

Covington: Unmatched Quality of Life



CITY OF COVINGTON TRANSPORTATION BENEFIT DISTRICT SPECIAL MEETING

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

Tuesday, July 23, 2013 – 6:45 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 Board, 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.

New Business

1. Adopt Resolution Calling for Election (Matheson/Scott)

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: CONSIDER RESOLUTION CALLING FOR THE INCLUSION OF A BALLOT PROPOSITION TO AUTHORIZE AN ADDITIONAL SALES AND USE TAX TO FUND THE COVINGTON TRANSPORTATION BENEFIT DISTRICT AND CONSIDERATION OF THE VOTER PAMPHLET EXPLANATORY STATEMENT FOR THE SAME.

RECOMMENDED BY: Derek Matheson, TBC CEO

ATTACHMENT(S):

1. Proposed Resolution Calling for the Inclusion of a Ballot Proposition at the November 5, 2013 Election Authorizing an Additional Sales and Use Tax Within the District

PREPARED BY: Sara Springer, TBD Legal Advisor
Derek Matheson, TBD CEO

EXPLANATION:

A. Resolution

In late 2012, the Budget Priorities Advisory Committee (BPAC) included in its final recommendation the direction to proceed with the creation of 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.

On April 9, 2013, the City Council adopted Ordinance No. 02-13, creating the Covington Transportation Benefit District. The TBD Board subsequently instructed staff to pursue a ballot proposition for the November 2013 election for voters to adopt a 0.2% sales and use tax increase to fund certain transportation improvements.

The attached proposed resolution is the legal instrument to be used to indicate the TBD Board's desire to fund and implement certain transportation improvements through the imposition of a two-tenths of one percent (0.2%) sales and use tax in accordance with RCW 82.14.0455, consistent with Chapter 36.73 RCW, and upon voter approval thereof, and to call for the Director of Records and Elections in King County to include a ballot proposition on the November 5, 2013 ballot for District voters to approve or reject the same.

B. Explanatory Statement

In addition to the ballot title language included in the attached resolution, the TBD may include a 150 word Explanatory Statement that will be included in the voters' pamphlet. The

Explanatory Statement, though severely restricted in length, provides an opportunity for the Board to expand on the purpose of the ballot proposition.

Staff has identified two options for the Explanatory Statement, each emphasizing different key points about the proposition—Option 1 emphasizes the elimination of the street fund subsidy from the city’s general fund and the City Council’s commitment for use of those funds for public safety, and Option 2 emphasizes the effectively nominal impact of the sales tax increase:

Option 1:

Proposition 1 represents an effort by the Covington Transportation Benefit District to fund transportation maintenance and improvement projects within the City of Covington.. A vote to approve Proposition 1 will authorize the collection of an additional retail sales and use tax of 0.2% of the selling price (or the value of the article used) for a period of 10 years unless renewed by the voters. Among other unmet transportation needs, revenues will be used to fund the reinstatement of annual street overlays, enhanced asphalt patching and crack sealing, and to sustain existing maintenance programs. Approval of Proposition 1 will also eliminate the current subsidy from the City’s general fund to the City’s street fund (currently \$250,000 per year). The Covington City Council has voted to prioritize any freed general fund monies from the elimination of the street fund subsidy to pay for a new police officer and increased code enforcement.

Option 2:

Proposition 1 represents an effort by the Covington Transportation Benefit District to fund transportation maintenance and improvement projects within the City of Covington. A vote to approve Proposition 1 will authorize the collection of an additional retail sales and use tax of 0.2% of the selling price (or of the value of the article used), increasing the overall sales tax from 8.6% to 8.8%, for a period of 10 years unless renewed by the voters. This increase would equate to only 1¢ of additional sales tax for every \$5 of a taxable purchase or use within the city and would still be 0.7% lower than the sales and use tax in several other neighboring cities. Among other unmet transportation needs, a vote for Proposition 1 will generate funds to reinstate annual street overlays, enhanced asphalt patching and crack sealing, and to sustain existing routine street maintenance programs.

ALTERNATIVES:

Not approve the resolution as presented.

Direct staff to draft additional Explanatory Statement options.

FISCAL IMPACT:

None.

BOARD ACTION:

 X Resolution X Motion Other

Board member _____ moves and Board member _____ seconds to approve the resolution calling for the inclusion of a ballot proposition on the November 5, 2013 election to authorize an additional sales and use tax within the district, in substantial form as attached hereto.

Board member _____ moves and Board member _____ seconds to approve Option _____, in substantial form as included herein, as the Explanatory Statement for the TBD sales and use tax proposition to be included in the voters' pamphlet for the November 5, 2013 election.

REVIEWED BY: City Manager, Board Treasurer, Board Legal Advisor

COVINGTON TRANSPORTATION BENEFIT DISTRICT

RESOLUTION NO. 13-03

A RESOLUTION OF THE BOARD OF THE COVINGTON TRANSPORTATION BENEFIT DISTRICT, COVINGTON, WASHINGTON, PROVIDING FOR A BALLOT PROPOSITION TO BE SUBMITTED TO THE QUALIFIED VOTERS OF THE DISTRICT AT AN ELECTION TO BE HELD ON NOVEMBER 5, 2013, AUTHORIZING AN ADDITIONAL SALES AND USE TAX WITHIN THE DISTRICT AT THE RATE OF TWO-TENTHS OF ONE PERCENT FOR A PERIOD NOT TO EXCEED TEN YEARS, COMMENCING APRIL 1, 2014, FOR THE PURPOSE OF PAYING FOR OR FINANCING THE COST OF TRANSPORTATION IMPROVEMENTS; SETTING FORTH THE TEXT OF THE BALLOT PROPOSITION; DIRECTING PROPER DISTRICT OFFICIALS TO TAKE NECESSARY ACTIONS; AND PROVIDING FOR OTHER PROPERLY RELATED MATTERS.

WHEREAS, Chapter 36.73 RCW enables cities and counties to create transportation benefit districts to finance and carry out transportation improvements necessitated by economic development and to improve the performance of transportation systems; and

WHEREAS, under RCW 36.73.015(3), transportation improvements include, among other things, projects contained in the transportation plan of the state, a regional transportation planning organization, a county or a city, and may include investment in transportation projects and programs of regional and statewide significance; and

WHEREAS, following a public hearing in accordance with RCW 36.73.050, the City of Covington (the "City") approved Ordinance No. 02-13 on April 9, 2013, establishing the Covington Transportation Benefit District (the "District"), pursuant to Chapter 36.73 RCW, for the purpose of funding transportation maintenance and improvement projects that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels, more specifically identified in Exhibit A to this resolution, incorporated herein by this reference (collectively the "TBD Projects"); and

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

WHEREAS, the governing board of the District (the "Board") now desires to fund and implement the TBD Projects through the imposition by the District of a two-tenths of one percent (0.2%) sales and use tax in accordance with RCW 82.14.0455, consistent with Chapter 36.73 RCW, upon voter approval thereof;

//

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF THE COVINGTON TRANSPORTATION BENEFIT DISTRICT, COVINGTON, WASHINGTON, AS FOLLOWS:

Section 1. Description of TBD Projects. The specific TBD Projects to be paid or financed for in whole or in part with proceeds of the sales and use tax described in this resolution consist of the transportation improvement projects identified within Exhibit A herein. The cost of all necessary design, engineering, financial, legal and other consulting services, inspection and testing, administrative and relocation expenses, and other costs incurred in connection with the foregoing TBD Projects shall be deemed a part of the costs of the TBD Projects.

The Board shall determine the application of moneys available for the TBD Projects so as to accomplish, as nearly as may be, all of the TBD Projects. In the event that the proceeds of sales and use taxes authorized herein, plus any other money of the District legally available therefor, are insufficient to accomplish all of the TBD Projects, the Board shall use the available funds for paying the cost of those portions of the TBD Projects deemed by the Board most necessary and in the best interest of the District.

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

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

Section 2. Calling of Election. The Board hereby finds and declares that the best interests of the District require the submission to the qualified voters of the District a proposition of whether the District shall impose a sales and use tax within the limitations established in RCW 82.14.0455 for their approval or rejection. The Board thereby requests that the Director of Records and Elections of King County, as *ex officio* Supervisor of Elections in King County ("Director of Elections"), call and conduct an election in the District, in the manner provided by law, to be held therein on November 5, 2013, for the purpose of submitting to the voters of the District, for

their approval or rejection, a proposition whether the District shall impose a sales and use tax at the rate of two-tenths of one percent (0.2%) of the selling price in the case of a sales tax, or value of the article used in the case of the use tax. If approved, this sales and use tax shall be collected for a period not exceeding ten years, or if dedicated to the repayment of indebtedness incurred in accordance with the requirements of Chapter 36.73 RCW, until such time that indebtedness (including obligations issued to refund that indebtedness) shall have been fully redeemed and retired. The tax is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable under the state chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the boundaries of the District.

If such proposition is approved by the requisite number of voters, the District shall be authorized to use the proceeds of such sales and use tax for the purpose of paying for or financing all or part of the costs of the TBD Projects in accordance with the requirements of Chapter 36.73 RCW.

Section 3. Ballot Proposition. The Secretary of the Board is hereby authorized and directed to certify, no later than August 6, 2013, to the Director of Elections, a copy of this resolution and the following proposition to be submitted to the qualified electors at that election, in substantially the following form:

**COVINGTON TRANSPORTATION DISTRICT
COVINGTON, WASHINGTON
PROPOSITION 1
SALES AND USE TAX FOR
TRANSPORTATION IMPROVEMENTS**

The Board of Covington Transportation District, Covington, Washington, adopted Resolution No. _____ concerning a sales and use tax to fund transportation improvements. This proposition would authorize a sales and use tax at a rate of two-tenths of one percent (0.2%) to be collected from all taxable retail sales within the District, in accordance with RCW 82.14.0455, for a period not exceeding ten years, for the purpose of paying for or financing the costs of transportation maintenance and improvement projects identified in Resolution No. _____.

Should this proposition be approved?

YES

NO

For purposes of receiving notice of the exact language of the ballot proposition required by RCW 29A.36.080, the Board hereby designates: (a) the Secretary of the Board; and (b) legal adviser to the District, Sara Springer, SBS Legal Services, PLLC (sara@sbslegalservices.com, 206-313-2896), as the individuals to whom such notice should be provided. The Chair of the Board and Secretary of the District are each authorized individually to approve changes to the ballot title, if any, deemed necessary by the Director of Elections.

The Secretary of the District is authorized to make necessary clerical corrections to this resolution including, but not limited to, the correction of scrivener's or clerical errors, references, resolution numbering, section/subsection numbers, and any reference thereto.

The proper District officials are authorized to perform such duties as are necessary or required by law to submit the question of whether the sales and use tax shall be imposed, as provided in this resolution, to the electors of the District at the November 5, 2013 election.

Section 4. Severability. If any provision of this resolution shall be declared by any court of competent jurisdiction to be invalid, then such provision shall be null and void and shall be separable from the remaining provisions and shall in no way affect the validity of the other provisions, or of the imposition or collection of the tax authorized herein.

Section 5. Effective Date. This resolution shall be effective immediately after its adoption in the manner provided by law.

Section 6. Ratification of Prior Acts. Any action taken consistent with the authority and prior to the effective date of this resolution is hereby ratified, approved, and confirmed.

PASSED in open and regular session of the Board of the Covington Transportation District on this 23rd day of July, 2013.

Margaret Harto, Chair of the Board

ATTESTED:

Sharon Scott, Clerk of the Board

APPROVED AS TO FORM:

Sara Springer, Legal Advisor

Exhibit A

Identification of TBD Projects

The specific District improvements to be paid for and/or financed with proceeds of the sales and use tax described in this resolution consist of the following transportation maintenance projects as well as improvement projects described in detail within the City's six-year Transportation Improvement Program, abbreviated descriptions of which are incorporated herein as follows in no specific order of priority and as may be amended from time to time.

Transportation Maintenance:

- Crack sealing program.
- Overlay program.
- Small capital improvements such as ADA accessible routes and pedestrian facilities.
- Asphalt patching and sidewalk repairs.
- Additional staffing to include seasonal maintenance workers and an addition 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.

Transportation Improvements:

- SE 272nd Street (SR 516), Jenkins Creek to 185th Place SE: Widen to five lanes & reconstruct; sidewalks; new stream crossing.
- SE 240th Street, 196th Ave SE and SE Wax Road, SE 240th (180th - 196th), 196th (240th - Wax) & SE Wax (193rd - 196th): Overlay existing roadways.
- Citywide Intersection Safety Project: Various signing, striping, and channelization improvements at ten intersections throughout the city (see description for details).
- 156th Avenue, Vicinity SE 272nd Street to Vicinity SE 261st Place: Pavement rehabilitation.
- Jenkins Creek Park, SE 267th Place to SE 268th Street: Non-motorized multi-use trail and bridge replacement.
- Planning Level Study Planning, Town Center Economic Impact & Infrastructure Cost Study.
- SE 272nd Street (SR 516), 185th Place SE to 192nd Avenue SE: Widen to five lanes & reconstruct; sidewalks; new signal.
- 185th Place SE Extension, Wax Road/180th Avenue SE Roundabout to SE 272nd Street: New route; new alignment; access management.
- SE 272nd Street (State Route 516), 160th Avenue SE to 164th Avenue SE Const.: Signal modifications; add turn lanes; stream crossing.
- SE 256th Street and 180th Avenue SE, Safety improvements, Sidewalks Const.: Signal modifications; add right turn lane.

CERTIFICATION

I, the undersigned, Clerk to the Board of the Covington Transportation Benefit District (“the District ”), hereby certify as follows:

1. The foregoing Resolution No. 13-03 (“Resolution”) is a full, true and correct copy of the Resolution duly adopted at a special meeting of the Board of District (the “Board”) held at the regular meeting place thereof on July 23, 2013, as that Resolution appears on the minute book of the District, and the Resolution is now in full force and effect; and

2. A quorum of the members of the Board was present throughout the meeting and a sufficient number of members of the Board present voted in the proper manner for the adoption of the Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of July, 2013.

COVINGTON TRANSPORTATION DISTRICT

Sharon Scott, Clerk of the Board