



---

**Memorandum**

December 5, 2016

**TO:** City Council  
David M. Campbell, City Manager

**FROM:** Jeff D. Cameron, Public Works Director

**SUBJECT:** Ordinance No. 3334 - Forming Longview Transportation Benefit District

**BACKGROUND**

The Longview street network consists of about 138 centerline miles of paved roadway and is the City's most valuable physical asset. However, because of fiscal constraints, the City is able to fund only about one-fifth of the money needed to adequately preserve and maintain our streets (based on a condition evaluation conducted in 2011). The City Council created a Streets and Roads Initiative Committee consisting of Councilors Mike Wallin, Chet Makinster, and Steve Moon, supported by city staff, to evaluate the streets condition and funding situation and make recommendations to the full city council.

The Committee evaluated different levels of maintenance activity and funding, and recommended the Council consider forming a Transportation Benefit District (TBD) to provide additional funding maintain our streets in good condition. The Council concurred with that recommendation, and on August 25, 2016, held a public hearing to consider forming the Longview Transportation Benefit District. Nobody from the public spoke or submitted comments opposed to forming the TBD, and Council directed staff to prepare a final ordinance and TBD improvements plan for consideration.

On November 21, 2016, the Committee reviewed a draft TBD improvements plan and requested staff present a final ordinance and revised improvements plan to the City Council for consideration before the end of the year.

**FORMING A TRANSPORTATION BENEFIT DISTRICT**

The statutory authority to form Transportation Benefit Districts has existed for over 20 years. However, prior to 2007, establishing a TBD required a vote of the people. In 2008, after recognizing the TBD option to provide additional funding for roadway preservation and congestion relief was under-utilized, the Legislature provided statutory authority for local agencies to form a TBD without voter approval.

According to Municipal Research and Services Center (MRSC) data, there are 89 TBDs formed by cities and towns throughout the state, with the reasons to form a TBD varying from dealing with congestion relief caused by development to building mass transit projects to maintaining

current roadway networks. Cities as small as Castle Rock and Roy, and cities as large as Spokane and Tacoma, have created TBDs to fund transportation improvements.

### **Intent**

Statutory authority and legal requirements for TBDs is contained in Revised Code of Washington (RCW) Chapter 36.73. The legislative intent is to allow state, local agencies, and the private sector to respond to the need for transportation improvements to improve the performance of the transportation system.

A "transportation improvement" is defined as a project contained in the transportation plan of the state, a regional transportation planning organization, city, county, or other eligible jurisdiction. Projects may include construction, operation and maintenance of facilities or programs ranging from roads and sidewalks to public transit and transportation demand management systems.

### **Establishment of a TBD by a City**

The City Council has the authority to establish a TBD within city limits for the purpose of acquiring, constructing, improving, providing, and funding a transportation improvement as long as the improvements are consistent with an existing transportation plan, needed to address current or future congestion levels, and owned by the City. Most TBD boundaries are the same as the local agency boundaries, but the boundaries are not required to include the entire jurisdiction.

The TBD shall administer and maintain the transportation improvements as other public streets, roads, highways, and transportation improvements are maintained. To the extent practicable, the TBD shall consider the following criteria when selecting transportation improvements:

- (a) Reduced risk of transportation facility failure and improved safety;
- (b) Improved travel time;
- (c) Improved air quality;
- (d) Increases in daily and peak period trip capacity;
- (e) Improved modal connectivity;
- (f) Improved freight mobility;
- (g) Cost-effectiveness of the investment;
- (h) Optimal performance of the system through time;
- (i) Improved accessibility for, or other benefits to, persons with special transportation needs as defined in RCW47.06B.012; and
- (j) Other criteria, as adopted by the governing body.

### **General Powers of the TBD**

1. A TBD is a quasi-municipal corporation that possesses all the usual powers of a corporation for public purposes, as well as all other powers including, but not limited to, authority to hire employees, staff, and services; to enter into contracts; to acquire, hold, and dispose of real and personal property; and to sue and be sued. Public works contract limits applicable to the City would apply to the District.
2. A TBD is an independent taxing authority.
3. A TBD is authorized to impose the following taxes, fees, charges, and tolls:
  - (a) Sales and use tax in accordance with RCW 82.14.0455 (up to 0.2%);

- (b) Vehicle license fee in accordance with RCW 82.80.140 (license tab fee) (up to \$100);
  - (c) Development fee or charge in accordance with RCW 36.73.120 (impact fee);
  - (d) Vehicle tolls in accordance with RCW 47.56;
  - (e) An ad valorem property tax in excess of one-percent for a one-year period in accordance with RCW 84.52.052, except that capital bond levies must remain in effect until the bonds are repaid.
4. A TBD is authorized to issue general obligation and revenue bonds.

### **Public Hearing**

A public hearing is required to create a TBD, modify an existing TBD, revise the TBD transportation improvement plan, or dissolve a TBD.

### **Ordinance**

Following a public hearing, the City may adopt an ordinance establishing the TBD. The ordinance must specify the functions of the TBD and describe the improvements. The ordinance needs to describe the purpose and functions of the TBD, but should not be so specific that it limits the flexibility of the TBD to select projects; a public hearing is required to modify or expand the functions or improvement plan of the TBD.

### **Governing Body**

If the TBD boundary is within or the same as the city boundary, the city council members must serve as the members of the governing body for the TBD, and the Finance Director must act as Treasurer for the TBD unless otherwise assigned in an interlocal agreement with another agency.

The TBD board is legally separate from the City Council and must hold meetings and take action separately from a city council meeting.

### **TBD Funding Without Voter Approval**

- Up to \$20 vehicle license fee
- Up to \$40 vehicle license fee after a \$20 vehicle fee has been in effect for 24 months
- Up to \$50 vehicle license fee after a \$40 vehicle fee has been in effect for 24 months
- Impact Fees

The vehicle license fees are based on registration renewals. In accordance with RCW 82.80.140, vehicle license fees cannot be collected until six months after approval by the TBD board. This means that initially it will take approximately 18 months to generate the first years' worth of revenue, after the TBD adopts the fee.

### **TBD Funding That Requires Voter Approval**

- Sales tax
- Ad valorem property tax
- \$40 or \$50 vehicle license fee if the previous fee level has been in effect less than 24 months
- Vehicle license fee over \$40 may be challenged by qualifying referendum petition triggering a public vote
- \$51 to \$100 vehicle license fee

According to MRSC, TBDs created by cities and towns use the following types of revenue sources:

Funding Source	Vehicle Fees (\$20 to \$80)	Sales Tax (0.1 To 0.2%)	Both Vehicle Fees and Sales Tax	Unfunded
No. of City formed TBDs	51	29	3	12

### **Assumption of Powers**

The TBD and the city are separate municipal corporations and as such, the TBD has no authority to direct or use city staff or resources. There must be an inter-local agreement between the TBD and the City in order for City staff and resources to provide support to the TBD.

Any city that forms a TBD with the same boundary as the city boundary may absorb the TBD and assume all rights, powers, functions and obligations, including debt obligations, which would count against the City's debt limit. More than one-third of the TBDs have been assumed by the forming city.

### **Financial Reporting**

The TBD is required to submit annual financial reports to the State Auditor's Office and is subject to state audits.

### **Dissolution**

The ordinance forming a TBD must have a provision for ending the day to day operations of the TBD within 30 days after the specified transportation improvements are completed. The TBD can remain in existence to collect revenue sufficient to pay off all debt incurred and to perform required financial report. The TBD must be completely dissolved within 30 days after the financing or debt service is paid off.

### **TBD Formation Steps**

The following TBD formation steps have been completed:

- Streets and Roads Initiative Committee recommended formation of a TBD to the full city council
- Public hearing notice published on August 14, 2016
- Public hearing held by City Council on August 28, 2016
- Longview State Environmental Policy Act (SEPA) Official determined formation of the TBD is categorically exempt from SEPA
- Streets and Roads Initiative Committee reviewed draft TBD Improvements Plan and recommended adoption of a TBD formation ordinance and revised Improvements Plan

The following are the next steps to forming the Longview Transportation Benefit District:

- Adopt an ordinance establishing the TBD and its transportation improvements plan
- Publish the formation ordinance; ordinance becomes effective and the TBD is formed 30 days after publication, which typically occurs 5 days after City Council approval

### **Longview Transportation Benefit District Actions**

After the TBD is formed, the TBD governing board should hold one or more meetings to:

- Adopt TBD chartering, by-laws, and procedures to govern its operation
- Adopt a resolution implementing a funding source for the TBD
- Adopt a budget for the TBD
- Approve an interlocal agreement between the TBD and City if City staff will provide administrative and technical support to the TBD
- If vehicle license fees are imposed, approve an agreement with the state Department of Licensing to collect and transfer the vehicle license fees to the TBD
- Adopt a policy establishing how to address significant/material changes to the TBD improvements plan funding, schedule, and costs

### **RECOMMENDATION**

The fiscal challenge of adequately funding preservation and maintenance of the City's most valuable assess is widely understood and the state legislature authorized Transportation Benefit Districts to provide an opportunity for local agencies to address the issue. Staff supports adopting Ordinance No. 3334 to establish the Longview Transportation Benefit District encompassing the city of Longview.