

ORDINANCE NO. 07-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, ASSUMING THE RIGHTS, POWERS, FUNCTIONS, AND OBLIGATIONS OF THE COVINGTON TRANSPORTATION BENEFIT DISTRICT; REPEALING SECTION 12.125.020 AND AMENDING SECTIONS 12.125.030 AND .040 OF THE COVINGTON MUNICIPAL CODE TO EFFECT THE SAME; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on April 9, 2013 and pursuant to Chapter 36.73 of the Revised Code of Washington (RCW), the City Council of the City of Covington (the "Council" and "City", respectively) passed Ordinance No. 02-13 creating the Covington Transportation Benefit District ("TBD") with boundaries coterminous with the boundaries of the City and with all seven Council members serving as the TBD board members; and

WHEREAS, on July 1, 2015, the Washington State Legislature enacted Second Engrossed Substitute Senate Bill 5987 (2ESSB 5987) entitled "Transportation Revenue", of which a new Section 301 of Part III, "Local Transportation Revenue—Transportation Benefit Districts" provides that in any city or county in which a transportation benefit district has been established pursuant to Chapter 36.73 RCW with boundaries coterminous with the boundaries of the city or county may absorb that transportation benefit district and assume all the district's rights, powers, functions, and obligations; and

WHEREAS, pursuant to Section 302 of 2ESSB 5987, the Council adopted Resolution No. 15-10, declaring its intent to conduct a public hearing at its regular council meeting on October 13, 2015, to consider the City's proposed assumption of all rights, powers, functions, and obligations of the TBD; and

WHEREAS, on October 13, 2015, the Council conducted the public hearing allowing all persons interested in the City's proposed assumption of the TBD the opportunity to be heard; and

WHEREAS, the Council has determined that it is in the best interest and welfare of the public for the City to assume the rights, powers, functions, and obligations of the TBD;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Assumption of the Covington Transportation Benefit District. Pursuant to 2ESSB 5987 Section 301 and 303, the City of Covington hereby assumes all of the rights, powers, functions, and obligations of the Covington Transportation Benefit District. The City is hereby vested with each and every right, power, immunity, function, and obligation currently granted to or possessed by the TBD as of the effective date of this ordinance. The rights, powers, functions, and obligations previously exercised and/or performed by the governing body of the TBD are hereby assumed by and transferred to the Covington City Council.

Section 2. Section 12.125.020 CMC Repealed. Pursuant to 2ESSB 5987 Section 303(2), Section 12.125.020 CMC (“Governing Body”) is hereby repealed, abolishing the governing body of the TBD, and the City Council of the City of Covington is vested with all rights, powers, immunities, functions, and obligations otherwise vested by law in the governing board of a transportation benefit district pursuant to Chapter 36.73 RCW.

Section 3. Section 12.125.030 CMC Amended. Section 12.125.030 (“Powers”) of the CMC is hereby amended as follows:

12.125.030 Powers.

The City is vested with all rights, powers, immunities, functions, and obligations otherwise vested by law in a transportation benefit district under Chapter 36.73 RCW ~~The TBD and the TBD Board shall have~~ and the City Council may exercise any powers provided by law to fulfill the purpose of the TBD.

Section 4. Section 12.125.040 CMC Amended. Section 12.125.040 (“Transportation improvements funded.”) of the CMC is hereby amended as follows:

12.125.040 Transportation improvements funded.

The funds generated by the TBD may be used for any purpose allowed by law ~~including to operate the TBD~~ and to make transportation improvements that are consistent with existing State, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels pursuant to Chapter 36.73 RCW, as the same may be amended from time to time. The transportation improvements funded ~~by the TBD~~ shall be made in an effort to protect the City’s long-term investments in its infrastructure, to reduce the risk of transportation facility failure, to improve safety, to continue optimal performance of the infrastructure over time, to avoid more expensive infrastructure replacements in the future, and to improve modal connectivity within the City of Covington. Additional transportation improvement projects of the TBD may be funded only after compliance with the provisions of Chapter 36.73 RCW.

Section 5. No Existing Right Impaired. Pursuant to 2ESSB 5987 Section 304, the City’s assumption of the power, rights, functions, and obligations of the TBD does not impair or alter any existing rights previously acquired by the TBD under Chapter 36.73 RCW or any other provision of law relating to transportation benefit districts, nor does it impair or alter any actions, activities, or proceedings validated thereunder, nor any rule, regulation, or order promulgated thereunder. The assumption of control of the TBD’s functions by the City, and the transfer of rights, powers, functions, and obligations as provided for in 2ESSB 5987 Section 304, does not impair or alter the validity of any act previously performed by the TBD or any officer thereof prior to the assumption of such rights, powers, functions, and obligations by the City pursuant to this ordinance.

Section 6. Rules, Regulations, Pending Business, and Contracts. Pursuant to 2ESSB 5987 Section 305, all rules and regulations and all pending business before the board of the TBD transferred to the City must be continued and acted upon by the City; all existing contracts and obligations of the transferred TBD shall remain in full force and effect and must be performed by

the City; and the transfer of the TBD as authorized under 2ESSB 5987 Section 305 does not affect the validity of any official act performed by any TBD official prior to the transfer of the TBD to the City.

Section 7. TBD Records. Pursuant to 2ESSB 5987 Section 306(1), all reports, documents, surveys, books, records, files, papers, or other writings relating to the administration of the powers, duties, and functions of the TBD and available to the transportation benefit district must be made available to the City.

Section 8. Funds, Credits, Appropriations, Federal Grants, or Other Assets. Pursuant to 2ESSB 5987 Section 306(2) and (3), all funds, credits, or other assets held in connection with the powers, duties, and functions of the TBD transferred to the City are hereby assigned to the City; any appropriations or federal grant made to the TBD for the purposes of carrying out the rights, powers, functions, and obligations assumed by the City are hereby credited to the City on the Effective Date of this ordinance for the purpose of carrying out such transferred rights, powers, functions, and obligations.

Section 9. Assumption of Indebtedness. Pursuant to 2ESSB 5987 Section 307, the City hereby assumes and agrees to provide for the payment of all the indebtedness of the TBD.

Section 10. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 11. Corrections. Upon the approval of the city attorney, the city clerk is authorized to make any necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 12. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take full force and effect five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, at a regular meeting thereof this 13th day of October, 2015.


MARGARET HARTO, MAYOR

ATTESTED:


Sharon Scott, City Clerk

PUBLISHED: October 16, 2015

EFFECTIVE: October 21, 2015

APPROVED AS TO FORM:


Sara Springer, City Attorney