

Covington: Unmatched Quality of Life



CITY OF COVINGTON **TRANSPORTATION BENEFIT DISTRICT SPECIAL MEETING**

Council Chambers – 16720 SE 271st Street, Suite 100, Covington, WA

Tuesday, May 14, 2013 – 9:00 p.m.

Call to Order

Roll Call

Approval of Agenda

Public Comment Speakers will state their name, address, and organization. Comments are directed to the City Council, not the audience or staff. Comments are not intended for conversation or debate and are limited to no more than four minutes per speaker. Speakers may request additional time on a future agenda as time allows.

Approve Consent Agenda

Continued Business

New Business

1. Adopt Resolution to Establish Rules and By-Laws (Board)
2. Adopt Material Change Policy (Hendrickson)
3. Discuss Interlocal Agreement with City of Covington (Hendrickson)
4. Discuss Use of Funds (Akramoff)

Board/Staff Comments

Adjourn

Any person requiring disability accommodation should contact the City of Covington at 253-480-2400 a minimum of 24 hours in advance. For TDD relay service, please use the state's toll-free relay service 800-833-6384 and ask the operator to dial 253-480-2400.

SUBJECT: A RESOLUTION ESTABLISHING THE ORGANIZATIONAL RULES AND BYLAWS OF THE COVINGTON TRANSPORTATION BENEFIT DISTRICT

RECOMMENDED BY: Rob Hendrickson, District Treasurer

ATTACHMENT(S):

1. Proposed Resolution for the establishment of bylaws for the Covington Transportation Benefit District (the "District").

2. Proposed Organizational Rules and Bylaws of the Covington Transportation Benefit District.

PREPARED BY: Rob Hendrickson, District Treasurer

EXPLANATION:

As part of the formation of the District, rules and bylaws need to be established for the governance of the board. As per the establishing ordinance, the attached proposed bylaws incorporate applicable provisions of governing state statutes as well as the current rules of procedure that govern the city council for city council actions and meetings.

ALTERNATIVES:

- Do not establish District rules and bylaws.
- Establish additional rules and bylaws than the ones currently proposed.
- Return the issue to city staff for further study and analysis.

FISCAL IMPACT:

N/A

BOARD ACTION: X Resolution Motion Other

Board member _____ moves, Board member _____ seconds, to adopt a Resolution establishing organizational rules and bylaws of the Board of the Covington Transportation Benefit District.

REVIEWED BY: District Chief Executive Officer; District Treasurer; District Legal Advisor

RESOLUTION NO. 13-01

A RESOLUTION OF THE COVINGTON TRANSPORTATION BENEFIT DISTRICT ESTABLISHING ORGANIZATIONAL RULES AND BYLAWS OF THE BOARD OF THE COVINGTON TRANSPORTATION BENEFIT DISTRICT.

WHEREAS, the on April 9, 2013, the City Council of the City of Covington passed Ordinance No. 02-13, creating the Covington Transportation Benefit District (the “District”), consistent with the requirements of Chapter 36.73 RCW and codified as Chapter 12.125 of the Covington Municipal Code; and

WHEREAS, the Board desires to establish operating rules for the conduct of the affairs of the District; and

WHEREAS, the Board of the District finds it in the best interest of the District to establish the bylaws attached to this resolution.

BE IT RESOLVED by the Board of the Covington Transportation Benefit District that the Organizational Rules and Bylaws attached hereto as Exhibit 1 and incorporated by this reference are hereby adopted as the Organizational Rules and Bylaws of the Covington Transportation Benefit District.

PASSED in open and regular session on this 14th day of May, 2013.

MARGARET HARTO, CHAIR

ATTESTED:

Sharon Scott, District Clerk

APPROVED AS TO FORM:

Sara Springer, District Legal Advisor

**ORGANIZATIONAL RULES AND BYLAWS
of the
COVINGTON TRANSPORTATION BENEFIT DISTRICT**

1.0 NAME

The name of the Transportation Benefit District shall be the Covington Transportation Benefit District (the "District").

2.0 NATURE AND PURPOSES

2.1 Nature of the District. The District shall be a Transportation Benefit District organized pursuant to Chapter 36.73 of the Revised Code of Washington (RCW), City of Covington (the "City") Ordinance No. 02-13 and Chapter 12.125 of the Covington Municipal Code (CMC). The boundaries of the District shall be coextensive with the boundaries of the City. The District shall be a quasi-municipal corporation, an independent taxing "authority" within the meaning of Article VII, Section 1 of the Constitution of the State of Washington (the "Constitution"), and a "taxing district" within the meaning of Article VII, Section 2 of the Constitution. The District shall be an entity independent of and separate from the City.

2.2 Purposes. The purpose of the District shall be to provide a separate legal entity pursuant to state statute and City ordinance to exercise the powers available under state statute to the extent authorized by the City ordinance. The primary purpose of the District shall be the acquisition, construction, improvement, provision and/or funding of the maintenance of City streets and related infrastructure in a manner that is consistent with state, regional, and local transportation plans and necessitated by reasonably foreseeable congestion levels pursuant to Chapter 36.73 RCW, as the same may be amended from time to time. Additional transportation improvement projects not specified in the original notice of hearing establishing the District may be funded only after the Board's compliance with, the Board shall comply with Chapter 36.73 RCW.

3.0 DISSOLUTION

The District shall exist until dissolved in accordance with the requirements of RCW 36.73.050 and CMC 12.125.050, as the same may be amended from time to time. The retirement of debt, notice of dissolution, and payment of creditors shall all comply with the provisions of the RCW and CMC.

4.0 POWERS

Pursuant to CMC 12.125.030, the District shall have and may exercise any powers provided by law, including, but not limited to, those enumerated in RCW 36.73.040, as may be amended from time to time, to fulfill the purpose of the District.

5.0 GOVERNING BOARD

5.1 Board Powers. Pursuant to CMC.12.125.030, the Governing Board (the “Board”) of the District shall have and may exercise any powers provided by law to fulfill the purpose of the District. All powers of the District shall be exercised by or in the name of the Board. The powers of the Board shall include, but are not limited to, the following:

- (a) To establish and implement the policies and programs of the District and the procedures for the management and administration of the District's affairs;
- (b) To appoint and remove, at the pleasure of the Board, the District's officers, agents, and employees, (except as expressly provided herein) and to prescribe their respective powers and duties consistent with the provisions hereof;
- (c) To borrow money and incur indebtedness in accordance with state statute;
- (d) To provide for the investment of the District's funds; and
- (e) Any other powers that could be exercised by the Board under state statute or ordinances of the City including but not limited to, the passage of resolutions as deemed necessary by the Board.

5.2 Board Composition. Pursuant to CMC 12.125.020, the Board shall be composed of the seven (7) members of the Covington City Council who shall serve in an *ex-officio* and independent capacity. A Board member may be removed only when removed from his/her office as a Council Member. Any vacancy shall be filled only by the appointment or election of a new City Council Member.

5.3 Board Officers. Pursuant to CMC 12.125.020, the City’s Mayor shall serve as Chair of the Board. The City’s Mayor Pro Tem shall serve as Vice Chair of the Board. The terms for the Chair and Vice Chair shall be until his/her successor is elected.

The officers of the District shall have the following duties:

- (a) Chair. The Chair shall serve as the ceremonial head of the District and, pursuant to CMC 12.125.020, shall preside over all Board meetings. On

matters decided by the District, unless otherwise required under interlocal agreement or by these Bylaws, the signature of the Chair alone, as attested by the Board Clerk, is sufficient to bind the District.

- (b) **Vice Chair.** The Vice Chair shall, in the absence of the Chair, serve as the ceremonial head of the District, preside over Board meetings, and otherwise execute the Chair's powers and duties.

5.4 Chief Executive Officer. The City Manager of the City shall serve as Chief Executive Officer (CEO) of the Board. The CEO shall, subject to the control of the Board, exercise general supervision, direction, and control of the business and affairs of the District. Charges and fees associated with services provided to the Board by City employees shall be reimbursed in accordance with an interlocal agreement between the City and District.

5.5 Treasurer. Pursuant to CMC 12.125.020, the City's Treasurer shall serve as Treasurer of the Board. The City Treasurer is required by state statute to serve as Treasurer and is not subject to removal by the Board. Charges and fees associated with services provided to the Board by City employees shall be reimbursed in accordance with an interlocal agreement between the City and District.

5.6 Attorney. Pursuant to CMC 12.125.020, the City Attorney of the City shall serve as legal advisor to the Board, except where separate counsel is engaged by the Board or the City Attorney has a conflict of interest. Any potential conflicts of interest involving the City Attorney shall be determined and resolved by reference to Title 1 of the Rules of Professional Conduct, as that Title now exists or may be amended. Charges and fees of the City Attorney shall be reimbursed in accordance with an interlocal agreement between the City and District.

5.7 Clerk. The Clerk of the City shall serve as the Board Clerk. The Board Clerk shall serve as the District's registered agent for purposes of service of process. Charges and fees associated with services provided to the Board by City employees shall be reimbursed in accordance with an interlocal agreement between the City and District.

6.0 MEETINGS; POLICIES

6.1 Board Meetings. The Board shall meet as often as there is business to conduct, but, in any event, no less than annually. Pursuant to CMC 12.125.020, regular Board meetings shall, when possible, be held on the same date as a City Council meeting. Special Board meetings shall be held from time to time as determined necessary by the Board or Board Chair.

6.2 Board Rules of Procedure. Pursuant to CMC.12.125.020, meetings and actions of the Board shall be governed by the applicable Covington City Council Rules of

Procedure, as they currently exist and as they may be supplemented and amended

6.3 Open Public Meetings. Pursuant the Covington City Council Rules of Procedure, notice of Board meetings shall be given in a manner consistent with the Open Public Meetings Act, codified as Chapter 42.30 of the RCW, as may be amended from time to time.

6.4 Minutes. Actions of the Board and minutes of Board meetings shall be maintained in the same manner as are City Council records. Copies of the minutes of all regular or special meetings of the Board shall be available to any person or organization that requests them as required by state law; provided, however, that minutes, if any, with respect to closed executive sessions need not be made available. The minutes of all Board meetings shall include a record of individual votes on all matters requiring Board concurrence.

6.5 Finance Plan. The Board shall adopt a Finance Plan (the “Plan”) to execute the functions of the District. The Plan may be contained in the Board’s annual budget. The Plan shall be subject to the Board’s adopted Material Change Policy.

6.6 Material Change Policy. Pursuant to CMC 12.125.020 and RCW 36.73.160, the Board shall develop a material change policy that addresses material changes to cost, scope, and schedule, the level of change that will require Board involvement, and how the Board will address those changes.

6.7 Annual Report. Pursuant to CMC 12.125.020 and RCW 36.73.160, the District, upon approval of the Board, shall issue an annual report pursuant to the requirements of RCW 36.73.160, as may be amended from time to time. The District’s Annual Report shall be issued no later than May 30 of each calendar year for the preceding fiscal year.

7.0 AMENDMENT TO BYLAWS

Any Board member may introduce a proposal to amend the Bylaws at any regular meeting or special meeting of the Board provided, however, that all amendments shall comply with the minimum requirements and provisions of RCW 36.73 and CMC 12.125. Certain amendments of the Bylaws may require action of the City Council as well as a public hearing pursuant to the requirements of state statutes. No consideration of any Bylaws amendment may occur until the City and District comply with any such requirements.

8.0 COMMENCEMENT

The District shall commence its existence effective upon the adoption of Ordinance No. 02-13. The Bylaws shall become effective upon the effective date of the resolution

adopting these rules. Nothing in these Bylaws shall be read to create a Charter as contemplated by Chapter 35A.08 RCW. These Bylaws do not amend Ordinance No. 02-13.

9.0 LIABILITY; INDEMNIFICATION; DISCLAIMER

9.1 Limitations on Liability. All debts, liabilities and other obligations incurred by the District ("Obligations") shall be satisfied: (a) in the case of Obligations which, by their terms, are not payable from a special or limited source of funds, exclusively from the revenues, assets, and properties of the District, and (b) in the case of Obligations which, by their terms, are payable from a special or limited source of funds, exclusively from such revenues, assets, and properties of the District as shall be specifically pledged thereto or otherwise identified as being the source of payment thereof. No creditor, claimant, or other person shall have any right of action against or recourse to the City or its revenues, assets, or properties on account of or with respect to any such Obligations, or otherwise on account of or with respect to any acts or omissions of the District or its officers, employees, or agents.

9.2 Indemnification. To the extent permitted by law, the District shall protect, defend, hold harmless, and indemnify any director, officer, employee, or agent of the District who is a party or threatened to be made a party to a proceeding by reason related to that person's conduct as a director, officer, employee, or agent of the District, against judgments, fines, penalties, settlements, and reasonable expenses (including reasonable attorneys' fees) incurred by him/her in connection with such proceeding, if such person acted in good faith and reasonably believed his/her conduct to be in the District's best interests and if, in the case of any criminal proceedings, he/she had no reasonable cause to believe that his/her conduct was unlawful. The indemnification and protection provided herein shall not be deemed exclusive of any other rights to which a person may be entitled as a matter of law, by City ordinance, or by contract or by vote of the Governing Board. The District may purchase and maintain appropriate insurance covering such risks.

9.3 Mandatory Disclaimers. A disclaimer in substantially the following form shall be posted in a prominent place accessible to the public in the District's principal office which shall be the Covington City Hall. It shall also be printed or stamped on all contracts, bonds, and other documents that evidence or create any Obligation which, by its terms, is not payable from a special or limited source of funds.

The Covington Transportation Benefit District is a Transportation Benefit District established pursuant to Ordinance No. 12-13 of the City of Covington, Washington, and the laws of the State of Washington, including, but not limited to, Chapter 36.73 of the Revised Code of Washington. All debts, liabilities, and other obligations incurred by the District shall be satisfied exclusively from the revenues, assets, and properties of the District. No

creditor, claimant, or other person shall have any right of action against or recourse to the City of Covington, the State of Washington, or any other political subdivision of the State of Washington on account of or with respect to any debts, liabilities, or other obligations of the District, or otherwise on account of or with respect to any acts or omissions of the District or its officers, employees, or agents.

10.0 MISCELLANEOUS

10.1 Liberal Construction and Severability. These Bylaws shall be liberally construed in order to effect its purposes. If any section or part of these Bylaws is ultimately ruled invalid or illegal by a court of competent jurisdiction, such invalidity or illegality shall not affect the remaining sections of these Bylaws.

10.2 Books and Records. The District shall keep current and complete books and records of account. The Board Clerk shall serve as the District’s Public Records Officer.

10.3 Principal Office. The principal office and mailing address of the District shall be the same as the City of Covington’s City Hall.

10.4 Fiscal Year. The fiscal year of the District shall begin January 1 and end December 31 of each year, except the first fiscal year which shall run from the date these Bylaws are adopted to December 31, 2014.

THESE BYLAWS ARE EXECUTED AS OF THIS 14th DAY OF MAY, 2013.

COVINGTON TRANSPORTATION BENEFIT DISTRICT

By: _____
Margaret Harto, Chair

ATTEST:

By: _____
Sharon Scott, Board Clerk

SUBJECT: ADOPTION OF MATERIAL CHANGE POLICY

RECOMMENDED BY: Rob Hendrickson, District Treasurer

ATTACHMENT(S):

- 1. Proposed Resolution adopting a Material Change Policy, with attachments

PREPARED BY: Rob Hendrickson, District Treasurer

EXPLANATION:

As part of the governing documents of the Covington Transportation Benefit District (“District”), state statute requires the District to adopt a material change policy to address any material changes to project costs, scope, and/or schedules that impact transportation improvements.

ALTERNATIVES:

- 1. Return the issue to city staff for further study and analysis.

FISCAL IMPACT:

No fiscal impact.

BOARD ACTION:

Resolution Motion Other

**Board member _____ moves, Board member _____
seconds, to pass a resolution adopting a material change policy to the
administrative policies of the District.**

REVIEWED BY: District Chief Executive Officer; District Treasurer; District Legal Advisor

RESOLUTION NO. 13-02

**A RESOLUTION OF THE BOARD OF THE COVINGTON
TRANSPORTATION BENEFIT DISTRICT, COVINGTON, KING
COUNTY, WASHINGTON, ADOPTING A MATERIAL CHANGE POLICY**

WHEREAS, the Covington City Council passed Ordinance No. 02-13 creating a Transportation Benefit District (“District”); and

WHEREAS, pursuant to Chapter 36.73 RCW, the District Board deems is required to adopt a Material Change Policy to address changes in project costs, scope, and scheduling of transportation improvements;

NOW THEREFORE, BE IT RESOLVED by the Board of the Covington Transportation Benefit District as follows:

Section 1. The Covington Transportation Benefit District Board hereby adopts a Material Change Policy, attached as Exhibit “A” hereto and incorporated by this reference.

PASSED by the Board of the Covington Transportation Benefit District on this 14th day of May, 2013.

MARGARET HARTO, CHAIR

ATTESTED:

Sharon Scott, District Clerk

APPROVED AS TO FORM:

Sara Springer, District Legal Advisor

COVINGTON TRANSPORTATION BENEFIT DISTRICT
ADMINISTRATIVE POLICIES
POLICY NO. 1

SUBJECT: Material Change Policy		
Department/Division: Covington Transportation Benefit District	Page 1	POLICY NO: CTBD – 1.0
APPROVED BY: Covington Transportation Benefit District Board	EFFECTIVE DATE: May 14, 2013	SUPERCEDES: N/A

- SECTION INDEX: 1 Material Change
 1.1 Material Change to Cost
 1.2 Material Change to Scope
 1.3 Material Change to Schedule

1.1 Material Change to Cost. In the event a transportation improvement exceeds its original cost by more than twenty percent (20%) as identified in the District’s original finance plan for such improvement, the District’s governing board (“Board”) shall hold a public hearing to solicit comments from the public regarding how the cost change should be resolved. District staff shall consult with the Board Chief Executive Officer (CEO) prior to setting the public hearing.

1.2 Material Change to Scope. In the event the scope of a transportation improvement materially changes beyond that originally anticipated at project approval, District staff shall consult with and review the changes with the Board CEO. The Board CEO shall determine whether or not to convene a meeting of the Board for discussion.

1.3 Material Change to Schedule. In the event the schedule of a transportation improvement materially changes in a way that significantly impacts other District projects or funding or schedule changes exceed ninety (90) days, District staff shall consult with and review such changes with the Board CEO. The Board CEO shall determine whether or not to convene a meeting of the Board for discussion.

SUBJECT: DRAFT INTERLOCAL AGREEMENT BETWEEN THE COVINGTON TRANSPORTATION BENEFIT DISTRICT (“DISTRICT”) AND THE CITY OF COVINGTON (“CITY”)

RECOMMENDED BY: Rob Hendrickson, District Treasurer

ATTACHMENT(S):

- 1. Proposed Resolution Adopting Interlocal Agreement
- 2. Proposed Interlocal Agreement

PREPARED BY: Rob Hendrickson, District Treasurer

EXPLANATION:

Pursuant to Chapter 39.34 RCW, an interlocal agreement is required between the District and the City to provide for the transfer of funds, staff services to be shared, and to develop an annual work plan. The District work plan is in the process of being refined and will be presented to the Board for final approval at the District’s June 11, 2013 meeting.

The District’s funding source will not be known until after the general election in November 2013. Accordingly, at this time, the attached draft interlocal agreement is intended only for the Board’s general review and consideration. A final version of the agreement will be presented for the Board’s consideration and execution upon confirmation of the District’s funding source.

ALTERNATIVES:

- 1. Return the draft to staff to amend the terms of the agreement.

FISCAL IMPACT:

No fiscal impact.

BOARD ACTION:

Resolution Motion Other

Provide input to staff.

REVIEWED BY: District Chief Executive Officer; District Legal Advisor; District Treasurer; City Public Works Director

RESOLUTION 13-XX

A RESOLUTION OF THE COVINGTON TRANSPORTATION BENEFIT DISTRICT APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE COVINGTON TRANSPORTATION BENEFIT DISTRICT AND THE CITY OF COVINGTON, KING COUNTY, WASHINGTON

WHEREAS, pursuant to Ordinance No. 02-13, Covington established the Covington Transportation Benefit District (“District”) and authorized funding for any purpose allowed by law including to operate the District and to make transportation improvements consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels pursuant to Chapter 36.73 RCW; and

WHEREAS, the District will collect revenue in accordance with Chapter 36.73 RCW but lacks internal staff to manage its daily affairs; and

WHEREAS, Covington and the District desire to better coordinate their efforts in order to pursue their individual, joint, and mutual rights and obligations to fulfill the intent of Ordinance No. 02-13;

NOW THEREFORE BE IT RESOLVED by the Board of the Covington Transportation Benefit District as follows:

Section 1. The Interlocal Agreement between the City of Covington and the Covington Transportation Benefit District attached hereto as Exhibit 1 and incorporated herein by this reference is hereby approved and the Chair of the District is hereby authorized to execute the Agreement on behalf of the District.

PASSED by the Covington Transportation Benefit District Board this 14th day of May, 2013.

MARGARET HARTO, CHAIR

ATTESTED:

Sharon Scott, District Clerk

APPROVED AS TO FORM:

Sara Springer, District Legal Advisor

**INTERLOCAL AGREEMENT
BETWEEN
COVINGTON TRANSPORTATION BENEFIT DISTRICT
AND THE
CITY OF COVINGTON**

THIS AGREEMENT entered in to this XX day of XXXX, 2013, is by between the City of Covington, Washington (“Covington”), and the Covington Transportation Benefit District (“District”), each of which is organized as a municipal corporation under the laws of the State of Washington.

WHEREAS, Chapter 39.34 RCW permits local governmental units to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual advantage; and

WHEREAS, Covington is empowered to operate, maintain, construct, and reconstruct, public street infrastructure within its city limits in accordance with the power granted pursuant to RCW 35A.11.020 and Chapter 35A.47 RCW; and

WHEREAS, pursuant to Ordinance No. 02-13, Covington established the District for any purpose allowed by law, including to operate the District and to make transportation improvements consistent with existing state, regional, and local transportation plans;

NOW THEREFORE, in consideration of the of the mutual benefits to be derived and to coordinate their efforts through the structure provided by the Interlocal Cooperation Act, Chapter 39.34 RCW, the parties hereby agree as follows.

1. Purpose and Interpretation. Covington is empowered by Title 35A RCW to construct, reconstruct, maintain, and preserve city streets and other related public infrastructure either by contract or through the use of city labor forces. The District has been constituted in accordance with state law to provide a source of funding for the maintenance and preservation of streets and related infrastructure within the city limits of Covington. The District has no employees and its officers are either Covington city council members serving in an *ex officio* capacity or are city employees designated to serve under the provisions of state law and the District. In order to make the most efficient use of public monies, to avoid duplication of effort, and to coordinate their efforts, the parties have entered into this Agreement. In the event of ambiguity or if the need for guidance arises, this Agreement shall be interpreted in accordance with Chapter 36.73 RCW, the Organizational Rules and Bylaws of the District, and the provisions of the Governmental Accounting Act and RCW 43.09.210 as the same exists or shall hereafter be amended. In the event that any provision of this Agreement is held to be in conflict with existing state statute or any future amendment thereof, such provisions shall be severable and the remaining provisions of this Agreement shall remain in full force and effect.

2. Obligations of the District. In accordance with the requirements of Chapter 36.73 RCW, Covington Ordinance No. 02-13, and the District's Organizational Rules and Bylaws, the District agrees to:

2.1 Provide to Covington all funding received from any and all lawful sources that the District, in its sole discretion, may levy for the purpose of completing the District's authorized projects.

2.2 Continue the annual provision of funding for the projects approved by the District, so long as the District remains in existence. Such funding shall be in accordance with and limited by the provisions of Ordinance No. 02-13, the District's Organizational Rules and Bylaws, and Chapter 36.73 RCW.

3. Undertakings of Covington. Covington shall:

3.1 Provide all staff and necessary related support to the District. The costs of such support shall be accounted for as a part of Covington's annual report to the District. District funding shall first be applied to the reasonable charges incurred in establishing and staffing the District. Annual services provided may include the services provided by the City Attorney, the City Clerk when serving as the Clerk of the District, the City's Finance Director when serving as its Treasurer, the City Manager when serving as the Chief Executive Officer (CEO), any other employees of Covington that serve the District, and any associated costs, including, but not limited to, the preparation of an annual work plan, reporting, advertising, engineering design, project bidding, contracting, construction management, accounting, and any and all other actual charges or Covington/District agreed upon percentage of charges associated with the proper application of District funding in accordance with state law and Covington ordinance. In consideration of the benefits derived by Covington, overhead charges including, but not limited to, utilities, information technology, office supplies, and equipment shall be a contribution of Covington to the parties' joint goals and objectives and need not be directly charged back to the District. All costs of annual audits shall be borne by the District. All costs associated with the issuance of debt shall be paid by the District.

3.2 Maintain financial records for the period established by the State Archivist's retention schedule and kept in accordance with generally accepted accounting practice and governmental accounting requirements, as necessary, to document that any and all funding received through the District is used only for the projects authorized in accordance with state law and Covington ordinance.

3.3 Immediately alert the District of any material changes in scope, schedule, or cost increases of twenty percent (20%) or greater to improvements funded in part or whole with District funds.

3.4 Utilize funding provided for projects shown on the District's annual work plan in accordance with the District's material charge policy, state law, and Covington ordinance.

4. Ownership. Streets and related transportation infrastructure preserved and maintained with District funds are and shall remain the property of the Covington. No joint property ownership is contemplated under the terms of this Agreement.

5. No Joint Board. No provision is made for a joint board. The District shall exercise its function in accordance with its organizational rules and bylaws, using staff as provided by Covington pursuant to state law and to this Agreement.

6. Insurance; Indemnity.

6.1 The parties agree to participate in the Washington Cities Insurance Authority (WCIA) insurance pool in accordance with their respective interlocal agreements with the WCIA. The original charge or premium for inclusion of the District in the WCIA insurance pool will be borne by Covington as a cost for establishing the District, pursuant to Section 3.1 herein, and shall be paid for with funds received from or through the District. In the event that either or both parties cease to participate in the WCIA pool, the party or parties agree to obtain comparable insurance coverage for the duration of this Agreement.

6.2 Each party agrees to indemnify and hold harmless the other party, its officers, agents, employees, and volunteers from any claim, loss, or liability arising from or out of the that party's negligent, tortious, or illegal actions under this Agreement.

7. Termination.

7.1 This Agreement may be terminated by either party upon the provision of one hundred and eighty (180) calendar days written notice. A final reconciliation of costs, payment, and a current report of completed activities shall be completed by Covington within such period following notice by either party.

7.2 Unless sooner terminated by either party, this Agreement shall expire on the date when the District is automatically dissolved in accordance with provisions of Chapter 36.73 RCW and Covington Ordinance No. 02-13, as the same exists or is hereafter amended.

8. Effective Date. This Agreement shall be effective upon the last authorizing signature affixed hereto and when listed by subject on the City of Covington's website or other electronically retrievable public source as required by RCW 39.34.040.

SIGNATURES PROVIDED ON THE NEXT PAGE.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

COVINGTON TRANSPORTATION
BENEFIT DISTRICT

CITY OF COVINGTON

Margaret Harto, Chair

Derek Matheson, City Manager

Attest:

Sharon Scott, District Clerk

APPROVED AS TO FORM

Sara Springer, District Legal Advisor

SUBJECT: DISCUSS TRANSPORTATION BENEFIT DISTRICT USE OF FUNDS

RECOMMENDED BY: Derek Matheson, District Chief Executive Officer

ATTACHMENT(S):

1. Street Fund Forecast (includes TBD revenues)

PREPARED BY: Glenn Akramoff, Public Works Director
Don Vondran, Senior City Engineer

EXPLANATION:

In late 2012, the Budget Priorities Advisory Committee (BPAC) included in its final recommendation the direction to proceed with a Transportation Benefit District (TBD). To fund the TBD, the unanimous recommendation by BPAC was to take a 0.2% increase in sales tax to the voters as soon as possible.

City Council subsequently adopted Ordinance No. 02-13, creating the Covington Transportation Benefit District, and instructed staff to pursue a ballot measure for the November 2013 election for voters to adopt the 0.2% sales tax increase.

One of the first key steps is to determine how the new TBD sales tax revenues would be used. This will allow the voters to understand which services the funds will be expended to sustain and enhance operations. The current estimate of the annual revenue that will be generated from a 0.2% sales tax increase is \$750,000. Staff has divided the use of these proceeds into the following categories:

1. Sustain Street Fund Programs/Eliminate Projected Shortfall (\$70,000)
2. Operational improvements (\$180,000)
3. Small capital and overlay program (\$250,000)
4. Replace General Fund subsidy (\$250,000)

Operational Improvements

In recent years, due to budget reductions, some key public works maintenance and engineering programs have been deferred. These deferments have occurred for two reasons: 1) Not enough money to complete them, and 2) not enough staff time to manage or carry them out as current public works staff is operating at or above its capacity. Therefore, the following areas are recommended for improvements with additional operational funds:

- Add \$25,000 annually for a crack sealing program.
- Add \$25,000 in operating supplies and rental equipment for asphalt patching and sidewalk repairs.

- Add 0.75 FTE to the engineering team to provide oversight of transportation programs including overlay, asphalt pavement condition, small CIP for transportation and pedestrian programs and managing grants (\$80,000). The remaining 0.25 FTE will be supported by the SWM program resulting in a fully funded 1.0 FTE position.
- Add two (2) six-month seasonal maintenance workers to the Maintenance Team to support the completion of additional sidewalk repairs, crack sealing and asphalt patching efforts (\$50,000).

Small Capital and Overlay Program

In recent years the Covington street overlay program has been suspended due to lack of funds. The program has functioned more on a hit and miss basis at best with our street conditions continuing to deteriorate. In late 2011, a consultant completed a pavement condition assessment for all Covington streets and determined the overall pavement condition index (PCI) to be a 70. This rating equates to a “fair” index rating with the ideal PCI being 85 and 100 being an “excellent” rating (all “new” roadways). Therefore, many areas are well below the ideal rating and are in danger of needing full reconstruction if they are not addressed soon. In addition, there are many small transportation projects that would improve the safety and operation of our transportation infrastructure. These include gaps in ADA accessible routes and pedestrian facilities that have already been mentioned as a high concern from council, staff and citizens. Staff’s preliminary recommendation is to fund the overlay portion of the program at \$200,000 and the Small Transportation CIP at \$50,000, annually.

General Fund Subsidy

The city’s street fund would become whole and fully viable with the passing of the TBD sales tax increase. The annual \$250,000 subsidy from the general fund will no longer be needed by the street fund. This allows for a unique opportunity to provide enhanced service in other areas of the city’s general fund. Listed below are a few of the areas that have been identified.

Use of freed General Fund Subsidy dollars on an ongoing basis for some of the following:

- **Police Officer (\$176,000)** – Additional officer for patrol staffing in our continuing efforts to achieve two uniformed patrol officer minimums 24/7. We are actively seeking grant opportunities to reduce our initial costs.
- **Civilian Community Crime Prevention Officer (\$127,500 Startup, \$102,500 Ongoing)** – This position was a recommendation of BPAC to increase communications with residents and business owners. A Community Crime Prevention Officer can formalize neighborhood and business blockwatch programs, conduct residential and business security surveys, create crime prevention newsletters, communicate with homeowner associations and other community organizations, and coordinate citizen volunteer programs.
- **Increase Code Enforcement Officer (CEO) from 0.5 FTE to 0.75 FTE (\$26,000)** - Currently the half-time CEO responds to high priority complaints involving fire, life, and environmental safety first. Then medium and low priority enforcement cases are addressed as time permits, usually taking 30-60 days to properly respond. An increase in 0.25 FTE for the CEO would allow reduction of that response time by 50% to 15-30 days. In addition, the CEO could also take a more proactive position with field

enforcement in areas of illegal signs in commercial zones and junk vehicles and improperly located recreational vehicles in residential zones. It would also allow more weekend code enforcement of repeating violations as well as making changes to CMC code language to assist in better enforcement.

- **Economic Development Resource (\$76,000)** – The City Council has expressed interest at various points in an economic development “resource” i.e., a half-time employee or contractor to support the city’s economic development efforts with an emphasis on real estate services and marketing services. This figure is based on half of the prior economic development manager’s salary and benefits. If funded, further discussions will be necessary to determine whether to hire an employee or enter into a contract for services, as well as to determine the employee’s job description or contractor’s scope of work.
- **Park Planner (\$115,000)** – For the city to serve current residents and reach its 2010 park and trail acquisition and development goals we need to buy land, design and build 2-3 new neighborhood parks, 1-2 new community parks and 9 miles of new trail. Catching up with the current deficit, plus keeping up with annual growth, is many years of work for a full-time park planner. Planning, acquisition, design and development projects that should be undertaken in the next few years include: Covington Community Park – Phase 2 design and construction (expected to be funded by the 2013 legislature); Parks CIP Update (temporary planner funded in 2013); South Covington Park acquisition (underway); Park Impact Fee (2014); Jenkins Creek Trail design and development; Town Center Park concept design; PROS Plan Update (2014, to maintain grant eligibility); Jenkins Creek Park design and development; Pipeline Trail design and development; Hawk Subarea park and trail design and development; Tri-City Trail planning, design, right-of-way acquisition and development; Non-motorized Transportation Plan. The investment in a planner leverages millions of dollars of grant funding and allows projects to move forward that otherwise can’t happen.
- **Increase Recreation Assistant (\$60,000)** – This year Covington started providing community recreation classes and unexpectedly assumed management of Covington Days. In order to sustain excellent classes, community events and festivals, and to expand classes and programming, new funding could be used to increase the current Recreation Assistant from 0.15 FTE to full time. Increased staffing would allow new programming at Covington Community Park such as movie nights and green stage plays, expanded class offerings in our community room and other facilities such as the Timberlane Clubhouse, new events such as a Daddy-Daughter Dance, and more.
- **Additional Legal Services (\$17,400)** – The city contracts with City Attorney Sara Springer of SBS Legal Services PLLC for 35 hours per month at \$5,000 per month. Her time is at a premium, and often it can take weeks for her to get to all but the most urgent of projects. This figure would allow the city to purchase an additional 10 hours per month at her hourly rate of \$145 per hour.
- **Property acquisition fund (variable)** – This would set aside ongoing funds that would allow the city to take advantage of properties that become available that correspond with identified capital infrastructure needs for parks, trails and transportation.
- **Human Services funding (variable)** – This would increase the current funding to address inflation and population growth.

Use of freed General Fund Subsidy dollars, one time, for the following:

- **State GMA required Comprehensive Plan update (\$75,000)** – Hire a consultant to develop population projections and transportation data forecasts for the Land Use and Transportation Elements, as well as new data for both the Housing and Capital Facilities Elements, of the Comprehensive Plan update. The City does not have the existing staff to complete those tasks with our 0.50 FTE Long Range Senior Planner.
- **Recreation Stage and Canopy (\$35,000)** – The recreation program currently rents stages for \$1,100 per day. With ten days of use per year this investment allows programs to continue despite threat of rain and pays off in about three years freeing up valuable funding to enhance recreation programming.
- **PROS Plan Update (\$112,875)** – In order to be eligible for RCO parks and trails acquisition and development grants in the state’s next cycle the Parks, Recreation and Open Space (PROS) Plan needs to be updated starting in June 2014 and concluding December 2015. The cost of this project includes 0.25 FTE Park Planner (18 months), statistically valid telephone survey and consultant support.
- **Park Impact Fee (\$67,250)** – Current city revenue streams are not sufficient to fund park and trail acquisition and development. Partial funding could come from a Park Impact Fee. This project would use the information developed in the 2013 Parks CIP Update to develop a Park Impact Fee (PIF) for Council’s consideration in 2014. The cost of this project includes 0.15 FTE Park Planner (12 months) and consultant support.
- **Project Planning and Design – (varies per project)** – Each park and trail project listed in the Park Planner section above needs consultant or architect support. Project cost varies depending on the scope of the project. An investment in planning, design and cost estimates leverages millions of dollars in grant revenue.

The above list is not prioritized at this point and not necessarily a complete list. Also, if the TBD sales tax increase is approved by the voters in November of 2013, the new revenue would not be realized, and subsequent programs started, until July of 2014.

One final issue to be considered is the ebb and flow of sales tax revenue. The Public Works Department can adjust the small capital and overlay program to compensate for any downturns in the economy. However, the TBD Board should consider how to utilize additional revenue that could be produced by a positive economy and further retail development, such as the Town Center and Hawk property development.

Staff is seeking initial input on the priorities for use of revenues generated by the proposed TBD sales tax increase. The City Manager will take the Board’s input and bring back a final recommendation for the Board’s consideration on June 11, 2013.

ALTERNATIVES:

Discussed above.

FISCAL IMPACT:

Discussed above.

BOARD ACTION: Resolution Motion Other

Provide input to Staff.

REVIEWED BY: District Chief Executive Officer, District Treasurer, District Legal Advisor,
Department Directors

CITY OF COVINGTON
STREET FUND LONG RANGE FORECAST (with CTBD \$)
 2012-2018 Analysis in 000s

BASE BUDGET							
	2012	2013	2014	2015	2016	2017	2018
BEGINNING FUND BALANCE	\$ 363	\$ 387	\$ 332	\$ 518	\$ 969	\$ 1,428	\$ 1,894
REVENUES							
Licenses and Permits	\$ 199	\$ 199	\$ 204	\$ 209	\$ 214	\$ 220	\$ 225
Street Fuel Tax	350	367	385	404	424	446	468
Intergovernmental Revenues	63	-	-	-	-	-	-
Charges for Goods and Services	42	5	-	-	-	-	-
Miscellaneous	0	0	0	0	0	0	0
BASE BUDGET SUBTOTAL	654	571	589	613	639	665	693
Operating Transfers In	336	246	127 ¹	-	-	-	-
Insurance Recoveries	31	-	-	-	-	-	-
Estimated \$ transferred from the CTBD	-	-	386 ²	800 ³	832	865	900
TOTAL REVENUES	1,022	817	1,102	1,413	1,471	1,531	1,593
EXPENDITURES							
Salaries and Wages	287	281	293	304	316	329	342
Personnel Benefits	106	111	119	128	138	148	159
Supplies	42	63	65	67	69	71	73
Other Services and Charges	336	338	355	373	391	411	431
Intergovernmental	119	130	137	144	151	158	166
Capital Outlay	13	-	-	-	-	-	-
Debt Service: Principal	2	-	-	-	-	-	-
Interfund Payment for Services	77	-	-	-	-	-	-
Operating Transfer Out	16	2	-	-	-	-	-
BASE BUDGET SUBTOTAL	997	926	969	1,016	1,066	1,118	1,173
Decision Cards	-	(53)	(53)	(53)	(53)	(53)	(55)
Budget Strategies	-	-	-	-	-	-	-
TOTAL EXPENDITURES	997	873	916	963	1,012	1,064	1,117
Operating Surplus/Deficit by Year	\$ 25	\$ (56)	\$ 187	\$ 451	\$ 459	\$ 466	\$ 476
ENDING FUND BALANCE	387	332	518	969	1,428	1,894	2,370
REET Payback ¹	-	-	-	-	-	-	-
TOTAL ENDING FUND BALANCE	387	332	518	969	1,428	1,894	2,370
10% fund balance target	\$ 90	\$ 92	\$ 97	\$ 102	\$ 107	\$ 112	\$ 117
Fund balance policy	Meets 10%	Meets 10%	Meets 10%	Meets 10%	Meets 10%	Meets 10%	Meets 10%
Margin above/below the 10% threshold	\$ 297	\$ 239	\$ 421	\$ 867	\$ 1,321	\$ 1,782	\$ 2,252

Notes:

- 1) This worksheet makes no assumptions as to new programs and decision cards past 2012 other than ongoing costs.
- 2) If passed, the sales tax revenue will be collected beginning April 1, 2014. There is a two-month lag between sales and sales tax distribution. July 1 will be date when the CTBD receives it's first tax distribution.

Footnotes:

- ¹ Since the sales tax revenue will not be received until July 1, the General Fund subsidy should remain at 50% of the previous year.
- ² This number represents 1/2 of the expected sales tax revenue for 2014.
- ³ This will be the first full year of sales tax receipts. The number has been inflated consistent with sales tax revenue in the General Fund and Parks.
- ⁴ The operating surplus in years 2014 through 2018 reflect the amount available for use of fund