

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

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| AGENDA TITLE: | Adoption of Ordinance No. 726 – Authorizing the City to Assume the Rights, Powers, Functions, Immunities and Obligations of the Shoreline Transportation Benefit District |
| DEPARTMENT: | City Manager's Office |
| PRESENTED BY: | Alex Herzog, Management Analyst |
| ACTION: | <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

The 2015 Washington State Legislature amended existing laws and added new provisions to statutes regarding Transportation Benefit Districts (TBDs). These changes allow cities and districts with coextensive boundaries to eliminate the separate entity status given to a TBD and for the city to assume the rights, powers, functions, and obligations of the TBD.

On September 14, 2015, Council adopted Resolution No. 376, indicating the City's intent to conduct a Public Hearing on the potential assumption of the Shoreline TBD. On October 5, 2015, Council discussed and held the public hearing on proposed Ordinance No. 726, authorizing the City to assume the rights, powers, functions, immunities and obligations of the Shoreline TBD. Tonight, Council is scheduled to consider adoption of proposed Ordinance No. 726 (Attachment A).

RESOURCE/FINANCIAL IMPACT:

Proposed Ordinance No. 726, which authorizes the City to assume the rights, powers, functions, immunities and obligations of the Shoreline TBD, has minimal resource or financial impact. If the City assumes the TBD, the current separate insurance policy expense of \$2,500 would be eliminated and the cost for State audits of the TBD would also be eliminated after completing one final audit of the entity.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 726, authorizing the City to assume the rights, powers, functions, immunities and obligations of the Shoreline TBD, and amending certain provisions of Shoreline Municipal Code to conform to the assumption by the City.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

Consistent with RCW 36.73, the Shoreline City Council created a Transportation Benefit District (TBD) in June 2009 with approval of Ordinance No. 550. With this ordinance, the Shoreline TBD was formed and a new chapter to the Shoreline Municipal Code, entitled "Transportation Benefit District" was adopted (SMC 3.60). The ordinance specifies that the boundaries for the TBD be coextensive with the City limits. As it currently exists, the Shoreline TBD is a quasi-municipal corporation and independent taxing district created for the sole purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district.

Funds used to operate a TBD must make transportation improvements that are consistent with existing regional, state, and local transportation plans and necessitated by existing and reasonably foreseeable congestion levels as provided in Chapter 36.73 RCW. The Shoreline City Council further determined that it is in the public interest to provide for transportation improvements that specifically focus on reducing the risk of transportation facility failure and improving safety, decreasing travel time, increasing daily and peak period trip capacity, improving modal connectivity, and preserving and maintaining optimal performance of transportation infrastructure (SMC 3.60.020).

Earlier this year, the Washington State Legislature, in passing a 16-year, \$16 billion transportation package, also amended existing laws and added new provisions to statutes regarding TBDs. Changes included amendments to statutes establishing and authorizing governance of a TBD. This allows cities and districts with coextensive boundaries to eliminate the separate entity status given to a TBD and for the city to assume the rights, powers, functions, and obligations of the TBD.

Subsequent to the amendments made to state law, Councilmembers expressed an interest in the City assuming the Shoreline TBD. And, on September 14, 2015, Council adopted Resolution No. 376, indicating the City's intent to conduct a Public Hearing on the potential assumption. The staff report for the September 14, 2015 Council agenda item can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2015/staffreport091415-8a.pdf>.

On October 5, 2015, Council discussed and held a public hearing on proposed Ordinance No. 726, authorizing the City to assume the rights, powers, functions, immunities and obligations of the Shoreline TBD. Proposed Ordinance No. 726 also amends certain provisions of Shoreline Municipal Code to conform to the assumption by the City. The staff report for the October 5, 2015 Council agenda item can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2015/staffreport100515-8a.pdf>.

Adoption of proposed Ordinance No. 726 tonight would finalize the assumption process.

DISCUSSION

Potential assumption of the Shoreline TBD by the City would have no impact on the various mechanisms by which funds may be raised, or the purposes for which funds may be expended. To be clear, assumption of the TBD does not impair or alter any existing rights, actions, activities, proceedings, or other provision of law relating to transportation benefit districts. If the City assumes the rights, powers, functions and obligations of the TBD, establishing additional mechanisms for raising funds for transportation improvements would require future action by the City Council.

On September 14, members of the public raised questions on whether the assumption of the Shoreline TBD by the City would hinder the ability to have a joint TBD with another entity, such as Woodway, or limit the ability to have tolling facilities for a TBD tolling program in another entity. The City Attorney has advised that assumption does not preclude these options if the City Council wanted to pursue them in the future.

On October 5, during the public hearing, one member of the public spoke in support of the assumption.

FINANCIAL IMPACT

Proposed Ordinance No. 726, which authorizes the City to assume the rights, powers, functions, immunities and obligations of the Shoreline TBD, has minimal resource or financial impact. If the City assumes the TBD, the current separate insurance policy expense of \$2,500 would be eliminated and the cost for State audits of the TBD would also be eliminated after completing one final audit of the entity.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 726, authorizing the City to assume the rights, powers, functions, immunities and obligations of the Shoreline TBD, and amending certain provisions of Shoreline Municipal Code to conform to the assumption by the City.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 726

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 726

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

WHEREAS, on June 22, 2009, the City Council adopted Ordinance No. 550 creating the Shoreline Transportation Benefit District (“Shoreline 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 Shoreline TBD; and

WHEREAS, on September 14, 2015, the City Council adopted Resolution No. 376, the City declared its intent to conduct a public hearing to consider the proposed assumption of the rights, powers, functions, and obligations of the existing Shoreline TBD; and

WHEREAS, on October 5, 2015, 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 Shoreline TBD;

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

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

Section 2. Amendment - Shoreline Municipal Code (SMC) 3.60.040 Governing Board and Officers. Pursuant to SESSB 5987 Section 303(2), the governing body established in SMC 3.60.040 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 Shoreline TBD.

SMC 3.60.040 is amended as follows:

- A. The governing board (“board”) of the district shall be the Shoreline city council ~~acting in an ex officio capacity and independently of its council responsibilities.~~ The board shall have those powers set forth in Chapter 36.73 RCW and this chapter;
- B. The board shall develop a policy to address major changes to project delivery or financing plans as required by RCW 36.73.160(1). The policy shall include a public hearing to take comment on proposals to resolve transportation improvement project costs that exceed the district’s original capital project estimates by 20 percent.
- C. The board shall issue an annual report as required by RCW 36.73.160(2).
- D. The city manager shall be the chief executive officer and city finance director shall serve as the treasurer of the district.

Section 3. Amendment – Shoreline Municipal Code (SMC) 3.60.030 Functions and powers of district. Pursuant to SESSB 5987 Section 309(3), the Shoreline TBD is authorized to impose a vehicle fee as provided in RCW 82.80.140.

SMC 3.60.030 is amended as follows:

- A. The district, by a majority vote of the governing board, may authorize a motor vehicle license fee as follows:
 - 1. a vehicle fee of up to \$20.00 as provided in RCW 82.80.140 for the purposes set forth in this chapter and as may be subsequently authorized according to law.
 - 2. a vehicle fee of up to \$40.00 as provided in RCW 82.80.140 if a vehicle fee of \$20.00 has been imposed for at least 24 months; or
 - 3. a vehicle fee of up to \$50.00 as provided in RCW 82.40.140 if a vehicle fee of \$40.00 has been imposed for at least 24 months and the district has met the following requirements:
 - a. Published notice of this intention in one or more newspapers of general circulation within the district by April 1st of the year in which the vehicle fee is to be imposed.
 - b. If within 90 days of the date of publication a petition is filed with the King County Auditor containing the signatures of eight percent of the number of voters registered and voting in the district for the office of the governor at the last preceding gubernatorial election and the King County Auditor certifies the sufficiency to the district’s governing board within two weeks, the proposition to impose the vehicle fee must be submitted to the voters of the district at a special election, called for this purpose, no later than the date on which a primary election would be held under RCW 29A.04.311.
 - c. The vehicle fee may then be imposed only if approved by a majority of the voters of the district voting on the proposition.

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 Shoreline 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 Shoreline 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 Shoreline 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 Shoreline 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 Shoreline 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 Shoreline 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 Shoreline 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 Shoreline TBD, including the payment and retirement of outstanding general obligation and revenue bonds issued by the Shoreline TBD.

Section 9. Severability. If any portion or section of this ordinance is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other portion or section of this ordinance.

Section 10. Effective Date. The Ordinance and the assumption it authorizes shall take effect five days after publication.

Section 11. Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper.

PASSED BY THE CITY COUNCIL ON OCTOBER 19, 2015.

Mayor Shari Winstead

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2015

Effective Date: _____, 2015