

ORDINANCE NO. 5297

AN ORDINANCE of the City Council of the City of Bremerton, Washington, assuming the rights, powers, functions, and obligations of the City of Bremerton Transportation Benefit District and amending Chapter 11.25 of the Bremerton Municipal Code entitled “Transportation Benefit District”.

WHEREAS, Chapter 36.73 RCW and RCW 35.21.225 authorizes cities to establish a transportation benefit district within the city’s jurisdiction for the purpose of acquiring, constructing, improving, providing, and funding 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, the City Council of the City of Bremerton (“City Council”) found it to be in the best interests of the City to establish a city wide Transportation Benefit District consistent with Chapter 36.73 RCW, for transportation improvements that improve modal connectivity and for the preservation and maintenance of the City’s transportation infrastructure, to reduce the risk of transportation facility failure, to improve safety, to continue optimal performance of the infrastructure over time, to avoid more expensive infrastructure replacements in the future and to implement the City’s transportation improvement plan; and

WHEREAS, the City Council of the City of Bremerton passed Ordinance No. 5076, amended by Ordinance No. 5245, establishing the Bremerton Transportation Benefit District as authorized by RCW 35.21.225 and subject to the provisions of RCW 36.73; and

WHEREAS, the Bremerton Transportation Benefit District includes the entire City of Bremerton as the boundaries currently existed when established or as expanded upon annexation; and

WHEREAS, pursuant to RCW 36.73.030(3), the members of the City Council, acting ex officio and independently, constitute the governing body of the Bremerton Transportation Benefit District; and

WHEREAS, during the 2015 legislative session, the State Legislature passed Second Engrossed Substitute Bill 5987, Chapter 44, Laws of 2015, now codified as Chapter 36.74 RCW; and

WHEREAS, RCW 36.74.010 authorizes any city in which a Transportation Benefit District has been established pursuant to Chapter 36.73 RCW with boundaries coterminous with the boundaries of the city to assume the rights, powers, functions, and obligations of the Transportation Benefit District; and

WHEREAS, in order to assume the rights, powers, functions, and obligations of a transportation benefit district established by a city, the city legislative authority must adopt an

ordinance or resolution indicating its intention to conduct a hearing concerning the assumption of such rights, powers, functions, and obligations; and

WHEREAS, the ordinance or resolution of intention must be published at least two times during the two weeks preceding the scheduled hearing in newspapers of daily general circulation printed or published in the city in which the Transportation Benefit District is located; and

WHEREAS, on February 17, 2016, the City Council adopted Resolution No. 3263 which declared the City Council's intention to consider the assumption of the rights, powers, functions and obligations of the Bremerton Transportation Benefit District, and scheduled a public hearing for March 16, 2016 so that all persons interested may appear and be heard; and

WHEREAS, Resolution No. 3263 was published March 3, 2016 and March 10, 2016; and

WHEREAS, on March 16, 2016, the City Council conducted the scheduled public hearing to allow all persons interested in the proposed assumption the opportunity to be heard, to hear those appearing and all protests and objections to it, if any; and

WHEREAS, following the conclusion of the public hearing, the City Council determined that the public interest and welfare would be satisfied by the City's assumption of the rights, powers, functions and obligations of the Bremerton Transportation Benefit District and therefore declared its intent to assume the rights, powers, functions and obligations of the District; and

WHEREAS, the City Council desires to continue the work and functions of the Bremerton Transportation Benefit District as defined in state law and Ordinance No. 5076, as amended by Ordinance No. 5245, without the necessity of maintaining a separate entity; and

WHEREAS, the City's assumption of the rights, powers, functions and obligations of the Bremerton Transportation Benefit District would provide for more efficient administration of transportation maintenance and improvement funds previously authorized to be collected and expended by the District; and

WHEREAS, the City Council finds that it is in the City's best interest to assume the rights, powers, immunities, functions, and obligations of the Bremerton Transportation Benefit District; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF BREMERTON, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals set forth above are hereby incorporated as if set forth herein in full.

SECTION 2. Assumption of Bremerton Transportation Benefit District. Pursuant to RCW 36.74.010 and as set forth in Section 3 below, the City of Bremerton does

hereby assume all of the rights, powers, immunities, functions, and obligations of the Bremerton Transportation Benefit District, and the City of Bremerton is hereby vested with each and every right, power, immunity, function, and obligation currently granted to or possessed by the Bremerton Transportation Benefit District 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 Bremerton Transportation Benefit District are hereby assumed by and transferred to the City of Bremerton City Council. By adoption of this ordinance, the Bremerton Transportation Benefit District will cease to exist as a separate entity.

SECTION 3. Chapter Amended. Chapter 11.25 of the Bremerton Municipal Code entitled "Transportation Benefit District" is hereby amended as follows:

Chapter 11.25

ASSUMPTION OF TRANSPORTATION BENEFIT DISTRICT

11.25.010 TRANSPORTATION BENEFIT DISTRICT ESTABLISHED ASSUMED.

~~There is created a transportation benefit district to be known as the Bremerton 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.~~

The City Council, by Ordinance No. 5076, as amended by Ordinance No. 5245, established a Transportation Benefit District with geographical boundaries comprised of the corporate limits of the City as they existed or as subsequently annexed, known as the Bremerton Transportation Benefit District or ("District"). RCW 36.74.010 authorizes any city in which a Transportation Benefit District has been established pursuant to Chapter 36.73 RCW, with boundaries coterminous with the boundaries of the city, to assume the rights, powers, functions, and obligations of the Transportation Benefit District. As authorized pursuant to RCW 36.74.010, the City of Bremerton assumes all of the rights, powers, functions, and obligations of the District previously established in this chapter, and the City of Bremerton is hereby vested with each and every right, power, function, and obligation granted to or possessed by the Bremerton Transportation Benefit District under Chapter 36.73 RCW, Chapter 36.74 RCW, this chapter, and/or any other applicable law, as currently enacted and subsequently amended. By this assumption of the rights, powers, functions, and obligations of the District, the Bremerton Transportation Benefit District will cease to exist as a separate entity.

11.25.020 GOVERNING BOARD.

~~(a) — The governing board of the Transportation Benefit District shall be the Bremerton 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 Financial Services 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).~~

~~(d) — The Board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).~~

As authorized pursuant to RCW 36.74.030(2), the governing body of the Bremerton Transportation Benefit District established pursuant to RCW 36.73.020 is hereby abolished and the City of Bremerton City Council (“City Council”) hereby assumes and is vested with all the rights, powers, functions and obligations previously vested, exercised and/or performed by the governing body of the Bremerton Transportation Benefit District.

11.25.030 AUTHORITY OF THE DISTRICTCITY.

~~The Board shall have and may exercise any powers provided by law to fulfill the purpose of the District.~~

The City shall have the authority to exercise the rights, powers, functions and obligations powers set forth in this chapter and Chapter 36.73 RCW, as currently enacted and subsequently amended, including, but not limited to:

- (a) imposing a vehicle fee pursuant to RCW 36.73.065,
- (b) implementing a material change policy previously adopted by the Bremerton Transportation Benefit District to address major plan changes that affect project delivery of the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1), and
- (c) funding transportation improvements as authorized pursuant to Subsection 11.25.040 below.

11.25.040 USE OF FUNDSTRANSPORTATION IMPROVEMENTS FUNDED.

~~The funds generated by the Transportation Benefit District may be used for any purpose allowed by law including to operate the District and to make transportation improvements that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels pursuant to Chapter 36.73 RCW. The transportation improvements funded by the district shall be made in an effort to protect the City’s long term investments in its infrastructure, to reduce the risk of transportation facility failure, to improve safety, to continue optimal performance of the infrastructure over time, to avoid more expensive infrastructure replacements in the future and to improve modal connectivity within the City of Bremerton. Additional transportation improvement projects of the District may be funded only after compliance with the provisions of RCW 36.73.050(b).~~

The revenues generated by the exercise of the powers granted in Section 11.25.030 and/or Chapter 36.73 RCW may be used for any purpose allowed by law to make transportation improvements that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels pursuant to Chapter 36.73 RCW. The transportation improvements funded by the City shall be made in an effort to protect the City’s long term investments in its infrastructure, to reduce the risk of transportation facility failure, to improve safety, to continue optimal performance of the infrastructure over time, to avoid more expensive infrastructure replacements in the future and to improve modal connectivity within the City of Bremerton. Any expansion of these authorized purposes may be funded only after compliance with the provisions of RCW 36.73.050(b) or a vote of the people pursuant to RCW 36.73.065(c).

11.25.050 — DISSOLUTION OF DISTRICT.

~~Subject to the provisions of RCW 36.73.170, the Transportation Benefit District shall be automatically dissolved when all indebtedness of the District has been retired and when all of the~~

~~District's anticipated responsibilities have been satisfied. However, in no event shall the Bremerton Transportation Benefit District continue to exist after April 30, 2020, subject to the provisions of RCW 36.73.170 for dissolution.~~

11.25.050 NO EXISTING RIGHTS IMPAIRED.

Pursuant to RCW 36.74.040, nothing in this ordinance shall be construed as impairing or altering any existing rights acquired by the Bremerton Transportation Benefit District under Chapter 36.73 RCW, this chapter, or any other provision of law applicable 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; nor the validity of any act performed by the Bremerton Transportation Benefit District or division thereof or any officer thereof prior to the assumption of such rights, powers, functions, and obligations by the City as authorized by law.

11.25.060 RULES, REGULATIONS, PENDING BUSINESS, AND CONTRACTS.

Pursuant to RCW 36.74.050(1), all rules and regulations and all pending business before the board of the Bremerton Transportation Benefit District shall be continued and acted upon by the City Council. In addition, pursuant to RCW 36.74.050(2), all existing contracts and obligations of the Bremerton Transportation Benefit District remain in full force and effect, and will 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 in this ordinance.

11.25.070 REPORTS, BOOKS, AND RECORDS.

Pursuant to RCW 36.74.060(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 Bremerton Transportation Benefit District shall be made available to the City.

11.25.080 FUNDS, CREDITS, APPROPRIATIONS, FEDERAL GRANTS, OR OTHER ASSETS.

Pursuant to RCW 36.74.060(2), all funds, credits, or other assets held in connection with rights, powers, duties, and functions of the Bremerton Transportation Benefit District assumed hereunder shall be assigned to the City. Further, pursuant to RCW 36.74.060(3), any appropriations or federal grant made to the Bremerton Transportation Benefit District (if any) 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.

11.25.090. ASSUMPTION OF INDEBTEDNESS.

Pursuant RCW 36.74.070, the City assumes and agrees to provide for the payment of all of the indebtedness of the Bremerton Transportation Benefit District, including the payment and retirement of outstanding general obligation and revenue bonds (if any) issued by the Bremerton Transportation Benefit District.

11.25.060100 LIBERAL CONSTRUCTION.

As authorized pursuant to Chapter 36.73 RCW, this chapter shall be liberally construed to permit the accomplishment of its purposes.

SECTION 4. Severability. If any one or more sections, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect.

SECTION 5. Effective Date. This ordinance shall take effect and be in force ten (10) days from and after its passage, approval and publication as provided by law.

PASSED by the City Council the 16th day of March, 2016.


ERIC YOUNGER, Council President

Approved this 19th day of MARCH, 2016


PATTY LENT, Mayor

ATTEST:


SHANNON CORIN, City Clerk

APPROVED AS TO FORM:


ROGER A. LUBOVICH, City Attorney

PUBLISHED the 25th day of March, 2016
EFFECTIVE the 4th day of April, 2016
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