

ORDINANCE NO. 12-3778

AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON, AMENDING THE KELSO CITY CODE TO ENACT A NEW CHAPTER 3.65 KELSO TRANSPORTATION BENEFIT DISTRICT, ESTABLISHING A TRANSPORTATION BENEFIT DISTRICT, SPECIFYING THE BOUNDARIES FOR THE TRANSPORTATION BENEFIT DISTRICT, SPECIFYING THE MAINTENANCE AND PRESERVATION OF EXISTING TRANSPORTATION IMPROVEMENTS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City Council of the City of Kelso has the responsibility under the Constitution of the State of Washington for the construction, improvement, maintenance, protection and operation of public ways within the corporate limits of the City pursuant to RCW 35A.11.020 and Chapter 35A.47 RCW; and

WHEREAS, the construction, improvement, maintenance, protection and operation of public ways requires preserving existing transportation improvements to avoid both catastrophic failure of the improvements which would require significant additional funds to reconstruct, as well as their gradual deterioration; and

WHEREAS, the number one priority in the “Washington Transportation Plan for 2007-2026” adopted by the Washington Transportation Commission (“State Transportation Plan”) is to preserve and extend prior investments in existing transportation facilities and the services they provide to people and commerce; and

WHEREAS, the State Transportation Plan identifies in Section II that there is no more fundamental transportation investment than existing system preservation – keeping the physical infrastructure in safe and efficient operating condition; and

WHEREAS, the State Transportation Plan at page 72 establishes unfunded high priorities of state-wide significance and includes the need to “[p]reserve, maintain and operate city streets \$6 billion” thereby recognizing that the shortfall in funding to preserve, maintain and operate city streets is a matter of state-wide significance and accordingly, an eligible transportation improvement listed on the state plan within the meaning of RCW 36.73.015; and

WHEREAS, the City has limited transportation funding to pay for necessary transportation construction preservation and maintenance; and

WHEREAS, the funding dedicated for the construction, preservation and maintenance of the City’s transportation infrastructure has been dramatically reduced due to the passage of Initiative 695 in 1999 and Initiative 776 in 2002; and

WHEREAS, while dedicated revenues have decreased, the ongoing annual costs to preserve and maintain the City’s transportation infrastructure continue to rise leaving the City unable to continue to adequately preserve and maintain the City’s transportation infrastructure; and

WHEREAS, Chapter 36.73 RCW provides for the establishment of transportation benefit districts and for the levying of additional revenue sources for transportation improvements within the District that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels; and

WHEREAS, RCW 35.21.225 authorizes the City Council to establish a transportation benefit district subject to the provisions of Chapter 36.73 RCW; and

WHEREAS, the City desires to form a Transportation Benefit District which includes the entire City of Kelso as the boundaries currently exist; and

WHEREAS, the ordinance was introduced and had first reading on November 6, 20012; and

WHEREAS, the City provided notice of and conducted the public hearing on November 6, 2012, regarding the proposed establishment of a Transportation Benefit District and the functions and projects of the District in accordance with RCW 36.73.050; and

WHEREAS, the City Council of the City of Kelso finds it to be in the best interests of the City to establish a citywide Transportation Improvement District for the preservation and maintenance of the City's transportation infrastructure consistent with Chapter 36.73 RCW, to protect the City's long-term investments in that infrastructure, to reduce the risk of transportation facility failure, to improve safety, to continue optimal performance of the infrastructure over time, and to avoid more expensive infrastructure replacements in the future; and

WHEREAS, the City Council of the City of Kelso shall be the a governing body for the Transportation Benefit District acting in an ex officio and independent capacity; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Purpose. The purpose of this Ordinance is to establish a Transportation Benefit District pursuant to RCW 35.21.225 and RCW 36.73. The City Council finds it is in the public interest to provide adequate levels of funding for the purposes of ongoing transportation improvements that preserve, maintain and as appropriate construct or reconstruct the transportation infrastructure of the City of Kelso, consistent with Chapter 36.73 RCW.

Section 2. Creation of New City Code Chapter Providing for Formation of a Transportation Benefit District. The City of Kelso adopts a new chapter to the Kelso Municipal Code 3.65 “Kelso Transportation Benefit District,” which is set forth as follows:

3.65.010 Establishing transportation benefit district.

There is created a transportation benefit district to be known as the Kelso Transportation Benefit District or “District” with geographical boundaries comprised of the corporate limits of the City as they currently exist or as they may exist following future annexations.

3.65.020 Governing board.

A. The governing board of the transportation benefit district shall be the Kelso 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.

B. The treasurer of the transportation benefit district shall be the City Finance Director.

C. 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). At a minimum, if a transportation improvement exceeds its original cost by more than twenty 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.

D. The board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).

3.65.030 Functions of the District.

The District board may authorize a vehicle tax fee of up to \$20 per vehicle as provided for by RCW 82.80.140. Any expansion of the authorized purposes of the District shall be undertaken only after notice, hearing and adoption of an ordinance in accordance with RCW 36.73.050(2)(b) or a vote of the people pursuant to RCW 36.73.065(3).

B. When authorized by the voters pursuant to the requirements of Chapter 36.73, other taxes, fees, charges and tolls or increases in these revenue services may be assessed for the preservation, maintenance and operations of City streets. Additional transportation improvements may be added to the functions of the District upon compliance with the requirements of said chapter.

C. The Board shall have and exercise all powers and functions provided by Chapter 36.73 to fulfill the functions of the District.

3.65.040 Transportation improvements funded.

The funds generated by the transportation benefit district shall be used for transportation improvements that construct, preserve, maintain and operate the existing transportation infrastructure of the City, consistent with the requirements of Chapter 36.73 RCW. The funds may be utilized for any lawful purpose under the Chapter; but all funds raised through the TBD shall be expended only for such preservation, maintenance and operation in accordance with the provisions of Chapter 36.73 RCW as the same exists or is hereafter amended. The funds expended by the District shall construct, preserve, maintain and operate the City's previous investments in the transportation infrastructure, reduce the risk of transportation facility failure, improve safety, continue the cost-effectiveness of the City's infrastructure investments, and continue the optimal performance of the transportation system. Additional transportation improvement projects may be funded only after compliance with the provisions of RCW 36.73.050(b) following notice, public hearing and enactment of an authorizing ordinance.

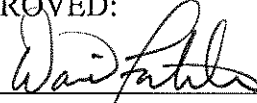
3.65.050 Dissolution of District.

The transportation benefit district shall be automatically dissolved in accordance with and in the manner provided in state law when all indebtedness of the District has been retired and when all of the District's anticipated responsibilities have been satisfied, street preservation, maintenance and operation are ongoing, long-term obligations of the City.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. Pursuant to RCW 35A.47.040, this ordinance has been passed at least five days after its first introduction and by a majority of the whole membership of the City Council at a regular meeting. This ordinance, being the exercise of a power specifically delegated to the City's legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary consisting of the title.

APPROVED:



MAYOR DAVID FUTCHER

ATTEST/AUTHENTICATED:



CITY CLERK, BRIAN BUTTERFIELD

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

JANEAN PARKER

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED: *November 24, 2012*
EFFECTIVE DATE: *November 29, 2012*
ORDINANCE NO. *12-378*