



Seattle City Council

Central Staff - Memorandum

Date: April 14, 2016
To: Members of the Affordable Housing, Neighborhoods & Finance Committee
From: Aly Pennucci, Council Central Staff
Subject: Resolution 31657- Citywide Business Improvement Area Policies

Overview

On April 6, 2016, the Affordable Housing, Neighborhoods & Finance Committee (AHFN) Committee discussed Resolution 31657, which would update the City’s polices related to Business Improvement Areas (BIAs). This memo describes possible amendments to the proposed Citywide BIA Policies.

The proposed 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. They also provide specific requirements for BIA proponents and Executive departments to provide more detailed information to the Council to aid in decision-making.

Proposed Amendments

The committee is considering the following amendments:

Proposed Amendments	Amended Policy Language
<p>1. <u>BIA Programs and Services</u></p> <p>This amendment would: (1) modify the proposed list of example services and programs to provide more specificity on how BIA funds</p>	<p>Policy 5. BIA Programs and Services</p> <p>The City intends to maintain the level of municipal services in areas where BIAs have been established and not supplant existing municipal services with those funded through BIA assessments. However, this policy does not limit the discretion of the City to determine whether, and at what level, municipal services will be provided as community needs, economic conditions, and other factors warrant.</p> <p>Washington State law outlines a number of purposes for the use of BIA generated funds (see RCW</p>

could be used; (2) clearly state that this list is illustrative and not all encompassing; and (3) list a few specific programs or services that BIA funds cannot be used for.

35.87A.010(1). The work plan, programs and activities proposed by BIA proponents and Boards shall reflect the allowable purposes listed under RCW 35.87A.010(1). ~~Below are general examples of BIA purposes and do not encompass every allowable activity possible:~~

- ~~• Clean & Safe Programs~~
- ~~• Marketing and Promotion~~
- ~~• Business and Economic Development~~
- ~~• Appearance and Pedestrian Environment/Urban Design~~
- ~~• Organizational Development/Management/Staffing~~
- ~~• Advocacy~~

Below are general descriptions of programs and services that BIA funds can be used for. This list is meant to be illustrative and does not encompass every allowable service or program that BIA funds may be used for:

- 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.

	<ul style="list-style-type: none"> • 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. <p>BIA funds may not be used for the following:</p> <ul style="list-style-type: none"> • Contributions to and endorsements of candidates for elected public office. • Improvements to private property that do not benefit all ratepayers. • Advocacy on issues that do not benefit the area as a whole.
<p>2. <u>Advisory Board Composition</u></p> <p>This amendment would allow, but not require, tenant and residential representation on the advisory board. When the City is deliberating on the formation or modification of a BIA, this decision would be made on a case-by-case basis and included in the establishing legislation.</p>	<p>Policy 4. Organizational Structure and Management</p> <p>As allowed under RCW 35.87A.110, City policy is to contract with an organization operating primarily within the city to be the Program Manager for a BIA. The City will give preference to a local, non-profit organization that is able to manage funds and delivery of the services. The Program Manager administers the operations purchased by BIA generated funds.</p> <p>Each BIA shall have a City-approved Ratepayers-BIA Advisory Board (Board) to adopt bylaws, policy guidelines, provide advice to the Program Manager, consult with City staff, recommend an annual work program and budget, address ratepayer concerns and questions, review reports to be submitted to the City, and sponsor an annual ratepayers’ meeting. The composition of the Ratepayers Advisory Board will be representative of the varying sizes, locations, and classifications of ratepayers. The Board is typically comprised of a broad representation of ratepayers. The Board may also include business tenants (who are tenants of ratepayers) and representatives from multi-family residential buildings (where the homeowners association is the ratepayer). The City encourages BIA proponents to include a recommendation about the size and composition of the Board as part of the overall proposal to establish or modify a BIA. No one ratepayer may hold a majority interest (51 percent) in the voting rights of the Board either through one or more Board members.</p> <p>The City Council, when establishing a new BIA by ordinance, may authorize the Director of OED to appoint a Ratepayers Advisory Board. Initially, an interim Board will be appointed based on recommendations solicited from ratepayers. An inaugural Board will be recommended by the appointed interim Board to the Director. The City may include additional members on the Board to ensure a broad representation of ratepayers, as well as reject a nominee to the Board for cause.</p> <p style="text-align: center;">***</p> <p>All Ratepayers Advisory Board meetings shall be subject to the Open Public Meetings Act. All ratepayers will have an opportunity to present their comments or concerns about Board actions and decisions to the Board</p>

for review and action. If they do not feel satisfied, they may then present their comments and concerns to the City.

Policy 9. Pre-Formation Costs.

If expenses are incurred during an effort to form a BIA, the proponents proposing the BIA formation are responsible for paying the expenses. If the BIA formation is successful, the BIA's [Ratepayers](#) Advisory Board can recommend to the City usage of BIA generated funds to pay for those reasonable, well-documented pre-formation costs.

Policy 10. City Department Support

The City of Seattle supports BIAs primarily through the Office of Economic Development (OED) and FAS. The responsibilities for each Office or Department are outlined below, however, as needs and resources change, those responsibilities may be shifted as needed.

OED will:

- approve the [Ratepayer-BIA](#) Advisory Board;

The City Attorney's Office (Law) will:

- review and provide opinions to City staff on the legality of petitions, formulas, purposes, and boundaries presented by community groups interested in forming or expanding BIAs
- review the proposed BIA legislation.

If legal issues arise, Law will not provide legal advice to the [Ratepayers-BIA Advisory](#) Board, Program Managers or their consultants.

Glossary

[BIA Advisory Board: The City's policy is to create a BIA Advisory Board to oversee operations of the funds, approve an annual budget for use of BIA generated revenues and recommend a Program Manager; however, the City has sole discretion as to how the revenue derived from the BIA is to be used within the scope of the purposes stated in the BIA ordinance.](#)

	<p><u>Program Manager</u>: the organization that administers the operations of the BIA. The Program Manager is recommended by the <u>Ratepayer BIA</u> Advisory Board to the City. The <u>Ratepayer BIA</u> Advisory Board approves an annual budget for use of BIA generated funds in alignment with the BIA ordinance. The Program Manager administers the funds in accordance with the approved budget through direct expenditures and/or contracts with service providers. The Program Manager’s administration will comply with all applicable provisions of law, with all county and City resolutions and ordinances, and with all regulations lawfully imposed by the state auditor or other state agencies.</p> <p style="text-align: center;">***</p> <p><u>Ratepayers Advisory Board</u>: The City’s policy is to create a Ratepayers Advisory Board to oversee operations of the funds, approve an annual budget for use of BIA generated revenues and recommend a Program Manager; however, the City has sole discretion as to how the revenue derived from the BIA is to be used within the scope of the purposes stated in the BIA ordinance.</p>
<p>3. <u>Reporting and Evaluation</u></p> <p>This amendment would require that BIA Program Managers evaluate and report to council on the performance of BIAs and how the services and programs have been provided. A report would be required when a request is made to renew or modify a BIA, or ever five years, whichever happens first.</p>	<p><u>Policy 12: Reporting and Evaluation</u></p> <p><u>Program Managers and the BIA Advisory Boards shall periodically evaluate the BIAs program and services and shall report their findings to the City Council. The BIA Program Manager shall provide a report to the City when a request to modify or renew a BIA is proposed. BIA’s established with a permanent assessment (without an expiration date), or with an assessment period that is longer than five years, shall submit an evaluation report to the City every five years if there are no requests to modify the BIA during that five year period.</u></p> <p><u>Performance standards and performance measurement shall be described in the proposal to establish or modify a BIA that will be used in the future evaluations. This could include, but is not limited to, establishing baseline data and a plan to monitor measurable results, such as changes in property values, lease rates, occupancy rates, crime rates, and ratepayer satisfaction surveys.</u></p> <p><u>Policy 1213. Disestablishment</u></p> <p>Washington State RCW 35.87A.180 provides for the disestablishment of a BIA. Each BIA ordinance will include a section with the process to disestablish the BIA.</p> <p>If a BIA is disestablished, after all outstanding liabilities are settled, the City will, within a reasonable amount of time, dispose of assets as provided in RCW 35.87A.190, and the Director of FAS may do so by one or more of the following actions:</p> <p style="padding-left: 40px;">A. Roll remaining special assessment funds into a new BIA that was created to replace the disestablished</p>

	<p>BIA;</p> <p>B. Provide for the expenditure of all or a portion of any remaining special assessment funds on services or improvements in the disestablished BIA area;</p> <p>C. Provide a refund or credit of all or a portion of any remaining special assessment funds to those who have paid their assessments, in proportion to the amounts paid; or</p> <p>D. Transfer any or all of the remaining special assessment funds to the City's General Fund.</p> <p>Prior to determining the appropriate action, FAS will seek input from the ratepayers.</p> <p>Policy 1214. Collections</p> <p>When a ratepayers' account is unpaid, the City will take action to collect the assessment debt. Upon 60 days of an unpaid assessment, the City may refer the matter to a collection agency. In limited circumstances, the City may begin collection proceedings through the City Attorney's Office.</p>
<p>4. This makes a change to clarify the language, recognizing that a business owner could be the tenant or the property owner.</p>	<ul style="list-style-type: none"> • Policy 7. Ratepayers (p. 5) A ratepayer can be a business owner (that may be a tenant of the property owner) and/or a property owner. A ratepayer classification is a specific category of ratepayers. As part of the application process, the proponents shall describe the proposed ratepayer classifications and how the classifications are reasonably related to benefits received.