of the amount of sales and use tax proceeds estimated
83 to be available, or acquisition by a superior governmental authority, the Board shall not be
84 required to acquire, construct, or implement such portions. If all of the TBD improvements have
85 been acquired, constructed, implemented or duly provided for, or found to be impractical, the
86 Board may apply the sales and use tax proceeds (including earnings thereon) or any portion
87 thereof to other transportation improvements then identified in the City's Transportation
88 Improvement Program in accordance with the material change policy adopted by the Board and
89 the notice, hearing, and other procedures described in Chapter 36.73 RCW, including RCW
90 36.73.050(2)(b), in each case as the same may be amended from time to time.

91

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93 **Section 2. Findings of Fact.**

- 94
- 95 1. The Lynnwood Transportation Benefit District is permitted to place a ballot measure
- 96 before the voters and is so authorized pursuant to RCW 36.73.040(3)(a) to impose a sales
- 97 and use tax in accordance with RCW 82.14.0455.
- 98
- 99 2. The provisions of Ordinance No. 2837 still adequately state the purpose and need for the
- 100 Transportation Benefit District Governing Board.

101

102 **Section 3. Ballot Measure.**

103

104 It is hereby found and declared that the best interests of the District require the submission to the

105 qualified electors of the District a proposition whether the District shall impose a sales and use

106 tax within the limitations established in RCW 82.14.0455 for their ratification or rejection at a

107 general election to be held on November 4, 2014 for the purpose of providing funds necessary to

108 pay or finance a portion of the costs of the improvements. The Snohomish County Auditor, as *ex*

109 *officio* supervisor of elections in Snohomish County, Washington, is hereby requested to call and

110 conduct such election to be held within the District on such day and to submit to the qualified

111 electors of the District for their approval or rejection, a proposition to impose a sales and use tax

112 in the amount of two-tenths of one percent (0.2%) of the selling price in the case of a sales tax, or

113 value of the article used in the case of the use tax. The sales and use tax authorized by this

114 section is in addition to any other taxes authorized by law, shall be collected from those persons

115 who are taxable by the State of Washington under Chapters 82.08 and 82.12 RCW upon the

116 occurrence of any taxable event within the boundaries of the District, and shall be imposed for a

117 period of ten years from its first date of collection. Upon approval of the voters of the proposition

118 hereinafter set forth, the District may use proceeds of such sales and use tax for the purpose of

119 paying or financing a portion of the costs of TBD improvements. The Treasurer of the Board is

120 hereby authorized and directed to certify said proposition to said official in the following form:

121

122 **LYNNWOOD TRANSPORTATION BENEFIT DISTRICT**

123 **LYNNWOOD, WASHINGTON**

124 **SALES AND USE TAX FOR TRANSPORTATION IMPROVEMENTS**

125

126 The Board of the Lynnwood Transportation Benefit District, Lynnwood,

127 Washington, adopted Resolution 5 concerning a sales and use tax to fund

128 transportation improvements. This proposition would authorize a sales and use tax

129 of two-tenths of one percent (0.2%) to be collected within the District in accordance

130 with RCW 82.14.0455 for a term of ten years. Such revenues would be used for the

131 purpose of funding the following transportation improvements: preventative and

132 routine pavement maintenance and reconstruction, street and traffic maintenance

133 and operations, and other capital projects as identified in the City's Transportation

134 Plan. Should this proposition be:

135

136 Approved.....

137

138 Rejected.....

139 **Section 4. Corrections.**

140
141 The Treasurer of the District and the codifiers of this resolution are authorized by the Lynnwood
142 Transportation Benefit District Governing Board to make necessary clerical corrections to this
143 resolution including, but not limited to, the correction of scrivener's/ clerical errors, references,
144 resolution numbering, section/subsection numbers and any references thereto, and to make
145 corrections or revisions consistent with the requirements of the Snohomish County Prosecutor's
146 office which do not change the substantive meaning of this resolution.

147
148 **Section 5. Severability.**

149
150 If any section, sentence, clause, or phrase of this resolution should be held to be invalid or
151 unconstitutional by a court of competent jurisdiction, such invalidity or constitutionality shall not
152 affect the validity or constitutionality of any other section, sentence, clause, or phrase of this
153 resolution.

154
155 **Section 6. Effective Date.**

156
157 This Resolution shall be in full force and effect from and after its adoption and approval.

158
159 PASSED BY THE LYNNWOOD TRANSPORTATION BENEFIT DISTRICT
160 BOARD, the _____ day of _____, 2014.

161
162 APPROVED:

163
164
165
166 _____
167 Loren Simmonds, TBD Board President

168 ATTEST/AUTHENTICATED:

169
170 _____
171 Lorenzo Hines
172 Finance Director, acting as Board Treasurer

173
174 APPROVED AS TO FORM:

175
176 _____
177 Rosemary Larson
178 City Attorney, acting as Board Attorney

179
180 FILED WITH ADMINISTRATIVE SERVICES: _____
181 PASSED BY THE TRANSPORTATION BENEFIT DISTRICT BOARD: _____
182 EFFECTIVE DATE: _____
183 RESOLUTION NUMBER: _____

50-5

1 **Explanatory Statement**

2 The City of Lynnwood formed a Transportation Benefit District (District) by ordinance on May
3 24, 2010. The purpose of the District is to fund construction, maintenance and operation of the
4 City's street and traffic system, as allowed by state law. The District is authorized to impose a
5 sales and use tax in the amount of two-tenths of one percent (0.2%) for a period of up to ten
6 years upon approval by voters within the District. This tax is estimated to generate an average of
7 \$4,000,000 of additional revenue per year, which will fund the following transportation
8 improvements: preventative and routine pavement maintenance and reconstruction, such as
9 pavement repair, overlay, chip seal, and patching; street and traffic maintenance and operations,
10 such as signing, striping, sidewalks, and traffic signals; and other capital projects identified in the
11 City's Transportation Plan. More information about the improvements is available at Lynnwood
12 City Hall and on the District's website at www.ci.lynnwood.wa.us/tbd. The proposed sales and
13 use tax would impose a new tax in the amount of two-tenths of one percent (0.2%) for a period
14 of ten years, the proceeds of which will be dedicated to and used solely to fund the above
15 transportation improvements.

113 **City of Lynnwood**
114 **Transportation Benefit District Board**
115

116 **Item 60**
117

118 **Special Meeting**
119 **July 21, 2014**
120 **7:00 P.M.**
121
122

123
124 **TITLE:** Prohibition on Use of Public Facilities to Support or Oppose Ballot Measure
125

126 **DEPARTMENT:** Public Works
127

128 **DEPARTMENT CONTACT:** Bill Franz/Jeff Elekes/David Mach
129

130 **BACKGROUND:** State and Local Government Agencies are prohibited from certain
131 campaign activities. Our legal staff will provide a brief presentation about the do's and don'ts
132 during an election season.
133

134 **ACTION:** Discussion
135

136 **ATTACHMENTS:** Memorandum

1
2
3 **MEMORANDUM**

4 TO: David Mach, Project Manager and Transportation Benefit District Board Liaison
5 FROM: Rosemary A. Larson, District Attorney
6
7 DATE: July 15, 2014
8
9 RE: Lynnwood Transportation Benefit District – Prohibition on Use of Public Facilities to
10 Support or Oppose Ballot Measure
11

12
13
14 **I. ISSUE**

15
16 The Lynnwood Transportation Benefit District (TBD) is considering a resolution that would
17 provide for a ballot proposition authorizing a sales and use tax to be submitted to the voters of the
18 District at the general election on November 4, 2014. You requested that I provide information
19 regarding actions that the TBD Board Members may or may not take in connection with the ballot
20 measure, assuming that the Board passes the resolution authorizing the election.
21

22 **II. DISCUSSION**

23
24 State law prohibits public officials and employees from using, or allowing the use of, public
25 facilities to assist in campaigns for election to any public office, or to support or oppose any ballot
26 proposition. RCW 42.17A.555 (formerly RCW 42.17.130) states in part:
27

28 No elective official nor any employee of his or her office nor any person appointed to
29 or employed by any public office or agency may use or authorize the use of any of the
30 facilities of a public office or agency, directly or indirectly, for the purpose of assisting
31 a campaign for election of any person to any office or for the promotion of or
32 opposition to any ballot proposition. Facilities of a public office or agency include, but
33 are not limited to, use of stationery, postage, machines, and equipment, use of
34 employees of the office or agency during working hours, vehicles, office space,
35 publications of the office or agency, and clientele lists of persons served by the office
36 or agency. ...
37

38 The statute has three specific exceptions: (1) an elected legislative body may vote on a motion,
39 resolution, or ordinance to express support of or opposition to a ballot proposition if certain
40 procedural steps are followed, which include providing notice of the meeting at which the matter will
41 be considered and allowing equal opportunity for members of the legislative body and the public to
42 express opposing views; (2) elected officials may make a statement in support of or in opposition to
43 a ballot proposition at a press conference or in response to a specific inquiry; and (3) activities that
44 are part of the normal and regular conduct of the local government are allowed. RCW 42.17A.555.
45

46 Thus, in general, TBD Board Members (and City staff, regardless of whether they are
47 providing services for the TBD or acting as City employees) must not use any public facilities, as
48 broadly defined in the statute, to either support or oppose the ballot proposition. However, under the
49 first two statutory exceptions, the TBD Board may vote on a motion or resolution to express support
50 of or opposition to the ballot proposition after following the proper procedures (as a practical matter,
51 this exception would not apply, as the Board would already have passed the resolution authorizing
52 the ballot measure), and Board Members may make statements in support of or in opposition to the
53 ballot proposition at a press conference or **in response** to a specific inquiry.
54

55 Regarding the third exception, the Public Disclosure Commission (the state agency
56 authorized to enforce violations of RCW 42.17A.555) defines the phrase “normal and regular
57 conduct” of a public agency as “conduct which is (1) lawful, i.e., specifically authorized, either
58 expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or
59 authorized in or by some extraordinary means or manner. No local office or agency may authorize a
60 use of public facilities for the purpose of assisting a candidate’s campaign or promoting or opposing
61 a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately
62 authorizing such use.” WAC 390-05-273. PDC regulations state that RCW 42.17A.555 does not
63 prevent a public agency from making facilities available on a non-discriminatory equal access basis
64 for political uses, or from making an objective and fair presentation of facts relevant to a ballot
65 proposition, if such action is part of the agency’s normal and regular conduct. WAC 390-05-271(2).

66 Under this exception, the PDC presumes that an agency may distribute throughout its jurisdiction
67 one objective and fair presentation of the facts for each ballot measure. See PDC Interpretation No.
68 04-02, “Guidelines for Local Government Agencies in Election Campaigns,” p. 4 (Amended May 22,
69 2013). If an agency distributes more than one publication, the agency must be able to demonstrate
70 that this conduct is normal and regular for the agency. *Id.* at p. 4. However, the PDC expressly
71 cautions: “Agencies need to be aware, however, that in no case will the PDC view a marketing or
72 sales effort related to a campaign or election as normal and regular conduct.” *Id.*, at p. 5. There is a
73 fine line between merely presenting the facts and making a “sales effort” with respect to a ballot
74 measure, and care must be taken to do no more than state facts. For example, the written materials
75 should not speculate as to the impact on the agency if a ballot proposition fails.
76

77 Also, the PDC has opined that the third exception does not authorize the use of a normal
78 public comment period during an open public meeting to express support or opposition to candidates
79 or ballot measures; rather, the PDC deems the public comment period to be a “public facility” that
80 cannot be used to support or oppose election issues. Therefore, if the Board holds a meeting before
81 the election on the ballot measure, and allows public comment as part of the meeting, the Board
82 should not allow persons speaking during the public comment period to use their time to express
83 support or opposition of the ballot measure.
84

85 Finally, the PDC regulations expressly state that RCW 42.17A.555 does not restrict the right
86 of any individual to express his or her personal views concerning a candidate or ballot proposition, if
87 such expression does not involve the use of the facilities of the public agency. WAC 390-05-271(1).

88 Thus, TBD Board Members may campaign or express their own views on their own time, so long as
89 no public equipment, vehicles, supplies, employee time (during work hours) or other facilities or
90 resources are used or involved in any way. See PDC Interpretation No. 04-02, p. 3-4.

91
92
93 cc: Transportation Benefit District Board Members
94 Nicola Smith, Mayor
95 Bill Franz, Director of Public Works