

February 11, 2021

MEMORANDUM

To: Seattle City Council
From: Eric McConaghy, Analyst
Subject: Resolution Scheduling Hearings on Appeals of Hearing Examiner's Final Report on the Waterfront Local Improvement District (#6751) Final Assessment

On February 16, the Council's Introduction and Referral Calendar will include Resolution 31990. This resolution schedules hearings on appeals of the Hearing Examiner's (HE) Final Report on the Waterfront Local Improvement District (#6751) (Waterfront LID) Final Assessment (Final Report – see [Clerk File 332188](#)). Council could vote on that resolution during the same Council meeting. The proposed resolution would schedule hearings for three appeals before the Public Assets and Native Communities Committee (Committee) on April 6, 2021.

The Final Report contains the HE's final findings and recommendations on objections to assessments for multiple properties in the Waterfront LID. On Monday, February 1, the HE filed the Final Report with the City Clerk. The HE's filing of the Final Report started the 14-day period wherein property owners who made timely objections to their Waterfront LID assessment to the HE may appeal the Final Report on their assessments to the Council. That time period ends on February 16, 2021.

[City Council Rules for Quasi-Judicial Proceedings \(QJ Rules\)](#) require that Council set the time and place for a hearing of appeal of an individual's final assessment for a Local Improvement District within 15-days of the filing of a valid appeal. The adoption of the proposed resolution on February 16 would meet the QJ Rules deadline for scheduling the valid appeals filed through February 9, 2021.

Prohibition on Certain Communication

As a quasi-judicial matter, Councilmembers may not have any direct or indirect communication with a proponent, opponent, or party of record about the merits of a Waterfront LID assessment outside a Council hearing or meeting considering the Waterfront LID. According to the QJ Rules, the matter of an appeal of an individual's final assessment for a local improvement district is pending when the Hearing Examiner has filed the Report with the City Clerk. It remains a quasi-judicial matter until the final termination of all judicial appeals of the Council decision in the matter of the final assessment roll for the Waterfront LID. The Council decision may be appealed to King County Superior Court per [RCW 35.44.200](#).

Next Steps

If additional timely and valid appeals are filed, then Council could consider adopting one or more additional resolutions setting the time and place for hearings of the appeals.

In September 2020, The HE filed the Initial Report, known as the Findings and Recommendation of the Hearing Examiner for the City of Seattle on the Final Assessment Roll for the Waterfront Local Improvement District with the City Clerk (see [Clerk File 321780](#)). The Committee is scheduled to hear appeals from the Initial Report on March 2 and on April 6 per [Resolution 31979](#).

After the Committee has heard all appeals from the Initial Report and the Final Report, the Committee will consider making a recommendation regarding each appeal to Council based on the record from the Hearing Examiner. After reviewing and deciding upon all appeals of the Hearing Examiner's recommendation on the final assessment roll, the Council may act by ordinance to approve the final assessment roll for the Waterfront LID.

Attachments:

1. Background on the Waterfront LID Final Assessment Roll

cc: Dan Eder, Interim Central Staff Director

Background on the Waterfront LID Final Assessment Roll

In May 2018, Council, with the Mayor concurring, adopted [Resolution 31812](#) declaring the City's intent to construct the Seattle Central Waterfront Improvement Program and to create a local improvement district (LID) to assess a part of the cost and expense of those improvements against the properties specially benefited by the improvements. Resolution 31812 also notified all persons who object to such improvements to appear and present their objections at scheduled public hearings. It directed the City Clerk to give notice of the adoption of the resolution, provide information about the proposed LID, and share notice of the hearings with potentially affected property owners.

The Hearing Examiner (HE) subsequently conducted hearings, prepared a report, and delivered the report to Council for consideration before the Council's decision to form the Local Improvement District No. 6751 ("Waterfront LID") by passing [Ordinance 125760](#) with the Mayor's approval in January 2019.

Via Ordinance 125760, the City ordered the preparation of the final assessment roll for the Waterfront LID. The final assessment roll for any LID is a listing of all properties in the LID and the amount to be assessed against each property based on the increase in value accruing to each property (the "special benefit") that is attributable to the construction of the local improvements. Ordinance 125760 limits the total of all assessments of property specially benefited by the Waterfront LID improvements to no more than \$160 million plus the amount necessary to pay the costs of financing.

In January 2019, the City commissioned ABS Valuation (City Appraiser) to perform a [Final Special Benefit Study](#)¹ to determine the special benefit that each property located within the Waterfront LID boundary would receive from the LID improvements. In November 2019, based on the estimates in the Final Special Benefit Study, the Director of Transportation prepared the proposed final assessment roll for the Waterfront LID and filed it with the City Clerk. In November 2019, the Council adopted [Resolution 31915](#) with the Mayor concurring, which initiated the process to confirm Waterfront LID assessments and designated February 4, 2020, as the date for the required hearing on the Waterfront LID final assessment. The HE conducted the hearing and subsequently filed his report of findings and recommendation with the City Clerk on September 8, 2020 (Initial Report – see [Clerk File 321780](#)).

[Revised Code of Washington \(RCW\) 35.44.070](#) and [Seattle Municipal Code \(SMC\) 20.04.090](#) require the Council to hear any appeals from the report of the Hearing Examiner on the final assessment roll for local improvement districts. SMC 20.04.090 and [City Council Rules for Quasi-Judicial Proceedings \(QJ Rules\)](#) subsection V.A.2 require that an appellant must file a notice of appeal from said report with the City Clerk within 14 days of the Hearing Examiner's filing of the recommendation with the City Clerk.

¹ Addenda to Final Benefit Study:

https://waterfrontseattle.blob.core.windows.net/media/Default/WFS%20LID/2019_1204_addenda_report_delivered.pdf. Last accessed February 10, 2021.

SMC 20.04.090 requires the Council to set a time and place for a hearing on the appeal before the City Council or a committee thereof and to give notice of the time and place to the appellant following the filing of the notice of appeal. QJ Rules subsection IV.A states that the Council may delegate the appeal review to a committee and that the committee would make a recommendation to the full Council on the appeal. QJ Rules subsection VI.A requires the delegated committee to set the time and place for the hearing on the appeal within 15 days following the filing of the appeal with the City Clerk.

After the Hearing Examiner filed the Initial Report, the City Clerk received multiple appeals and it was necessary for Council to fix dates for hearings on valid appeals within the required 15-day time period. Council delegated appeals to the Council's Public Assets and Native Communities Committee and fixed dates for hearing on the appeals by adopting [Resolutions 31969](#), [31972](#), [31973](#) and [31974](#).

In the Report, the Hearing Examiner recommended the remand of certain properties (Remanded Properties) to the City Appraiser for further analysis of their valuation before making a final recommendation on the final assessment of the Remanded Properties. In November 2020, Council adopted [Resolution 31979](#) in response to the Hearing Examiner's recommendation to remand properties to the City Appraiser and to address the need to postpone hearings previously scheduled for December and January meetings of the Public Assets and Native Communities Committee to March and April, respectively. Through Resolution 31979, the Council:

- Remanded to the City Appraiser for further analysis the valuation of the 17 Remanded Properties;
- Directed the City Appraiser to submit further analysis concerning valuation of the Remanded Properties to the Hearing Examiner no later than November 30, 2020;
- Directed the Hearing Examiner to review the City Appraiser's further analysis for the Remanded Properties and to provide notice and hold a hearing on the results of the analysis on the Remanded Properties;
- Directed the Hearing Examiner to reduce any findings, recommendations, and decisions on the Remanded Properties to writing and consolidate them with the findings and recommendations of the Initial Report into a Final Report;
- Requested the Hearing Examiner to file the Final Report with the City Clerk no later than February 1, 2021;
- Directed the City Clerk to post the filing or otherwise make it available; and
- Provided for appeal of the Final Report by any party who made a timely protest at the initial hearing;
- Provided for the filing of an amendment to an appeal that was properly submitted in response to the Initial Report; and

Attachment 1: Background on the Waterfront LID Final Assessment Roll

- Clarified that parties who properly filed appeals in response to the Initial Report and who do not wish to amend their appeals in response to the Final Report are not required to take any further action for their appeals to be heard.

The City Appraiser and the Hearing Examiner acted in accordance with the provisions in Resolution 31979. On Monday, February 1, the Hearing Examiner filed the Final Report with the City Clerk. The City Clerk provided notice of the filing.