



City of Ferndale

CITY COUNCIL STAFF REPORT

MEETING DATE: June 2, 2021

AGENDA BILL # _____

SUBJECT: Transportation Benefit District Reauthorization

DATE: May 27, 2021

FROM: Kevin Renz, Public Works Director

PRESENTATION BY: Kevin Renz, Public Works Director

RECOMMENDATIONS:

Staff recommends that Council adopt a resolution authorizing the placement of the second 10 year implementation of the Transportation Benefit District ("TBD") on the ballot for voter consideration.

BACKGROUND:

In November of 2011 City Council adopted ordinance #1686 which established the City of Ferndale's Transportation Benefit District following which the TBD Board adopted a resolution placing a sales tax measure on the ballot. Later in February of 2012 the Council approved Resolution #12-02-06-B supporting the Transportation Improvement Sales Tax Measure being placed on the February 14, 2012, ballot. The measure was approved by Ferndale voters by 62.7%.

ANALYSIS:

RCW 36.73 authorizes the formation of Transportation Benefit Districts by Cities and Counties and allows for a variety of funding mechanisms to be implemented to generate revenue necessary to complete transportation projects. The City of Ferndale utilized the sales tax option to generate funds, raising sales tax within Ferndale by 0.2%. The sales tax increase originally generated approximately \$300,000 per year for transportation projects. This amount has expanded over the 10 years the measure has been in place, and in 2020 generated \$640,826 in revenue.

Ordinance #1686, which formed the TBD, identified several key projects that the City intended to pursue with the funds generated and further allowed funds to be expended on any project included on the six-year Transportation Improvement Plan ("TIP"), providing the City with flexibility to use funds on a variety of transportation projects.

The City has utilized the TBD funds to complete a number of projects, typically utilizing the funds for the required match for Transportation Improvement Board and Federal funding programs. Without the TBD revenue, the City would not have been able to apply for, or be successful with, the construction of multiple projects included in the City's long range planning. Projects completed utilizing TBD funds include:

COMPLETED TRANSPORTATION BENEFIT DISTRICT PROJECTS

Year	Street	Project Limits	Description
2013	Thornton Road	Maureen Drive to Vista Drive	Full Reconstruction

2013	Vista Drive	Second Avenue to Shuksan Street	Pavement Repair and Overlay
2014	Church Road	Main Street to Heather Drive	Full Reconstruction
2014	Barrett Road	Smith Road to Main Street	Pavement Repair and Overlay
2015	Main Street	Third Avenue to Barrett Avenue	Pavement Repair and Crack Seal
2015	Thornton Street	Della Drive to Church Street	Crack Seal
2015	Thornton Street	Church Street to Shannon Avenue	Crack Seal
2015	Vista Drive	Malloy Avenue to Thornton Street	Crack Seal
2015	Vista Drive	Northeast Corner of Intersection	Prep. for Future Intersection Improvements
2016	Washington Street	Third Avenue to Vista Drive	Full Reconstruction
2016	Main Street	Library Crosswalk	Pedestrian Safety Improvements
2017	Third Avenue	Main Street to Alder Street	Full Reconstruction
2017	Portal Way	Enterprise to Grandview	Pavement Repair and Overlay
2018	Washington Street	Main Street to Vista Drive	Full Reconstruction
2018	Cherry Street	First and Cherry to Third and Maple	Pedestrian Safety Improvements
2018	Portal Way	I-5 Northbound Interchange	Compact Roundabout Construction
2019	Main Street	Intersection First and Main	Pedestrian Safety Improvements
2020	Various	Main, Thornton, Vista	Complete Streets Ped Improvements

TBD funds were allocated to the Thornton Street Overcrossing project but a favorable bid environment as well as State Connecting Washington and TIB funding has allowed for the project to not take advantage of these funds and progress is indicating they will not be necessary for completion of the project.

While the City has made great progress towards completing projects on the TBD project list, there is still a lot of work to do. It is vital to future project delivery that the City continues to have the reliable income source the TBD provides, enabling the City to match grant dollars as well as fund smaller projects throughout the City.

ALTERNATIVES CONSIDERED:

Let the tax measure expire.

Adopt resolution placing measure on ballot.

FISCAL REVIEW: N/A

LEGAL REVIEW: N/A

CONCLUSION:

The attached resolution, if adopted, would place a measure on the ballot for consideration by the voters of Ferndale.

**FERNDALE TRANSPORTATION BENEFIT DISTRICT
RESOLUTION NO. ?????**

A RESOLUTION OF THE COUNCIL OF THE CITY OF FERNDALE, WASHINGTON, ACTING AS THE GOVERNING BOARD OF THE FERNDALE TRANSPORTATION BENEFIT DISTRICT, FERNDALE, WASHINGTON, PROVIDING FOR A BALLOT PROPOSITION TO BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE DISTRICT ON NOVEMBER 2, 2021 TO RENEW AND CONTINUE TO IMPOSE A TWO-TENTHS OF ONE PERCENT (0.2%) SALES AND USE TAX WITHIN THE DISTRICT FOR A PERIOD OF TEN YEARS TO FUND A PORTION OF THE COSTS ASSOCIATED WITH PROJECTS IDENTIFIED IN THE CITY'S TRANSPORTATION IMPROVEMENT PROGRAM

WHEREAS, the City of Ferndale (the "City") approved Ordinance No. 1686 on November 21, 2011, establishing the Ferndale Transportation Benefit District ("District") pursuant to RCW 36.73; and

WHEREAS, on November 21, 2011, the City conducted a public hearing in accordance with RCW 36.73.050, after giving proper notice describing the TBD Projects to be funded by the District; and

WHEREAS, the District adopted Resolution No. 2011-01 providing for a ballot proposition to be placed on the February 14, 2012 ballot imposing a two-tenths of one percent (0.2%) sales and use tax within the District for a period of ten years; and

WHEREAS, the ballot measure to impose the tax was approved by the voters and the District has been collecting that tax since 2012; and

WHEREAS, the City's Six-Year Transportation Improvement Program identifies projects that constitute transportation improvements that may be funded by the District; and

WHEREAS, with voter approval, the District may renew and continue to impose a sales and use tax upon the occurrence of any taxable event within the boundaries of the District to fund transportation improvements; and

WHEREAS, the governing board of the TBD (the "Board") now desires to fund and implement the TBD Projects, through the imposition by the District of a two-tenths of one percent (0.2%) sales and use tax in accordance with RCW 82.14.0455, and consistent with RCW 36.73, upon voter approval thereof; and

NOW THEREFORE, THE BOARD OF THE FERNDALE TRANSPORTATION BENEFIT DISTRICT, FERNDALE, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Findings; Description of the TBD Projects.

The Board hereby finds that the best interests of the inhabitants of the District require the District to renew and continue to impose a sales and use tax of two-tenths of one percent (0.2%) pursuant to RCW 36.73.040(3)(a) and RCW 82.14.0455 for the purpose of providing funds necessary to finance TBD Projects.

The City's Six-Year (2022-2027) Transportation Improvement Program (TIP) identifies projects that constitute transportation improvements that may be funded by the District, including a project entitled

“Thornton – Vista to Malloy”, a Project entitled “Main Street – Barrett Road to East City Limits”, a project entitled “Douglas Road (750-ft east of S Church to Imhoff Road)”, a project entitled “Ferndale Terrace Improvement Project”, and a Project entitled “Pavement Rehabilitation Program.”

The cost of all necessary design, engineering, financial, legal and other consulting services, inspection and testing, administrative and relocation expenses and other costs incurred in connection with the foregoing TBD Projects shall be deemed a part of the cost of the TBD Projects.

The Board shall determine the application of moneys available for the TBD Projects so as to accomplish, as nearly as may be, feasible all the TBD Projects. In the event that the proceeds of sales and use taxes authorized herein, plus any other money of the District legally available therefore, are insufficient to accomplish all of the TBD Projects, the Board shall use the available funds for paying the cost of those portions of the TBD Projects deemed by the Board most necessary and in the best interest of the District.

The Board shall determine the exact locations and specifications for the elements of the TBD Projects as well as the timing, order and manner of implementing or completing the TBD Projects. The Board may alter, make substitutions to and amend the TBD Project descriptions as it determines is in the best interests of the District consistent with the general descriptions provided above and in accordance with the material change policy adopted by the Board and the notice, hearing and other procedures described in RCW 36.73, including RCW 36.73.050(2)(b), in each case as the same may be amended from time to time.

If the Board shall determine that it has become impractical to acquire, construct, or implement all or any portion of the TBD Projects by reason of changed conditions, incompatible development, costs substantially in excess of the amount of sales and use tax proceeds estimated to be available, or acquisition by a superior governmental authority, the Board shall not be required to acquire, construct, or implement such portions. If all of the TBD Projects have been acquired, constructed, implemented or duly provided for, or found to be impractical, the Board may apply the sales and use tax proceeds (including earnings thereon) or any portion thereof to other transportation improvements then identified in the City’s Six-Year Transportation Improvement Program in accordance with the material change policy adopted by the Board and the notice, hearing and other procedures described in RCW 36.73, including RCW 36.73.050(2)(b), in each case as the same may be amended from time to time.

Section 2. Proposition.

It is hereby found and declared that the best interests of the District require the submission to the qualified electors of the District the proposition of whether the District shall renew and continue to impose a sales and use tax within the limitations established in RCW 82.14.0455 for their ratification or rejection at an election to be held on November 2, 2021. For the purpose of providing funds necessary to pay or finance costs of the TBD Projects, the Whatcom County Auditor, as *ex officio* supervisor of elections in Whatcom County, Washington, is hereby requested to call and conduct such election to be held within the District on such day and to submit to the qualified electors of the District for their approval or rejection, a proposition to renew and continue to impose a sales and use tax in the amount of two-tenths of one percent (0.2%) of the selling price in the case of a sales tax, or value of the article used, in the case of the use tax. The tax is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under RCW 82.08 and 82.12 upon the occurrence of any taxable event within the boundaries of the TBD, for a period of ten years.

Upon approval of the voters of the proposition hereinafter set forth, the TBD may use proceeds of such sales and use tax for the purpose of paying or financing costs of the TBD Projects in accordance with the

requirements of RCW 36.73. The City Clerk, serving as the Secretary of the Board, is hereby authorized and directed to certify said proposition to said official in the following form:

**CITY OF FERNDAL, WASHINGTON
CONTINUATION AND EXTENSION OF SALES AND USE TAX FOR
TRANSPORTATION IMPROVEMENTS**

The Council of the City of Ferndale Washington, acting as the Board of the Ferndale Transportation Benefit District, Ferndale, Washington, adopted Resolution No. ?????? concerning a sales and use tax to fund transportation improvements. This proposition would authorize the renewal and continuation of a sales and use tax of two tenths of one percent (0.2%) to be collected from all taxable retail sales within the District in accordance with RCW 82.14.0455 for a term of ten years for the purpose of paying or financing costs of the transportation improvement projects identified in the City of Ferndale Transportation Improvement Program (TIP):

Should this proposition be approved?

Yes?.....

No?.....

Section 3. Corrections.

The City Clerk, serving as the Secretary of the District is authorized to make necessary clerical corrections to this resolution including, but not limited to, the correction of scrivener’s or clerical errors, references, resolution numbering, section/subsection numbers and any references thereto.

Section 4. Severability.

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

PASSED by the Board of the Ferndale Transportation Benefit District, Ferndale, Washington, at a regular open public meeting thereof held this _____ day of _____ 2021.

FERNDAL, TRANSPORTATION BENEFIT DISTRICT
FERNDAL, WASHINGTON

_____ Chair

ATTEST:

Secretary

APPROVED AS TO FORM:

City Attorney