

10/26/2015
11/02/2015

ORDINANCE NO. U-4139

AN ORDINANCE adding a new chapter to Vancouver Municipal Code Title 3 establishing the Vancouver Transportation Benefit District comprising the corporate limits of the City of Vancouver as they currently exist or as they may exist following future annexations; providing for severability; and providing for an effective date.

WHEREAS, streets are the City of Vancouver's largest physical asset and are critical to our community's day-to-day and long-term economy and livability; and

WHEREAS, on March 2, 2015, the Vancouver City Council adopted policy goals for 2015, including a street funding goal whose outcome included by year end "an adopted street funding program that provides reliable, dedicated, long-term funding for streets, including pedestrian, bike and accessible infrastructure"; and

WHEREAS, a special Street Funding Commission, (the Commission) composed of individuals representing community, business, neighborhoods and City Council, was created to review staff and third-party analysis, assist in gathering public input, seek out additional details, and weigh available options; and

WHEREAS, the Commission was tasked to provide specific recommendations to City Council to assist them in meeting the adopted policy goal relating to streets; and

WHEREAS, the Commission has completed its work and presented its findings and recommendations in a formal report to Council presented October 1, 2015; and

WHEREAS, City Council consideration of this ordinance is intended to implement, in part, the report of the Commission; and

WHEREAS, RCW 35.21.225 authorizes the legislative authority of a city to establish a transportation benefit district, for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the TBD, subject to the provisions of Chapter 36.73 RCW; and

WHEREAS, the SEPA Responsible Official has determined that this ordinance is categorically exempt under SEPA, WAC 197-11-800(16), as the formation of a special purpose district, specifically a transportation benefit district as authorized by RCW Chapter 36.73, that does not constitute a final agency decision to undertake construction of a structure or facility; and

WHEREAS, transportation improvements are defined in RCW 36.73.015 to include projects contained in the transportation plan of the state, a regional transportation planning organization, city, county, or eligible jurisdiction as identified in RCW36.73.020(2), and which also includes investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management, and may also include the operation, preservation, and maintenance of these facilities or programs; and

WHEREAS, the City of Vancouver has the responsibility for the improvement, maintenance, protection and operation of public streets and ways within the corporate limits of the City; and

WHEREAS, the improvement, maintenance, protection and operation of public ways requires preserving existing transportation improvements to avoid both catastrophic failure of the improvements which would require significant additional funds to reconstruct, as well as their

gradual deterioration; and

WHEREAS, the number one investment priority in the "Washington Transportation Plan for 2007-2026" ("State Transportation Plan") adopted by the Washington Transportation Commission is to preserve and extend prior investments in existing transportation facilities and the services they provide to people and commerce; and

WHEREAS, the State Transportation Plan identifies in Section II that there is no more fundamental transportation investment than existing system preservation, keeping the physical infrastructure in safe and efficient operating condition; and

WHEREAS, the State Transportation Plan on page 72 establishes unfunded high priorities of state-wide significance and includes the need to "[p]reserve, maintain and operate city streets" thereby recognizing that the shortfall in funding to preserve, maintain and operate city streets is a matter of state-wide significance and accordingly, such preservation, maintenance and operation of city streets is an eligible transportation improvement listed on the state plan within the meaning of RCW 36.73.015; and

WHEREAS, the City's Capital Facilities Plan, Transportation Improvement Plan, Pavement Management Plan, and Transportation element of the Comprehensive Plan constitute "transportation plans" as contemplated by RCW 36.73.015; and

WHEREAS, the City's transportation plans indicate a need for a coordinated and cost-efficient approach to mobility, safety, accessibility and core arterial capital improvements and improved street maintenance, and other improvements that may be funded by a transportation benefit district; and

WHEREAS, consistent with the State Transportation Plan and the City's transportation plans, the Streets Funding Commission Recommendation Report presented October 1, 2015,

describes the need for street maintenance in the City and sets forth recommendations for increased funding to improve pavement conditions, upgrade safety, reconstruct failed streets, improve mobility, and support economic development goals; and

WHEREAS, the City Council finds therefore that the City's transportation plans, the preservation, maintenance and operation of city streets; and other projects within the meaning of RCW 36.73.015 are transportation improvements within the meaning of RCW 36.73.015 and therefore are eligible transportation benefit projects; and

WHEREAS, the Vancouver City Council considered adoption of this ordinance on first reading on October 26, 2015; and on second reading with public hearing on November 2, 2015; and

WHEREAS, on November 2, 2015, the City Council conducted a public hearing in accordance with RCW 36.73.050, after giving notice in a newspaper of general circulation within the City not less than ten days before the hearing, describing the transportation benefit projects and activities to be funded by the transportation benefit district; and

WHEREAS, the City Council finds that the City can most effectively undertake its transportation plans if it utilizes the structure and funding available through a transportation benefit district; and

WHEREAS, the City Council finds that establishment of a transportation benefit district would enable the City, in conjunction with the process of its annual updates to the Capital Facilities Plan and Transportation Improvement Plan, to consider and adopt mechanisms to fund required City street preservation, maintenance and operation in a coordinated, efficient manner; and

WHEREAS, the City Council finds it to be in the best interests of the City to establish a

citywide transportation benefit district to fund and implement transportation benefit district projects consistent with Chapter 36.73 RCW, to enable the transportation benefit district to contract with the City for management and staffing of the transportation benefit district's operations, and for the mutual undertaking and/or funding of transportation benefit district projects; and

WHEREAS, the City Council of the City of Vancouver finds that it is in the public interest to provide an adequate level of funding for transportation improvements through the establishment of transportation benefit district;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

SECTION 1. Legislative Findings. The recitals set forth above are adopted as the legislative findings of the City Council of the City of Vancouver in support of adoption of this ordinance.

SECTION 2. A new Chapter is added to Title 3 of the Vancouver Municipal Code to be codified as VMC Chapter 3.40, to read as follows:

Chapter 3.40 Vancouver Transportation Benefit District

Sections:

3.40.010 Purpose.

3.40.020 Vancouver Transportation Benefit District Established.

3.40.030 Governing Board.

3.40.040 Administration and Personnel.

3.40.050 Powers of the Vancouver Transportation Benefit District.

3.40.060 Transportation Improvements Funded.

3.40.070 Establishment of Revenue Sources.

3.40.080 Dissolution of the Vancouver Transportation Benefit District.

3.40.090 Liberal Construction.

3.40.010 – Purpose

The purpose of this chapter is to establish a transportation benefit district (TBD) pursuant to RCW 35.21.225 and Chapter 36.73 RCW, consistent with the public interest to provide adequate levels of funding for transportation improvements that preserve, maintain and, as appropriate, construct or reconstruct the transportation infrastructure for the City of Vancouver.

3.40.020 - Transportation Benefit District Established

Pursuant to RCW 35.21.225 and Chapter 36.73 RCW, there is created the Vancouver Transportation Benefit District with geographical boundaries comprising the corporate limits of the City of Vancouver as they currently exist or as they may exist following future annexations.

3.40.030 - Governing Board

A. Consistent with RCW 36.73.020(3), the governing board of the Vancouver Transportation Benefit District shall be the Vancouver City Council acting in an ex officio and independent capacity. The board shall have the authority to exercise the statutory powers set forth in chapter 36.73 RCW.

B. The board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1). The policy must at least address material changes to cost, scope and schedule, the level of change that will require governing body involvement and how the governing body will address those changes. At a minimum, if the District funding participation in a transportation improvement exceeds its original funding participation by more than twenty percent (20%) as identified in the District's original plan, a public hearing shall be held to solicit public comment regarding how the funding participation change should be resolved.

C. The Mayor shall serve as the chair of the Transportation Benefit District Board and shall preside over all meetings of the Board. Meetings of the board shall be governed by the procedural rules applicable to meetings of the City Council, as these rules may be amended by the Council or the Board from time to time. Board actions shall be taken in the same manner and follow the same procedure as for the adoption of City Council resolutions.

D. Annual Report to the Public. The board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).

3.40.040 - Administration and Personnel

A. The City Manager for the City of Vancouver shall be the chief executive officer and head of the administrative branch of the Transportation Benefit District, acting in an ex officio capacity. The City Manager shall be responsible to the District for the proper administration of all affairs of the District.

B. Consistent with RCW 36.73.020(4), treasurer of the Vancouver Transportation Benefit District shall be the Vancouver City Treasurer or designee acting in an ex officio capacity.

C. The City Attorney for the City of Vancouver or designee shall be the attorney for the Transportation Benefit District, acting in an ex officio capacity. The City hereby consents to such dual representation by the City Attorney's Office, specifically reserving the right to evaluate potential conflicts of interest and to require separate attorney representation for the Transportation Benefit District as necessary on a case-by-case basis. The City Attorney or designee shall advise the District authorities and officers in all legal matters pertaining to the business of the District and shall approve all resolutions as to form. The City Attorney shall represent the District in all actions brought by or against the District or against District officials in their official capacity. The City Attorney shall perform such other duties as the District by resolution may direct.

D. The City Clerk for the City of Vancouver or designee shall be the clerk for the Transportation Benefit District, acting in an ex officio capacity. The City Clerk or designee shall keep a full and true record of every act and proceeding of the District and keep such books, accounts and make such reports as may be required by the state auditor.

E. The City Manager or designee shall, subject to the provisions of any applicable law, rule, or regulation relating to civil service, also have the authority to appoint and remove at any time any employees of the City of Vancouver to serve as employees of, and fulfill the purposes of, the District.

3.40.050 - Powers of the Vancouver Transportation Benefit District.

The Vancouver Transportation Benefit District shall possess all of the powers of a Transportation Benefit District authorized pursuant to Chapter 36.73 RCW.

3.40.060 - Transportation Improvements Funded.

A. Projects funded. The funds generated by the Vancouver Transportation Benefit District shall be used consistent with the requirements of RCW Chapter 36.73 for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements, including the operation, preservation, and maintenance of these facilities or programs, within the District that are consistent with any existing state, regional, or local transportation plans and necessitated by existing or reasonably foreseeable congestion levels. Applicable local transportation plans are the City of Vancouver's Capital Facilities Plan, Transportation Improvement Plan, Pavement Management Plan, and Transportation element of the Comprehensive Plan. Funds may be utilized for any lawful purposes under RCW Chapter 36.73 and applicable transportation plans, but all funds raised through the transportation benefit district shall be expended only for such purposes.

B. Project selection. To the extent practicable, the District shall consider the following criteria when selecting transportation improvements: reduced risk of transportation facility failure and improved safety; improved travel time; improved air quality; increases in daily and peak period trip capacity; improved modal connectivity; improved freight mobility; cost-effectiveness of the investment; optimal performance of the system through time; improved accessibility for, or other benefits to, persons with special transportation needs; and other criteria, as adopted by the governing body.

C. Project list amendments. Vancouver Transportation Benefit District projects may be amended in accordance with the material change policy described in VMC 3.40.030.B and in accordance with the notice, hearing and other procedures described in chapter 36.73 RCW, including RCW 36.73.050(2)(b), as the same may be amended from time to time.

3.40.070 - Establishment of Revenue Sources.

The District shall have the authority to establish fees and other revenue sources consistent with RCW Chapter 36.73, including without limitation the power:

- A. To impose and collect a sales and use tax as provided in RCW 36.73.040(3)(a) and RCW 82.14.0455, only if approved by District voters pursuant to RCW 36.73.065.
- B. To impose and collect a motor vehicle license fee as provided in RCW 36.73.040(3)(b) and RCW 82.80.140 for the purposes set forth in this chapter and as may be subsequently authorized according to law.
- C. To impose and collect ad valorem property taxes authorized by RCW 36.73.060, only if approved by District voters pursuant to RCW 36.73.065.
- D. To issue general obligation bonds and revenue bonds as provided in RCW 36.73.070.
- E. To form a local improvement district as provided in RCW 36.73.080.

3.40.080 - Dissolution of the Vancouver Transportation Benefit District.

Vancouver Transportation Benefit District shall be dissolved pursuant to the procedures set forth in chapter 36.73 RCW, when all indebtedness, if any, of the Vancouver Transportation Benefit District has been retired and when all of the Vancouver Transportation Benefit District's anticipated responsibilities have been satisfied.

3.40.090 - Liberal Construction.

This chapter is to be liberally construed to accomplish the purpose of establishing a transportation benefit district with the broadest possible authority under Chapter 36.73 RCW as it now exists or is hereafter amended.

SECTION 3. 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 of this ordinance.

SECTION 4. Effective Date and Notice. This ordinance shall become effective thirty (30) days after passage by the City Council. The City Clerk is directed to publish a summary hereof including the title at the earliest possible publication date.

Read first time: *October 26, 2015*

Ayes: Councilmembers *Topper, McEnemy-Ogle, Turley, Hansen, Burkman, Smith, Mayor Leavitt*
Nayes: Councilmembers
Absent: Councilmembers

Read second time: *November 2, 2015*

PASSED by the following vote: *7-0*


Ayes: Councilmembers *Topper, McEnemy-Ogle, Turley, Hansen, Burkman, Smith, Mayor Leavitt*
Nayes: Councilmembers
Absent: Councilmembers

SIGNED this 2nd day of November, 2015.




Timothy D. Leavitt, Mayor

Attest:



R. Lloyd Tyler, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:



E. Bronson Potter, City Attorney

SUMMARY

ORDINANCE M- 4139

AN ORDINANCE adding a new chapter to Vancouver Municipal Code Title 3 establishing the Vancouver Transportation Benefit District comprising the corporate limits of the City of Vancouver as they currently exist or as they may exist following future annexations; providing for severability; and providing for an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8799, or via www.cityofvancouver.us (Go to City Government and Public Records).