



Seattle City Council

Central Staff - Memorandum

Date: March 31, 2016
To: Members of the Affordable Housing, Neighborhoods & Finance Committee
From: Aly Pennucci, Council Central Staff
Subject: Resolution 31657- Citywide Business Improvement Area Policies

Background

Parking and Business Improvement Areas (BIAs) are established “to aid general economic development and neighborhood revitalization, and to facilitate the cooperation of merchants, businesses, and residential property owners which assists trade, economic viability, and liveability[sic]” (Revised Code of Washington (RCW), Chapter 35.87A).

The City currently has nine BIAs. In the past several years, the City has seen an uptick in activity in creating or modifying BIAs.¹ The Council last adopted BIA policies in 2001 ([Resolution 30389](#)); the current policies offer limited policy guidance for City decision-making. Recent BIA legislation raised a variety of policy and legal issues, prompting the chair of the Finance Committee, in 2015, to request that the Office of Economic Development (OED) and the Department of Finance and Administrative Services (FAS) complete a review and update of the BIA policies.

Staff from OED, FAS, and Law collaborated over the past year to draft updated citywide policies and procedures around BIA formation and operations. They also worked with BIA stakeholders to develop policies that provide better clarity and direction. After transmitting the proposed policies to Council in fall 2015, council staff worked with executive staff to rework the policies to include more guidance to BIA proponents and staff about the information and analysis needed before a BIA proposal is presented to the Council.

The proposed BIA policies were drafted to provide consistency, equity, and predictability in submission or consideration of proposals to establish, expand or disestablish a BIA. The policies document and expand upon existing practice in the proposal and approval process for BIAs, including requiring the submission of a draft proposal to the City prior to circulating petitions for signatures. The proposed policies also provide specific requirements for BIA proponents and Executive departments to provide more detailed information to the Council to aid in decision-making.

Potential items for discussion

The proposed policies address many of the concerns raised in previous discussions, but there are a handful of areas where Councilmembers may want to make changes or provide additional guidance. At the Affordable Housing, Neighborhoods & Finance Committee meeting on April 6, staff will ask the committee to provide direction on changes they would like to see incorporated before the committee

¹ Currently there are three neighborhoods working on new BIA proposals (Ballard, Magnolia and First Hill) and three existing BIAs that are considering modifications (Broadway/Capitol Hill, West Seattle and Chinatown/International District).

vote (tentatively scheduled for April 20). Central Staff prepared the following decision agenda to help guide that conversation. At the meeting, committee members may also want to propose additional amendments that are not discussed in this memorandum.

1. Government Properties.

The state statute does not address assessment of government owned properties. In the past government properties within a BIA have typically been considered exempt, but, in some cases governmental property owners have agreed to be assessed. The proposed policies specify that government properties are generally exempt if acting in a governmental capacity but may be assessed if acting in a proprietary capacity. Council may want to consider alternative approaches related to assessing government owned properties.

Option	Considerations
A. Exempt all government owned property.	This approach would be clear and straightforward, but would be less flexible and inconsistent with past practices. In areas where government does benefit it may create an imbalance in the neighborhood and make forming a BIA difficult.
B. Do not exempt government owned properties and require that the same analysis is applied that is applied to all other property (where the assessment is based on the benefit received).	In many cases, this analysis may result in an exemption or reduced assessment rate anyway because government owned properties may not benefit from the proposed BIA programs and services. Where this isn't the case, government entities may be concerned about the uncertainty of assessment and may make it difficult for some neighborhoods to form a BIA.
C. No change	This would allow the continuation of the current practice of assessing government owned property when, based on a determination by the City and the government entity, it is acting in a proprietary capacity.

2. BIA Programs and Services

- Washington State law outlines a number of purposes for the use of BIA generated funds:
- (a) The acquisition, construction or maintenance of parking facilities for the benefit of the area;
 - (b) Decoration of any public place in the area;
 - (c) Sponsorship or promotion of public events which are to take place on or in public places in the area;
 - (d) Furnishing of music in any public place in the area;
 - (e) Providing professional management, planning, and promotion for the area, including the management and promotion of retail trade activities in the area;
 - (f) Providing maintenance and security for common, public areas; or

(g) Providing transportation services for the benefit of the area.

These categories have been interpreted to be fairly flexible over the years. The proposed policies include examples of broad categories of programs and services existing BIA funds are used for. The Council may want to consider setting more specific parameters on some of the examples provided. One such category is “advocacy.” For example, in a recent BIA approval, the Council specified that advocacy was an authorized activity provided it is not related to land use or zoning changes. Another area is “appearance and pedestrian environment/urban design”; here the Council may want to frame this to specify that this is focused on improvements to and planning for the public realm, describing it instead as “Public Realm Improvements and Planning”

Option	Considerations
A. Remove the specific examples listed in the proposed policies and instead refer to the state statute.	This would continue to allow flexibility but would not resolve issues that have emerged during Council deliberations on the appropriateness of proposed services.
B. Modify the proposed list of examples and set more specific parameters (see Appendix 1 to this memo for an example of what this could include).	This would still allow some flexibility while providing more specific guidance to BIA proponents and could be used to identify Council priorities for the use of BIA funds. As is true in the proposed policies, listing examples may be interpreted as being more limiting than what was intended.
C. No change	This would continue to allow flexibility but may be interpreted as being more limiting than what was intended.

3. Advisory Board.

The state statute related to BIAs gives Council the authority to create advisory boards and does not specify who is eligible to be a member of the board. The proposed policies delegate that responsibility to the Director of OED and specify that the City will solicit recommendations from ratepayers and existing board members. In the past, the City has seen some tension between property owners and tenants in BIAs. Within existing BIAs, who is assessed varies between property owners and business owners. BIAs created recently typically assess the property owner. The Council may want to consider setting a specific avenue for tenant participation on the board.

Option	Considerations
A. Modify language in policy 4 to rename the board from “Ratepayers Advisory Board” to “BIA Advisory Board” and require a certain number or percentage of seats on the board be reserved for tenants that live or run a business within the BIA boundaries.	This would ensure that tenants have a seat at the table, particularly important when the costs are typically passed on to the tenants. On the other hand, it may be difficult to reach agreement among board members on how BIA funds should be spent when tenant

	priorities do not align with the property owner priorities.
B. Modify language in Policy 4 (as described in Option 3A) and allow, but not require, tenant representation on the board.	This would provide flexibility to tailor board membership for individual BIAs but would not require it for board membership. When the City is deliberating on the formation or modification of a BIA, this decision could be made on a case-by-case basis and included in the establishing legislation.
C. No change.	As proposed, tenants who are not officially the ratepayer could not participate as voting members of the board. Because the assessment is often passed on to the tenant, and because the programs and services provided by the BIA may benefit tenants directly, tenants may want to be included in Board decisions.

4. Reporting and Evaluation.

Neither the existing nor proposed policies require any ongoing reporting or evaluation of BIAs. The Council may want to consider periodically assessing the success of a BIA. In at least one instance, the City has included an auditing requirement in the ordinance establishing the BIA.

Option	Considerations
A. Require that BIA Program Managers report to council on the success ² of BIAs and how the services and programs described in the ordinances establishing the BIA have been provided.	If reporting is required on some regular basis (e.g. require a report as part of an application to renew or modify existing BIAs), the Council could better evaluate individual BIAs when a BIA is up for renewal or modification. This may require that the Program Manager works with the Ratepayers Board to allocate BIA resources for reporting and evaluation.
B. No change	There would be no ongoing monitoring of BIAs generally but Council could require, through each ordinance establishing or modifying individual BIAs, reporting and evaluation.

² This could include monitoring measurable results, such as higher property values, higher rents, decreased crime rates and increased occupancy rates (for residential and commercial spaces).

Appendix 1: BIA Programs & Services Descriptions

Below are general descriptions of programs and services that BIA funds can be used for and do not encompass every allowable activity possible:

- *Clean & Safe Programs*: services such as regular sidewalk cleaning, additional trash pickup, graffiti removal, etc. This may also include services to increase safety such as block watches, coordination and communication with local police officers, safety ambassadors, etc.
- *Marketing and Promotion*: activities that draw attention to the district and its amenities. Examples of these activities include business district brand development, joint marketing and advertising of local businesses, public events that attract visitors, etc.
- *Business and Economic Development*: strategies to support local businesses to stay and grow in the district as well as attracting businesses that bring new customers or add to the mix of offerings. These activities can include retail studies, business networking events, business technical assistance services, and facilitating connections between new businesses and property owners, etc.
- *Public Realm Improvements and Planning*: to maximize the appearance and accessibility of the district to customers, residents and employees. These activities can range from beautification and decoration such as flower baskets and banners; to improvements or enhancements to landscaping, lighting and street furniture; to developing plans to improve accessibility and wayfinding in the area.
- *Organizational Development/Management/Staffing*: such as an Executive Director, Marketing & Events Programs Director, Outreach and Community Engagement Coordinator, Business Attraction and Retention Coordinator, Clean & Safe Coordinator, etc. BIAs require some staffing, at minimum a Program Manager, that engages in a variety of activities from advocating for district needs to organizing community leaders to support the neighborhood.
- *Advocacy*: for stakeholder's interests to address economic development and neighborhood revitalization issues within the BIA boundaries. Any advocacy work must be directly tied to the programs and services BIA funds support.

BIA funds may not be used for the following:

- Contributions to and endorsements of candidates for elected public office.
- Improvements to private property that do not benefit ratepayers equally.
- Advocacy on issues that do not apply to and/or benefit all ratepayers (for example, advocating for or against certain labor related policies or land use decisions that may affect certain ratepayer classifications differently).