

ORDINANCE NO. 3341

**AN ORDINANCE OF THE CITY OF LONGVIEW, WASHINGTON.
ASSUMING THE RIGHTS, POWERS, FUNCTIONS, IMMUNITIES,
AND OBLIGATIONS OF THE LONGVIEW TRANSPORTATION
BENEFIT DISTRICT.**

WHEREAS, in December, 2016, the City Council adopted Ordinance No. 3334 creating the Longview Transportation Benefit District ("Longview TBD") with boundaries coterminous with the boundaries of the City, all in accordance with chapter 36.73 RCW; and

WHEREAS, on July 1, 2015, the Washington State Legislature enacted Second Engrossed Substitute Senate Bill 5987 (SESSB 5987) which, at section 301, authorizes the City to assume the rights, powers, functions, and obligations of the existing Longview TBD; and

WHEREAS, on February 23, 2017, the City Council adopted Resolution No. 2208, declaring its intent to conduct a public hearing to consider the proposed assumption of the rights, powers, functions, and obligations of the existing Longview TBD; and

WHEREAS, on March 23, 2017, the City Council conducted the public hearing allowing all persons interested in the proposed assumption the opportunity to be heard; and

WHEREAS, the City Council has determined that the public interest and welfare will be satisfied by the City assuming the rights, powers, immunities, functions, and obligations of the existing Longview TBD.

NOW THEREFORE, The City Council of the City of Longview do ordain as follows:

Section 1. Assumption of Longview Transportation Benefit District. Pursuant to SESSB 5987 Section 301 and Section 303, the City of Longview hereby assumes all of the rights, powers, immunities, functions, and obligations of the Longview TBD. The City is hereby vested with each and every right, power, immunity, function, and obligation currently granted to or possessed by the Longview 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 Longview TBD are hereby assumed by and transferred to the Longview City Council.

Section 2. Amendment - Longview Municipal Code (LMC) 3.63.030 Governing Board and Officers. Pursuant to SESSB 5987 Section 303(2), the governing body established in LMC 3.63.030 is hereby abolished and the City Council is vested with all rights, powers, immunities, functions, and obligations otherwise vested by law in the governing board of the Longview TBD. Chapter 3.63 of the Longview Municipal Code shall be, and is hereby amended to read, as follows; provided, manifest and numbering errors shall be corrected prior to publication:

3.63.030 Governing board.

(1) The governing board of the Longview transportation benefit district shall be the Longview city council, ~~acting in an ex-officio and independent capacity~~, which shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and this chapter.

(2) The treasurer of the transportation benefit district shall be the city finance director.

(3) 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 cost by more than 20 percent as identified in the district's original plan, a public hearing shall be held to solicit public comment regarding how the cost change should be resolved.

(4) The board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2). (Ord. 3334 § 3, 2016).

Section 4. No Existing Right Impaired. Pursuant to SESSB 5987 Section 304, this assumption does not impair or alter any existing rights acquired by the Longview TBD under chapter 36.73 RCW or any other provision of law relating to transportation benefit districts. Nor does this assumption impair or alter any actions, activities, or proceedings validated thereunder; any civil or criminal proceedings instituted thereunder; any rule, regulation, or order promulgated thereunder; any administrative action taken thereunder; or the validity of any act performed by the Longview TBD or division thereof or any officer thereof prior to the assumption of such rights, powers, functions, and obligations by the City as authorized under the law.

Section 5. Rules, Regulations, Pending Business, and Contracts. Pursuant to SESSB 5987 Section 305(1), all rules and regulations and all pending business before the board of the Longview TBD shall be continued and acted upon by the City Council. In addition, pursuant to Section 305(2), all existing contracts and obligations of the Longview TBD remain in full force and effect and must be performed by the City. The assumption does not affect the validity of any official act performed by any official or employee prior to the assumption authorized under the law.

Section 6. Records of the Longview TBD. Pursuant to SESSB 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 available to the Longview TBD must be made available to the City.

Section 7. Funds, Credits, Appropriations, Federal Grants, or Other Assets. Pursuant to SESSB 5987 Section 306(2), all funds, credits, or other assets held in connection with assumed powers, duties, and functions must be assigned to the City. Pursuant to Section 306(3), any appropriations or federal grant made to the Longview TBD for the purpose of carrying out the rights, powers, functions, and obligations authorized to be assumed by the City must, on the effective date of the assumption, be credited to the City for the purpose of carrying out such assumed rights, powers, functions, and obligations.

Section 8. Assumption of Indebtedness. Pursuant to SESSB 5987 Section 307, the City assumes and agrees to provide for the payment of all of the indebtedness of the Longview TBD, including the payment and retirement of outstanding general obligation and revenue bonds issued by the Longview TBD.

Section 9. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance and the same shall remain in full force and effect. The City of Longview hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 10. Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 12. The City of Longview City Clerk is hereby ordered and directed to cause this Ordinance to be published.

Section 13. Any act consistent with the authority of and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 14. This Ordinance shall be in full force and effect from and after thirty (30) days from the date of its passage and publication as provided by law.

Passed by the City Council this 23rd day of March, 2017.

Approved by the Mayor this 23rd day of March, 2017.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

James McNamara
City Attorney

Published: _____