

CITY OF ANACORTES ORDINANCE NO. 2926

AN ORDINANCE OF THE CITY OF ANACORTES ESTABLISHING THE ANACORTES TRANSPORTATION BENEFIT DISTRICT AND SPECIFYING THAT THE BOUNDARIES OF THE DISTRICT WILL COINCIDE WITH CITY BOUNDARIES

WHEREAS, RCW 35.21.225 authorizes the legislative authority of a city to establish a transportation benefit district (“TBD”), for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the TBD, subject to the provisions of Chapter 36.73 RCW; and

WHEREAS, transportation improvements are defined in RCW 36.73.015 to include projects contained in the transportation plan of a city, and which also includes investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management (“TBD Projects”); and

WHEREAS, TBD Projects may also include the operation, preservation, and maintenance of the previously mentioned facilities or programs; and

WHEREAS, the City of Anacortes’ (“City”) Capital Facilities Plan (“CFP”), as now existing and as it may exist in the future, constitutes and will constitute a “transportation plan” as contemplated by RCW 36.73.015; and

WHEREAS, the City’s CFP currently includes evidence indicating a need for a coordinated cost efficient approach to street resurfacing improvements and other improvements that may be funded by a TBD (“CFP Projects”); and

WHEREAS, the Capitol Assets & Pavement Services’ report dated October, 2013, describes the need for street resurfacing in the City and sets forth strategies for street resurfacing programs, including funding alternatives; and

WHEREAS, the City Council finds that the CFP Projects are transportation improvements within the meaning of RCW 36.73.015 and therefore also are TBD Projects; and

WHEREAS, on April 21, 2014, and July 7, 2014, the City Council conducted public hearings in accordance with RCW 36.73.050, after giving proper notice describing the TBD Projects and activities to be funded by the TBD; and

WHEREAS, as part of its review of the of the merit of establishing a TBD, the City Council considered various funding options for a number of CFP/TBD Projects and based on that review adopted Resolution No. 1895 establishing a long-term funding plan for certain CFP/TBD Projects, a part of which is the establishment of a TBD; and

WHEREAS, the Council finds that the City can most effectively undertake CFP Projects if it works in conjunction with a TBD; and

WHEREAS, the City Council finds that establishment of a TBD would enable the City, in conjunction with the process for the adoption of its annual updates to the CFP, to consider and adopt mechanisms to fund required City street resurfacing in a coordinated, efficient manner; and

WHEREAS, the City Council finds it to be in the best interests of the City to establish a citywide TBD to fund and implement TBD Projects consistent with Chapter 36.73 RCW and the City's CFP to enable the TBD to contract with the City for management and staffing of the TBD's operations, and for the mutual undertaking and/or funding of CFP/TBD Projects; and

WHEREAS, the City Council wishes establish a governing body for the TBD comprised of the City Council acting in an *ex officio* and independent capacity and to provide for the continuing operations of the TBD;

NOW THEREFORE, THE CITY OF ANACORTES DOES ORDAIN:

Section 1: Findings

The City Council finds it is in the public interest to help provide an adequate level of funding for transportation improvements through establishment of a TBD.

Section 2: Formation of a Transportation Benefit District

The City, pursuant to RCW 35.21.225 and Chapter 36.73 RCW, hereby establishes and creates a TBD to be known and referred to as Anacortes Transportation Benefit District No. 1 ("ATBD No. 1"), subject to the following:

1. Establishment the Anacortes Transportation Benefit District – General Authority. There is hereby created ATBD No. 1 with geographical boundaries comprised of the corporate limits of the City, as those boundaries may be adjusted in the future. ATBD No. 1 shall be a quasi—municipal corporation and an independent taxing "authority" within the meaning of Article VII, section 1 of the Washington State Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the Washington State Constitution. ATBD No. 1 shall constitute a body corporate and possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. Public works contract limits applicable to the City of Anacortes shall apply to the district.

2. Powers and Operations of ATBD No. 1.

a. ATBD No.1 shall possess all of the powers of a transportation benefit district authorized pursuant to Chapter 36.73 RCW, including without limitation, the power to request voter approval of, and thereafter impose and collect, a sales and use tax in accordance with RCW 82.14.0455, a vehicle fee in excess of \$20.00 up to \$100.00 as allowed by RCW 82.80.140. The TBD may impose an *ad valorem* tax pursuant to RCW 36.73.060, issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW 36.73.070 and form a local improvement district and impose assessments therefor, take those actions allowed, and subject to the limitations of, RCW 36.73.0810, contract for street and highway improvements, and for its operations, exercise the power of eminent domain in the same manner as authorized for the City and accept and use gifts and grants.

b. Consistent with RCW 36.73.020(4), the secretary/treasurer of ATBD No. 1 shall be the City Finance Director. As such, the Finance Director shall establish those funds and accounts on behalf of ATBD No. 1 as required and shall disburse funds and pay claims as approved by the ATBD Board and prepare and maintain such accounts are appropriate and/or required by state or federal law.

c. The City Attorney will serve as legal advisor to the ATBD Board, except where separate counsel is engaged by ATBD No. 1.

d. Other City employees shall carry out the operations of ATBD No. 1 as agreed by ATBD No. 1 and the City. Such employees and the contracts of ATBD No. 1 shall be overseen and administrated by the Mayor and/or her/his designee.

e. ATBD No. 1 may contract with the City for operations services and materials, office space and equipment, and to undertake and/or fund CFP/TBD Projects undertaken jointly or by one entity or the other.

3. Governing Board.

a. Consistent with RCW 36.73020(3), the governing board of ATBD No. 1 (the "ATBD Board") shall be the members of Anacortes City Council acting in an independent capacity. The ATBD Board shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and other applicable provisions of Washington State law. The ATBD Board shall also include a Chairperson, who shall be the City's Mayor and whom shall have those duties, rights and obligations of a Mayor as set forth in RCW 35A.12.100.

b. To carry out the purposes of this chapter, and subject to the provisions of RCW 36.73.065, the ATBD Board is authorized to impose the following taxes, fees, charges, and tolls:

(i) A sales and use tax in accordance with RCW 82.14.0455;

(ii) A vehicle fee in accordance with RCW 82.80.140;

(iii) A fee or charge in accordance with RCW 36.73.120. However, if the City is levying a fee or charge for a transportation improvement, the fee or charge shall be credited against the amount of the fee or charge imposed by the district. Developments consisting of less than twenty (20) residences would be exempt from the fee or charge under RCW 36.73.120; and

(v) An *ad valorem* property tax as provided in RCW 36.73.060.

c. The ATBD Board may authorize and issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW 36.73.070.

d. The ATBD Board may form a local improvement district and impose assessments therefor and take those actions allowed, and subject to the limitations of RCW 36.73.0810.

e. As required by RCW 36.73.160(1), as the same may be amended from time to time, the ATBD Board shall develop a material change policy to address major plan changes that affect ATBD Project delivery or the ability to finance the plan for funding and implementing the ATBD Projects.

f. Meetings of the ATBD Board shall be governed by the procedural rules applicable to meetings of the City Council, as those rules may be amended by the City Council from time to time. ATBD Board actions shall be taken by motion or resolution in the same manner and following the same procedure as for the adoption of City Council resolutions. Meetings of the ATBD Board shall, whenever possible, take place on the same dates scheduled for City Council meetings; *provided*, that the ATBD No. 1 meeting shall take place pursuant to its own agenda during a recess or otherwise outside of any regular business meeting or special meeting of the City Council. The ATBD Board meetings shall comply with the state Open Public Meetings and Public Records Acts and the officials of ATBD No. 1 shall be subject to Chapter 42.23 RCW, Code of Ethics for Municipal Officers – Contract Interests; *provided*, that the fact that ATBD Board members and officials and Council members and City officials are simultaneously employed by both entities shall not be deemed a conflict of interest where ATBD No. 1 and City are parties to contracts and/or agreements.

4. **Transportation Improvements Funded.** The funds generated by ATBD No. 1 shall be used for the ATBD Projects described in this ordinance and/or allowed by state law. The ATBD Projects may be amended in accordance with the material change policy described in Section 2(c) of this ordinance and in accordance with the notice, hearing and other procedures described in chapter 36.73 RCW, including RCW 36.73.050(2)(b), as the same may be amended from time to time.


5. **Annual Report to Public.** As required by RCW 36.73.160(2), as the same may be amended from time to time, ATBD No. 1 shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in ATBD No. 1.

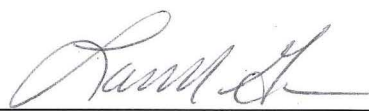
6. **Dissolution of ATBD No. 1.** ATBD No. 1 shall be dissolved pursuant to the procedures set forth in chapter 36.73 RCW, when all indebtedness, if any, of ATBD No. 1 has been retired and when all of ATBD No. 1's anticipated responsibilities have been satisfied.

Section 3. Severability; Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with the provisions of the Anacortes Municipal Code, this ordinance is deemed to control. This ordinance shall be liberally construed to permit the accomplishment of ATBD No. 1's purposes and objectives.

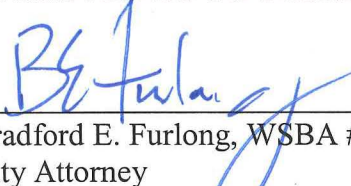
Section 4. This ordinance will be codified as AMC Chapter 3.70.

APPROVED by me this 21st day of July, 2014

ATTEST: 
Hoglund, Finance Director


Laurie Gere, Mayor

APPROVED AS TO FORM:


Bradford E. Furlong, WSBA #12924
City Attorney

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ANACORTES TRANSPORTATION BENEFIT DISTRICT