AGENDA
City of Lynnwood
Transportation Benefit District (TBD) Board
Council Chambers, City Hall
19100 44th Avenue W, Lynnwood, WA, 98036

Special Meeting
September 15, 2014
6:00 P.M.

10 Call to Order
20 Roll Call
30 Approval of Minutes – July 21, 2014 Special Meeting and August 4, 2014 Special Meeting
40 Executive Session: Potential Litigation
50 Adjournment
City of Lynnwood
Transportation Benefit District Board

**Item 30**

Special Meeting
September 15, 2014
6:00 P.M.

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**TITLE:** Approval of Minutes – July 21, 2014 Special Meeting and August 4, 2014 Special Meeting

**DEPARTMENT:** Public Works

**DEPARTMENT CONTACT:** David Mach

**BACKGROUND:** The July 21, 2014 special meeting and August 4, 2014 special meeting were two of three recently held Board meetings. Approval of the September 3, 2014 special meeting will come before the Board for approval at a later meeting.

**ACTION:** Approve the meeting minutes from the July 21, 2014 special meeting and the August 4, 2014 special meeting.

**ATTACHMENTS:**

1) July 21, 2014 special meeting minutes
2) August 4, 2014 special meeting minutes
10. CALL TO ORDER – The July 21, 2014 Special Meeting of the City of Lynnwood Transportation Benefit District (TBD) Board, held in the Council Chambers of Lynnwood City Hall, was called to order by Board President Simmonds at 7:16 p.m.

20. ROLL CALL
   Board President Loren Simmonds
   Board Vice President Sid Roberts
   Board Member Van AuBuchon
   Board Member Benjamin Goodwin
   Board Member M. Christopher Boyer
   Board Member Ruth Ross
   Board Member Ian Cotton

20. OTHERS ATTENDING
   Public Works Director Franz
   Project Manager Mach
   Asst. City Admin. Genez
   Community Devt. Director Krauss
   Community Devt. Deputy Director Loch
   Senior Planner Rivera
   Interim HR Director Roberts
   Acting City Atty. Reitan
   Council Assistant Morris

Board President Simmonds reviewed the history and purpose of the Transportation Benefit District (TBD).

30. APPROVAL OF MINUTES – Special Meeting June 30, 2014

Motion made by Board Member Ross, seconded by Board Member Boyer, to approve the minutes of the March 10, 2014 Meeting.

It was noted that Mayor Smith should be listed as attending the June 30, 2014 meeting.

Motion passed unanimously to approve the minutes as corrected.

40. VOUCHER APPROVAL − None

50. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION ON RESOLUTION #5 AND OTHER VARIOUS DOCUMENTS AND PROCEDURES ASSOCIATED WITH A BALLOT PROPOSITION TO IMPOSE A SALES AND USE TAX

Public Works Director Franz reminded the TBD of the process staff and the consultant had gone through to get community input which had shown support for a TBD ballot measure. The TBD then directed staff to prepare a draft ballot proposal. Staff has prepared that and has included information about dos and don’ts related to this.

Project Manager Mach commented that staff looked at other cities (Stanwood, Marysville, and Arlington) in Snohomish County that have successfully passed sales tax TBDs. Staff has reviewed and modified samples from those jurisdictions to create a draft Resolution,
including proposition language, and an explanatory statement in conjunction with the City Attorney. He explained that if the TBD wants to move forward with putting this proposal on the November 4 General Election, the Resolution which contains the proposition language, the explanatory statement, and the pro and con committee members information need to be submitted by August 5. He then reviewed these documents as contained in the TBD packet.

Project Manager Mach explained that staff was looking for action on the Resolution, comments on the explanatory statement, and suggestions for committee members. Additionally, if the Board agrees, staff is recommending advertising on the website and in the The Herald to solicit members for those committees.

Board President Simmonds thanked staff for their work on this. He solicited questions and comments about the material in the packet.

Board Member Goodwin asked staff how recently the other cities had their ballot initiatives. Project Manager Mach replied Marysville’s was in the April 2014 Special Election, Arlington’s was in the August 2013 Primary Election, and Stanwood’s was in the February 2013 Special Election. Board Member Goodwin asked if other cities had proposed ballots that did not pass. Project Manager Mach commented that the City of Edmonds recently put a vehicle tab tax on the ballot which did not pass. He wasn’t aware of any others, but thought it was a possibility.

Board Member Boyer referred to line 133 of the Resolution and lines 10 and 11 of the Explanatory Statement and suggested the City provide examples of some of the “other” projects. Director Franz replied that there is a 200-word limit on the Explanatory Statement. Project Manager Mach commented that the City could get that information out in other ways such as on the website, but there is some limitation as to the amount of information that the City can put out.

Board Member Cotton suggested adding a banner to the City of Lynnwood website regarding this, if allowed. Acting City Attorney Reitan stated that normal and regular contact from the City is allowed, but nothing solely for the ballot would be allowed. Project Manager Mach commented that anything staff is anticipating putting out regarding the ballot measure would be run by the City Attorney to ensure it is done correctly.

Board Member Goodwin asked if the City would be bound to completing a certain project if it was included in the explanation. Acting City Attorney Reitan suggested that they refer to the list of TIP projects that were adopted by the Board. Board Member Boyer asked about referencing the projects rated highly by the survey. Acting City Attorney Reitan indicated that would be allowed.

Board President Simmonds commented that the ballot itself is actually asking for an action that, if it passes, is in effect for ten years. On the other hand, from year to year when the TBD adopts the budget, they do spell out specifically where the money is going to be applied.
Motion made by Board Member Boyer, seconded by Board Member Cotton, to adopt Resolution #3.

Public Works Director Franz asked about staff's ability to make minor changes to the documents, such as adding a project, without having to come back to the TBD for specific approval. Acting City Attorney Reitan replied that if it is the intent of the maker of the motion that could be incorporated. Also, Section 4 talks about staff being able to administratively tinker with the documents as long as it doesn’t change the substance of the document.

Board Member Boyer stated that was his intent.

Board Vice President Roberts moved to amend the motion to reduce the percentage to 0.1%. Board Member Goodwin seconded the motion.

Board Vice President Roberts commented that the highest sales tax in the state of Washington is 9.5%. He expressed concern that upon passage of the proposed ballot measure the City of Lynnwood would have the highest sales tax in the state by 0.2%. He is worried that that is too much and that it might jeopardize whether or not it passes.

Board Member AuBuchon commented that if the tax is cut in half the revenue would be cut from $4 million to $2 million which would leave the City $2 million short to meet the programmed projects. Director Franz concurred, and stated that in his opinion the City would continue to ride the roadway rating curve downward without the full amount. Staff would feel bound to find ways to make up that difference. Board Member AuBuchon asked about a combination of sales tax and vehicle tabs. Director Franz replied that they could, but they have heard that tab fees are not as successful with voters.

Board Member Boyer commented that the proposed amendment would not solve the problem that they set out to solve which would be illogical and undesirable. Additionally, he doesn’t think it makes much difference whether they are tied for first place or in first place all alone. He thinks reducing the proposed sales tax would make this whole process almost meaningless.

Board Member Cotton concurred with Board Member Boyer. He thinks the proposal is the fairest to the people of the City. A tab fee would put the burden of the many people who use the infrastructure on the shoulders of just the residents of the City. A sales tax more justly represents the usage of the infrastructure. He acknowledged that Board Member Roberts brought up a good point, but he thinks the original proposal is still the right way to go.

Board Member Goodwin said he agreed that they don’t necessarily want to be at the top of the pack in this situation, but bringing in $2 million revenue wouldn’t do what needs to be done. He spoke in support of continuing on with the 0.2% sales tax proposal because it will allow the City to do what needs to be done to improve the streets and is a fairer solution.

Board Member Ross commented that this is the first time Lynnwood has ever gone for a ballot measure for transportation. She noted that the traffic is what people always complain
about with Lynnwood and it needs to be addressed. She thinks it would be detrimental to
only ask for some help.

Board Vice President Roberts spoke in support of the sales tax approach as opposed to the
vehicle tabs. His concern is that they run the risk of not getting this approved by asking for
too much. He also pointed out that the City of Lynnwood did not have Transportation
Impact Fees until 2010, but these are being gradually phased in. He reminded the Board that
that is a major revenue source. He also reminded the Board that Marysville went from 8.6%
to 8.8% sales tax, but Lynnwood is proposing going from 9.5% to 9.7%. When someone is
buying a car, this makes a big difference.

Public Works Director Franz clarified that Transportation Impact Fees, by law, cannot be
used for preservation or upkeep of pavement. They can only be used for capacity-related
projects. Board Vice President Roberts acknowledged this, but noted that it could definitely
have impacts on other projects that are coming out of the same pot of money. Staff agreed.

Board President Simmonds commented that there is always the possibility of any ballot
measure not passing. If that should happen, they can go back to the drawing board and take
some corrective action. He stressed that if this does pass it will have a positive impact on the
General Fund.

*The amendment to the motion failed.*

Board President Simmonds solicited comment on the main motion.

Board Member AuBuchon expressed concern about this making automobile tax higher in
the City. He stated, however, that he would be supporting this primarily because they would
be letting the citizens make the decision.

*Upon a roll call vote, the motion passed unanimously (7-0).*

60. PROHIBITION ON USE OF PUBLIC FACILITIES TO SUPPORT OR OPPOSE BALLOT
MEASURE

Acting City Attorney Reitan discussed state law which prohibits the use of public facilities
to oppose or assist in re-election or a ballot measure. She summarized that the same rules
that applied to candidates also apply to ballot measures. Board Vice President Roberts asked
at what point these rules become applicable. Acting City Attorney Reitan replied that since
the TBD just adopted a resolution, it was her opinion that the rules were effective
immediately.

Board Member Goodwin asked for clarification on page 60.3, lines 77-83, regarding public
comment during public comment time. Acting City Attorney Reitan commented that it
would be important to make an announcement prior to the meeting. If someone did use
public comment period to express support or opposition of a ballot measure, it would be
important to let them know it’s illegal.
Public Works Director Franz referred to the pro and con committees and stated staff would like to put an ad in the paper and on the TBD website soliciting anyone who would be interested in either committee. Staff would then discuss this with the Board President and the City Attorney and submit those names by August 5 to the County. Board President Simmonds spoke in support of this, but stressed that these conversations should be in the presence of the City Attorney. Staff concurred.

70. ADJOURNMENT

Motion made by Board Member Boyer, seconded by Board Member Ross, to adjourn the meeting. Motion passed unanimously.

The meeting was adjourned at 8:05 p.m.

Loren Simmonds, TBD Board President

Lorenzo Hines, Jr.
Finance Director, acting as Board Treasurer
10. CALL TO ORDER -- The August 4, 2014 Special Meeting of the City of Lynnwood Transportation Benefit District (TBD) Board, held in the Council Chambers of Lynnwood City Hall, was called to order by Board President Simmonds at 7:01 p.m.

20. ROLL CALL
Board President Loren Simmonds
Board Vice President Sid Roberts
Board Member Van AuBuchon
Board Member Benjamin Goodwin
Board Member M. Christopher Boyer
Board Member Ruth Ross
Board Member Ian Cotton (Absent)

OTHERS ATTENDING
Public Works Director Franz
Deputy PW Director Elekes
Project Manager Mach
Council Assistant Morris
Mayor Nicola Mach
Asst. City Admin. Ceneza
City Clerk Kleitsch
Interim HR Director Roberts
Project Tourism Manager Monroe
City Attorney Larson

Board President Simmonds stated that Board Member Cotton had notified the Board that he would not be present this evening.

30. APPROVAL OF MINUTES – Special Meeting July 21, 2014

This item was pulled due to the need for corrections.

40. VOUCHER APPROVAL - None

50. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION ON APPOINTMENT OF PRO/CON COMMITTEE MEMBERS AND OTHER POTENTIAL DOCUMENTS AND PROCEDURES ASSOCIATED WITH A BALLOT PROPOSITION TO IMPOSE A SALES AND USE TAX

Project Manager Mach reminded everyone that at the July 21 Special TBD Meeting the Board passed Resolution #5 which proposes to put a ballot measure in the November 4 General Election to raise sales tax by 0.2%. The funds of this would be used for transportation improvements. In order to submit the ballot proposition, the Snohomish County Auditor’s Office requires a signed resolution, an explanatory statement, and nomination of pro and con committee members. The signed Resolution and Explanatory Statement have already been submitted. He explained that the Explanatory Statement was slightly adjusted based on comments received from the Board at the last meeting. That revised Explanatory Statement is in the packet on page 50-13.
The purpose of tonight’s meeting is to nominate pro and con committee members. Project Manager Mach explained that the roles of the pro and con committees is to prepare arguments for and against the measure and also to prepare rebuttal statements. The arguments and the rebuttal statements will be published in the Voters Pamphlet alongside the actual proposition. He explained that three individuals had expressed interest in serving on the Pro Committee. Those individuals are Larry Ingraham, Reid Shockey, and Wayne Anthony. Theodore Hikel and Jim Smith have expressed interest in serving on the Con Committee.

Motion made by Board Member Boyer, seconded by Board Member Ross, to appoint Pro Committee members as Larry Ingraham, Reid Shockey, and Wayne Anthony. Motion passed unanimously.

Motion made by Board Member Roberts, seconded by Board Member Goodwin, to appoint the Con Committee Members as Theodore Hikel and Jim Smith. Motion passed unanimously.

60. ADJOURNMENT

Noting no further business, Board President Simmonds stated that the next regularly scheduled meeting is on October 13, 2014. There is a possibility that a special meeting may be needed before that date.

Motion made by Board Member Boyer, seconded by Board Member Ross, to adjourn the meeting. Motion passed unanimously.

The meeting was adjourned at 7:14 p.m.

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Loren Simmonds, TBD Board President

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Lorenzo Hines, Jr.
Finance Director, acting as Board Treasurer
Item 40

Special Meeting
September 15, 2014
6:00 P.M.

TITLE: Executive Session: Potential Litigation

DEPARTMENT: Executive

DEPARTMENT CONTACT: Board President Simmonds

BACKGROUND:

ACTION:

ATTACHMENTS: