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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 **June 29, 2016**
10 **7:00 P.M.**

11
12 **10 Call to Order**

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14 **20 Roll Call**

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16 **30 Approval of Minutes – April 20, 2016 and May 31, 2016 Special Meetings**

17
18 **40 Citizen Comments and Communications**

19
20 **50 Presentation, discussion and possible action or other disposition related to a**
21 **potential ordinance for increased or decreased vehicle license fee funding options**
22 **including but not limited to:**

- 23 • **Schedule**
- 24 • **Scheduling of a public hearing**
- 25 • **Other potential documents and procedures**

26
27 **60 Prohibition on Use of Public Facilities to Support or Oppose Ballot Measure**

28
29 **70 Presentation, discussion and possible action or other disposition related to a ballot**
30 **proposition to impose a sales and use tax including but not limited to:**

- 31 • **Schedule**
- 32 • **Explanatory statement**
- 33 • **Appointment of Pro/Con Committee members**
- 34 • **Other potential documents and procedures**

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36 **80 Scheduling Upcoming Special Meeting(s)**

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38 **90 Adjournment**

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41 **Memorandums for Your information:**

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43 **FYI-1 Sales Tax Proposition Fact Sheet**
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**City of Lynnwood
Transportation Benefit District Board**

Item 30

**Special Meeting
June 29, 2016
7:00 P.M.**

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

DEPARTMENT: Public Works

DEPARTMENT CONTACT: David Mach

BACKGROUND: The April 20, 2016 and May 31, 2016 special meetings were the most recently held Board meeting.

ACTION: Approve the meeting minutes from the April 20, 2016 and May 31, 2016 Special Meetings

ATTACHMENTS:

- 1) April 20, 2016 special meeting minutes
- 2) May 31, 2016 special meeting minutes

CITY OF LYNNWOOD
TRANSPORTATION BENEFIT DISTRICT BOARD SPECIAL MEETING MINUTES
April 20, 2016

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2 10. CALL TO ORDER – The April 20, 2016 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 Cotton at 7:01 p.m.
5

6 20.

ROLL CALL

Board President Ian Cotton
Board Vice President Benjamin Goodwin
Board Member M. Christopher Boyer (absent)
Board Member Ruth Ross
Board Member Shannon Sessions (absent)
Board Member Shirley Sutton
Board Member George Hurst

OTHERS ATTENDING

Public Works Director Franz
Deputy PW Director Elekes
Resident Capital Project Eng. Mach
Executive Assistant Morris
Finance Director Springer
City Attorney Larson

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9 30 APPROVAL OF MINUTES – MARCH 14, 2016 REGULAR MEETING

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11 *Motion made by Board Member Ross, seconded by Board Member Sutton, to approve the*
12 *March 14, 2016 Regular Meeting Minutes. Motion passed unanimously.*
13

14 40. CITIZEN COMMENTS AND COMMUNICATIONS

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16 None

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18 50. PRESENTATION, DISCUSSION AND POSSIBLE ACTION OR OTHER DISPOSITION:

- 19
- 20 • Transportation Funding Status and Needs
 - 21 • Potential funding sources and next steps for potential funding, including, but not
22 limited to options for possible ballot measure
 - 23 • Possible motion relating to potential ballot measure resolution for increased sales tax
24 and/or increased or decreased vehicle license fee funding options
 - 25 • Possible motion relating to potential ordinance for increased or decreased vehicle
26 license fee funding options
 - 27 • Possible motion to set a date for a public hearing on funding options and related
28 issues

29 Staff Presentation:

30
31 Resident Capital Projects Engineer David Mach explained that the two main items
32 relate to consideration of an increase in revenue to fund transportation projects. There
33 are two different mechanisms to be considered. One is a vehicle tab increase which
34 would be a TBD ordinance (identified in the TBD packet on page 50-7). The other is
35 a sales tax increase which would be implemented via resolution to put out to a public
36 vote (identified in the packet on page 50-3). He summarized that the vehicle tab

1 increase would be an increase from \$20 currently to \$40 which would generate an
2 additional approximately \$500,000 revenue per year. The sales tax increase would
3 increase the current sales tax of 9.8% to 9.9% which would generate roughly \$2
4 million per year. He stressed these are separate issues and the process to implement
5 them would be different.
6

7 City Attorney Larson pointed out that one of the bullet items under item 50 is a
8 possible motion setting a date for a public hearing. She clarified that if the
9 Commission chose to have a public hearing, the public hearing would only be on the
10 potential increase to the license fee, not the sale tax because the sales tax increase
11 would be implemented through a ballot proposition. There is a statute that prohibits
12 use of public facilities to promote or oppose a ballot proposition.
13

14 Resident Capital Projects Engineer David Mach explained that the vehicle tab
15 increase would be a board-matic procedure. He reviewed details related to the
16 Ordinance. He clarified that the board does not have to take action tonight. They
17 could hold a hearing on the license tab fees and then take action.
18

19 Resident Capital Projects Engineer David Mach then explained that the resolution for
20 the sales tax increase would require a decision as to whether the Board wished to put
21 it on the ballot, and if so, when. He reviewed the timeline and requirements
22 associated with this. He reviewed the potential plausible project list on page 50-10
23 which included options for possible pavement overlay program projects, capital
24 projects investment, and new sidewalks.
25

26 Deputy PW Director Elekes added that the list of projects under overlays was a list
27 the maintenance division put together of what they think is the worst of the worst, but
28 not necessarily a scientific list. He noted that the Council recently awarded a contract
29 to a consulting firm to rerate the city streets. The data from that study will be
30 available late summer/early fall.
31

32 Board Questions:

33
34 Board VP Goodwin referred to the license tab fee and commented that it sounds like
35 Tim Eyman is going to come up with another initiative later this year about \$30 tabs.
36 He wondered how this would affect the City's options. Resident Capital Projects
37 Engineer David Mach was not sure, but noted the City would have to abide by
38 whatever it required. Board VP Goodwin expressed concern about having to change
39 plans if Tim Eyman's legislation passed.
40

41 Board Member Hurst asked City Attorney Larson if a councilmember can write the
42 Pro/Con Statements. City Attorney Larson replied that they could not write it in their
43 capacity as a councilmember, but it could be possible as a resident. However, if there
44 are others that want to do it, it might be better to let others do it. Resident Capital
45 Projects Engineer David Mach added that they are allowed to have a maximum of
46 three members for Pro and three for Con.
47

48 Board President Cotton asked about the length and duration of the sales tax increase
49 or the tab fees. Resident Capital Projects Engineer David Mach explained the sales

1 tax is limited to ten years. The vehicle tab increase is limited to until the projects are
2 funded. If the project list is somewhat generic this could be in perpetuity. Board
3 President Cotton asked for clarification about the type of the projects on the list of
4 potential projects on page 50-10. Deputy Director Elekes replied they are identified
5 projects on the six-year TIP, the CFP, and backed up by a variety of studies.
6

7 Board Comments:
8

9 Board President Cotton solicited comments on the two items.
10

11 Board Member Ross stated she is very supportive of both measures.
12

13 Board Member Hurst said he did not like the sales tax idea, but he might be able to
14 support it if there were a related ordinance saying the City would abandon the vehicle
15 tab option entirely. He stated he could not support Ordinance 10 (the vehicle license
16 tab fee).
17

18 Board VP Goodwin stated he also didn't like increasing the sales tax, but noted one of
19 the good things about it is that the burden wouldn't be placed entirely on the back of
20 the citizens of Lynnwood. He definitely would not be agreeable to the vehicle license
21 fees although he suggested doing a public hearing on that to get more input from the
22 citizens. If the public expressed an interest in this he might consider it. Without that
23 he wouldn't consider it at all. He would be agreeable to try a 0.1% sales tax increase
24 because it would be a vote of the people. He stated he would prefer option B because
25 he would rather have the City pay \$8,000 as opposed to \$12,000 for the special
26 election in August. He also thinks more people would vote in November.
27

28 Board Member Sutton agreed with Board VP Goodwin. She commented that this is
29 such as serious issue with a long-term effect that the more citizens that have a say, the
30 better. She commented that there are a lot of people on the brink financially and any
31 kind of increase at this time would have more of a negative effect for those people
32 than a positive effect. She said she would like to see the citizens weigh in on this. She
33 noted that there is an Open House on May 11. She would like to see some energy put
34 on this issue at that time.
35

36 Board VP Goodwin noted that public buildings can't be used for anything that is on a
37 ballot. City Attorney Larson concurred and advised that there be no public outreach
38 on a ballot proposition. She stated that the public speaks at the election. Director
39 Franz commented that staff is planning on having a transportation table with TBD
40 general information available. Deputy Director Elekes added that if something should
41 go to a ballot, the City is allowed to do a one-page fact sheet which can be available
42 on the website.
43

44 Board President Cotton stated that the city's roads are a priority as expressed in the
45 Vision Statement. Citizens have constantly rated it as a high need and a highly
46 utilized piece of infrastructure. He thinks providing a dedicated funding stream is
47 important. He agreed that the mechanisms aren't necessarily perfect and that sales tax
48 can be problematic, but these are the mechanisms that are available to the TBD. He
49 spoke in support of a 0.1% increase in sales tax and in agreement with going with the

1 November election giving more people an opportunity to vote. He spoke in support of
2 the \$20 tab increase, but stated it should only be done with public outreach.
3

4 Board VP Goodwin commented that the sales tax is a regressive tax, but the
5 necessities of life, for the most part (food, water, etc.) don't have sales tax attached to
6 them. On the other hand, as the sales tax goes up, people may choose to go
7 somewhere else to purchase big ticket items like appliances and cars. This should also
8 be considered.
9

10 Board Member Hurst asked City Attorney Larson about the feasibility of the City
11 saying in a resolution that they would get rid of the tab fee if the sales tax increase
12 passed. City Attorney Larson commented that the Board could possibly state in a
13 resolution that it is their intent, but it wouldn't necessarily be binding on a future
14 TBD Board. She would need to research the issue if the Board is interested in
15 considering such a resolution.
16

17 Board President Cotton referred to page 50-3, Resolution 8 for the sales tax, and
18 asked if the insert date referred to the date of the election. Staff indicated that was
19 correct.
20

21 *Motion made by Board VP Goodwin, seconded by Board Member Ross, that the*
22 *Lynnwood Transportation Benefit District adopt Resolution No. 8, "A RESOLUTION*
23 *OF THE CITY OF LYNNWOOD, WASHINGTON, TRANSPORTATION BENEFIT*
24 *DISTRICT BOARD, PROVIDING FOR A BALLOT PROPOSITION TO BE*
25 *SUBMITTED TO THE QUALIFIED ELECTORS OF THE DISTRICT ON*
26 *NOVEMBER 8, 2016, TO IMPOSE A SALES AND USE TAX IN THE AMOUNT OF*
27 *ONE-TENTH OF ONE PERCENT (0.1%) WITHIN THE BOUNDARIES OF THE*
28 *DISTRICT FOR A PERIOD OF TEN YEARS TO FUND OR FINANCE SPECIFIED*
29 *TRANSPORTATION IMPROVEMENTS."*
30

31 City Attorney Larson noted that November 8, 2016 should also be inserted on page
32 50-5, line 107 of the resolution.
33

34 *Board VP Goodwin moved to amend the motion to include the date, November 8,*
35 *2016, on line 107 of page 50-5. Board Member Ross seconded the motion. The*
36 *motion to amend passed unanimously.*
37

38 *The main motion passed unanimously.*
39

1 60. SCHEDULING UPCOMING SPECIAL MEETING(S)
2

3 Board President Cotton stated he could work with the staff to work on the public outreach
4 piece and the other elements as listed in the schedule on Table 2. If any Board Members
5 would like to be part of the Pro/Con Board as a private citizen they should let him know. He
6 also will work with staff to craft a resolution by the TBD to say that if the sales tax is passed
7 that the TBD will eliminate the tab fee.
8

9 Board President Cotton stated that the next TBD Board Regular Meeting is scheduled for
10 October 19, 2016 at 7 p.m. at Lynnwood City Council Chambers. A Special Meeting may
11 be called before then. If so, the time and place will be advertised in the Everett Herald and
12 on the TBD webpage.
13

14 70. ADJOURNMENT
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16 *Motion made by Board VP Goodwin, seconded by Board Member Ross, to adjourn the*
17 *meeting. Motion passed unanimously.*
18

19 The meeting was adjourned at 7:39 p.m.
20

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22 _____
23 Ian Cotton, TBD Board President
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25 _____
26 Sonja Springer
27 Finance Director, Acting as Board Treasurer
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CITY OF LYNNWOOD
TRANSPORTATION BENEFIT DISTRICT BOARD SPECIAL MEETING MINUTES
May 31, 2016

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3 10. CALL TO ORDER – The May 31, 2016 Special Meeting of the City of Lynnwood
4 Transportation Benefit District (TBD) Board, held in the Council Chambers of Lynnwood
5 City Hall, was called to order by Board President Cotton at 7:00 p.m.
6

7 20.

ROLL CALL

Board President Ian Cotton
Board Vice President Benjamin Goodwin
Board Member M. Christopher Boyer
Board Member Ruth Ross
Board Member Shannon Sessions
Board Member Shirley Sutton
Board Member George Hurst

OTHERS ATTENDING

Finance Director Springer
Comm. Devt. Director Krauss
Executive Assistant Morris

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10 30 ENTRANCE CONFERENCE BY STATE AUDITOR

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12 Board President Cotton announced that the State Auditor's Office would be conducting an
13 audit of the Transportation Benefit District (TBD). He pointed out that the last time the TBD
14 was audited was in 2013.

15
16 Assistant Audit Manager Nicholas Sarpy from the State Auditor's Office stated that he
17 would be supervising the audit. Kyla Henderson will be performing the audit, and Kristina
18 Baylor will be the audit manager, but neither of them could make it tonight. Mr. Sarpy noted
19 that he had supervised the last TBD audit. He reviewed the function of the State Auditor's
20 Office and the types of audits they perform. He stated that the scope for the TBD's audit is
21 an accountability audit for Fiscal Year 13-14-15. They will be going over the same areas
22 they have done in the past which is basically the entire operations of the TBD. He referred
23 to the Engagement Letter in the TBD Board's packet which lays out the State Auditor's
24 Office's responsibilities as well as the TBD's responsibilities. Mr. Sarpy discussed the three
25 levels of reporting including findings, management letters, and exit items. He reviewed
26 general information about the audit and then solicited questions.

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28 Board Comments/Questions:

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30 Board Member Sessions asked about the result of the 2013 audit. Mr. Sarpy said he didn't
31 think there were any recommendations.
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City of Lynnwood
Transportation Benefit District Board

Item 50

Special Meeting
June 29, 2016
7:00 P.M.

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

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

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

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* **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.

There was some discussion by the Board about possibly conducting a public hearing prior to acting on any changes to the existing \$20 vehicle registration fee. The Board also had discussions about when to schedule such a meeting.

ACTION: Discussion and possible action

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

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**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.

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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

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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

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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

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

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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

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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

1 WHEREAS, on _____, 2016, the Lynnwood Transportation Benefit District Board
2 held a public hearing to solicit public comment regarding a proposal to increase the annual
3 vehicle license fee to forty dollars (\$40.00), among other funding options, and the projects to
4 be funded with those revenues; and
5

6 WHEREAS, the Board of the City of Lynnwood Transportation Benefit District finds
7 it in the best interests of the District to increase the annual vehicle fee from twenty dollars
8 (\$20.00) to forty dollars (\$40.00) for the purpose of making transportation improvements that
9 preserve, maintain, and improve the transportation infrastructure of the City of Lynnwood,
10 consistent with Chapter 36.73 RCW; and
11

12 WHEREAS, the Board of the City of Lynnwood Transportation Benefit District has
13 determined that fee increase shall begin as of <insert date>; and,
14

15 WHEREAS, the Board of the City of Lynnwood Transportation Benefit District finds
16 it in the best interest of the District to fund Street Fund 111 and various projects/programs in
17 the City of Lynnwood Capital Facilities Plan, as stated in Section 3 below; NOW,
18 THEREFORE,
19

20 THE BOARD OF THE CITY OF LYNNWOOD, WASHINGTON,
21 TRANSPORTATION BENEFIT DISTRICT, DO ORDAIN AS FOLLOWS:
22

23 Section 1. Increase of the Annual Vehicle Fee. The annual vehicle license fee established in
24 Ordinance No. 2 in the amount of twenty dollars (\$20.00), is increased to forty dollars
25 (\$40.00), consistent with RCW 36.73.065, to be collected by the Washington Department of
26 Licensing on qualifying vehicles as set forth in RCW 82.80.140 and Chapters 36.73 and 46.16
27 RCW.
28

29 Section 2. Effective Date of Fee Collection. The increased vehicle license fee shall take
30 effect for vehicle license renewals due on or after <insert date>, or as soon thereafter as the
31 Washington Department of Licensing is reasonably able to incorporate collection of the \$40
32 fee. The increased vehicle license fees will not be collected sooner than six months after
33 approval as provided in RCW 82.80.140. The existing annual vehicle license fee established
34 by Ordinance No. 2 in the amount of twenty dollars (\$20.00) shall remain in effect and be
35 collected by the Department of Licensing until the effective date of the increased vehicle
36 license fee established by this Ordinance.
37

38 Section 3. Projects. Funding shall be used for the following transportation improvements:
39 preventative and routine pavement maintenance and reconstruction, street and traffic
40 maintenance and operations, and other capital project as identified in the City's
41 Transportation Plan.
42

43 Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be
44 held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
45 unconstitutionality shall not affect the validity or constitutionality of any other section,
46 sentence, clause or phrase or word of this ordinance.
47

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

3
4 PASSED this _____ day of _____, 2016 and signed in authentication of its passage this
5 _____ day of _____, 2016.

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9 _____
10 Ian Cotton
TBD President

11
12 ATTEST:

APPROVED AS TO FORM:

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15 _____
16 Sonja Springer
17 Finance Director, acting as
18 Board Treasurer

Rosemary Larson
City Attorney, acting as Board Attorney

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22 FILED WITH ADMINISTRATIVE SERVICES: _____
23 PASSED BY THE TRANSPORTATION BENEFIT DISTRICT BOARD: _____
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25 PUBLISHED: _____
26 EFFECTIVE DATE: _____
27 ORDINANCE NUMBER: _____
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**City of Lynnwood
Transportation Benefit District Board**

Item 60

**Special Meeting
June 29, 2016
7:00 P.M.**

TITLE: Prohibition on Use of Public Facilities to Support or Oppose Ballot Measure

DEPARTMENT: Public Works

DEPARTMENT CONTACT: Rosemary Larson

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

ACTION: Discussion

ATTACHMENTS: July 15, 2014 Memorandum

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MEMORANDUM

TO: David Mach, Project Manager and Transportation Benefit District Board Liaison

FROM: Rosemary A. Larson, District Attorney

DATE: July 15, 2014

RE: Lynnwood Transportation Benefit District – Prohibition on Use of Public Facilities to Support or Oppose Ballot Measure

I. ISSUE

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

II. DISCUSSION

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

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

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

47 Thus, in general, TBD Board Members (and City staff, regardless of whether they are
48 providing services for the TBD or acting as City employees) must not use any public facilities, as
49 broadly defined in the statute, to either support or oppose the ballot proposition. However, under
50 the first two statutory exceptions, the TBD Board may vote on a motion or resolution to express
51 support of or opposition to the ballot proposition after following the proper procedures (as a
52 practical matter, this exception would not apply, as the Board would already have passed the
53 resolution authorizing the ballot measure), and Board Members may make statements in support of
54 or in opposition to the ballot proposition at a press conference or **in response** to a specific inquiry.
55

56 Regarding the third exception, the Public Disclosure Commission (the state agency
57 authorized to enforce violations of RCW 42.17A.555) defines the phrase “normal and regular
58 conduct” of a public agency as “conduct which is (1) lawful, i.e., specifically authorized, either
59 expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not
60 effected or authorized in or by some extraordinary means or manner. No local office or agency
61 may authorize a use of public facilities for the purpose of assisting a candidate’s campaign or
62 promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory
63 provision separately authorizing such use.” WAC 390-05-273. PDC regulations state that RCW
64 42.17A.555 does not prevent a public agency from making facilities available on a non-
65 discriminatory equal access basis for political uses, or from making an objective and fair
66 presentation of facts relevant to a ballot proposition, if such action is part of the agency’s normal
67 and regular conduct. WAC 390-05-271(2). Under this exception, the PDC presumes that an
68 agency may distribute throughout its jurisdiction one objective and fair presentation of the facts
69 for each ballot measure. See PDC Interpretation No. 04-02, “Guidelines for Local Government
70 Agencies in Election Campaigns,” p. 4 (Amended May 22, 2013). If an agency distributes more
71 than one publication, the agency must be able to demonstrate that this conduct is normal and
72 regular for the agency. *Id.* at p. 4. However, the PDC expressly cautions: “Agencies need to be
73 aware, however, that in no case will the PDC view a marketing or sales effort related to a
74 campaign or election as normal and regular conduct.” *Id.*, at p. 5. There is a fine line between
75 merely presenting the facts and making a “sales effort” with respect to a ballot measure, and care
76 must be taken to do no more than state facts. For example, the written materials should not
77 speculate as to the impact on the agency if a ballot proposition fails.
78

79 Also, the PDC has opined that the third exception does not authorize the use of a normal
80 public comment period during an open public meeting to express support or opposition to
81 candidates or ballot measures; rather, the PDC deems the public comment period to be a “public
82 facility” that cannot be used to support or oppose election issues. Therefore, if the Board holds a
83 meeting before the election on the ballot measure, and allows public comment as part of the
84 meeting, the Board should not allow persons speaking during the public comment period to use
85 their time to express support or opposition of the ballot measure.
86

87 Finally, the PDC regulations expressly state that RCW 42.17A.555 does not restrict the
88 right of any individual to express his or her personal views concerning a candidate or ballot
89 proposition, if such expression does not involve the use of the facilities of the public agency.
90 WAC 390-05-271(1). Thus, TBD Board Members may campaign or express their own views on
91 their own time, so long as no public equipment, vehicles, supplies, employee time (during work
92 hours) or other facilities or resources are used or involved in any way. See PDC Interpretation

93 No. 04-02, p. 3-4.

94

95

96 cc: Transportation Benefit District Board Members

97 Nicola Smith, Mayor

98 Bill Franz, Director of Public Works

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City of Lynnwood
Transportation Benefit District Board

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Item 70

Special Meeting
June 29, 2016
7:00 P.M.

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TITLE: 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

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DEPARTMENT: Public Works

DEPARTMENT CONTACT: Bill Franz/Jeff Elekes/David Mach

BACKGROUND: At the April 20, 2016 special meeting, the TBD Board approved Resolution #8 which provides for a ballot proposition for the November 8, 2016 general election for a 0.1% sales and use tax increase to be used on various transportation improvements. The following table provides a summary of the ballot measure schedule for the November 8th 2016 General Election:

Date	Item
June 3 rd	Advertised request for pro/con committee members
June 17 th	Closed request for pro/con committee members
June 29 th	TBD Meeting to appoint pro/con members and review explanatory statement
August 2 nd	Pro/con member appointments, explanatory statement, and Resolution #8 all due to the County Auditor's office
August 16 th	Pro/con members submit statement for/against
August 19 th	Pro/con members submit rebuttal statements
October 20 th	Ballots mailed
November 8 th	General election day
November 29 th	County certification of election results

29
30

1 **Explanatory Statement**
2

3 The following is a draft explanatory statement for the Board’s review and comment:
4

5 “The City of Lynnwood formed a Transportation Benefit District (District) by ordinance
6 on May 24, 2010. The purpose of the District is to fund construction, maintenance and
7 operation of the City’s street and traffic system, as allowed by state law. The District is
8 authorized to and proposes to impose a new sales and use tax in the amount of one-tenth
9 of one percent (0.1%) for a period of up to ten years upon approval by voters within the
10 District. This tax is estimated to generate an average of \$2,000,000 of additional revenue
11 per year, the proceeds of which will be dedicated to and used solely to fund the
12 following transportation improvements: preventative and routine pavement maintenance
13 and reconstruction, such as pavement repair, overlay, chip seal, and patching; street and
14 traffic maintenance and operations, such as signing, striping, sidewalks, and traffic
15 signals; and other capital projects identified in the City’s Transportation Plan, such as,
16 36th Avenue W (from Maple Road to 164th Street SW) and Poplar Way Bridge (over
17 Interstate 5). More information about the improvements is available at Lynnwood City
18 Hall and on the District’s website at www.lynnwoodwa.gov/tbd.”
19

20 The draft statement above is 188 words long. It cannot exceed 200 words. The statement is
21 very similar to the statement submitted by the Board a few years ago for the previous sales tax
22 proposition.
23

24 **Pro/Con Committees**
25

26 Per Snohomish County Elections requirements, the TBD Board has the responsibility of
27 appointing members to a committee that will write a statement for the measure and a
28 committee that will write a statement against the measure. Each committee is allowed up to
29 three members, but can ask the advice of any number of individuals. The names of the
30 Committee members will appear in the local voters’ pamphlet in conjunction with the ballot
31 measure submitted.
32

33 The County Auditor’s office requires that Pro/Con Committee appointments be submitted by
34 August 2, 2016. Each committee shall identify a chair who will serve as the primary contact
35 for the County Auditor’s Office. In the event the TBD does not submit a Pro and/or a Con
36 Committee for any ballot measure, the County Auditor’s Office will make a good faith effort
37 to identify interested individuals and appoint them to a committee.
38

39 The ballot measure arguments can be no more than 250 words and must be prepared by the
40 committee formed. The Auditor’s Office will not edit or advise committees on statements.
41 Arguments will be shared by the Auditor’s Office with the opposing committee once both
42 arguments have been received. Each committee has an opportunity to formulate a rebuttal
43 statement containing no more than 75 words. Rebuttal statements may only address the issues
44 raised in the opposing statement without introducing new issues not previously addressed in
45 either statement. Rebuttal statements are not shared with the opposing committee.
46

1 Staff advertised notices on the TBD website and the Herald requesting those interested in
2 serving on either committee submit names on or before June 17, 2016. Staff received interest
3 from the following individuals to serve as committee members:

4
5 **Pro Committee**

6 Ian Cotton (Chair)

7 Charles Dean

8 Tony Mangefeste

9
10 **Con Committee**

11 Ted Hikel

12
13 **ACTION:**

14 1) Review an explanatory statement

15 2) Appoint Pro and Con Committee members

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17 **ATTACHMENTS:** None

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**City of Lynnwood
Transportation Benefit District Board**

Item 80

**Special Meeting
June 29, 2016
7:00 P.M.**

10
11 **TITLE:** Scheduling Upcoming Special Meeting(s)

12
13 **DEPARTMENT:** Public Works

14
15 **DEPARTMENT CONTACT:** Bill Franz/Jeff Elekes/David Mach

16
17 **BACKGROUND:** At the March 14th 2016 regular meeting the TBD Board amended the
18 TBD Charter to revise the regular meeting dates to be held on the third Wednesday of March
19 and the third Wednesday of October of each year at 7:00 PM. However, the TBD Board may
20 elect to schedule special meetings from time to time. The next regular meeting is scheduled
21 for October 19th 2016.

22
23 **ACTION:** Consider, discuss, and possibly schedule upcoming special meetings

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25 **ATTACHMENTS:** None

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**City of Lynnwood
Transportation Benefit District Board**

Item FYI-1

**Special Meeting
June 29, 2016
7:00 P.M.**

10
11 **TITLE:** Sales Tax Proposition Fact Sheet

12
13 **DEPARTMENT:** Public Works

14
15 **DEPARTMENT CONTACT:** Bill Franz/Jeff Elekes/David Mach

16
17 **BACKGROUND:** RCW 42.17A.555 prohibits local government officials and employees
18 from using or authorizing the use of public facilities to assist a candidate's campaign, or to
19 promote or oppose a ballot proposition. WAC 390-05-271 of the Public Disclosure
20 Commission's (PDC) rules states that this prohibition "does not prevent a public office or
21 agency from... making an objective and fair presentation of facts relevant to a ballot
22 proposition, if such action is part of the normal and regular conduct of the office or agency."
23

24 Per the PDC Interpretation 04-02, Guidelines for Local Government Agencies in Election
25 Campaigns, the PDC states that "the PDC will presume that every agency may distribute
26 throughout its jurisdiction an objective and fair presentation of the facts for each ballot
27 measure," typically a jurisdiction-wide "fact sheet" mailing.
28

29 Staff intends to develop a fact sheet and web content that is consistent with the PDC's
30 guidelines and distribute prior to the November 8th general election.
31

32 **ACTION:** None, FYI.
33

34 **ATTACHMENTS:** None
35

FYI-1