

REPORT OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

I. Overview and Hearing Program

Introduction

Resolution 31812 declares the Seattle City Council's intent to order the construction of the Seattle Central Waterfront Improvement Program and to create a local improvement district ("LID") to assess a part of the cost and expense of certain of those improvements against the properties specially benefited by the improvements. The City of Seattle Office of Hearing Examiner was designated by City Council Resolution 31812 to conduct the formation hearing for the LID. The Hearing Examiner's role was to conduct the hearing, take oral and written testimony, and to provide a report to the City Council on the testimony received, without any recommendation. This document serves as that report.

The formation hearing is a public hearing, and in this case provided members of the public with the opportunity to appear and fully provide their views on the formation of an LID to partially fund portions of the Seattle Waterfront Improvement Program. Chapter 35.43 RCW controls the proceedings for local improvement district procedures. RCW 35.43.140 concerns the formation hearing for a local improvement district, and directs:

Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city or town council or other legislative authority of the city or town, declaring its intention to order the improvement, setting forth the nature and territorial extent of the improvement, . . . and notifying all persons who may desire to object thereto to appear and present their objections at a time to be fixed therein. . . .

The hearing herein required may be held before the city or town council, or other legislative authority, or before a committee thereof. The legislative authority of a city or town may designate an officer to conduct the hearings. **The committee or hearing officer shall report recommendations on the resolution to the legislative authority for final action.**

(emphasis added)¹.

¹ Preparatory discussions including the Office of Hearing Examiner, including input from the City Attorney's Office, and review of background materials from Municipal Research Services Center, indicated

A. Hearings Conducted

The LID formation hearing was held on four separate days, (but was continued as a single hearing for purposes of the record), as follows:

Friday, July 13, 2018, from 9:00am-1:00pm & 2:00pm-6:00pm at the Washington State Convention Center, Ballroom 6E. Hearing Examiner, Ryan Vancil.

Tuesday, July 17, 2018, from 5:00pm-9:00pm at Seattle City Hall. Hearing Examiner, Ryan Vancil.

Wednesday, July 18, 2018, from 5:00pm-9:00pm at Seattle City Hall. Hearing Examiner, Ryan Vancil.

Saturday, July 28, 2018, from 9:00am-1:00pm at Seattle City Hall. Deputy Hearing Examiner, Barbara Dykes-Ehrlichman.

B. Site Preparation and Materials

Site preparation and staffing for the hearings was provided by the Office of the City Clerk, and the Office of Seattle Waterfront. At each hearing location, materials describing the LID process, and Seattle's Central Waterfront Program were available in the lobby at an LID information table. The same information was available at the website: waterfrontseattle.org/lid. Before and after the hearing, questions could also be directed to:

- Email: lid@waterfrontseattle.org
- Phone: 206-499-8040

C. Process for Taking Public Comment

The formation hearing included an opportunity for oral comments, and a comment period for written comments to be submitted. All oral and written public comments submitted during the comment period of July 13 – 31, are summarized in this report.

Written public comment was submitted as follows:

- Written comment forms were available at the written public comment tables in the lobby at each location of the hearing. Written public comment boxes were also located in the lobby.

that the hearing office report for a formation hearing should be a presentation of a summary of comments or "recommendations" from oral and written commenters, as opposed to a report that would include comments or recommendations on the LID from the Hearing Examiner.

- Written comments could be emailed to: LIDHearingExaminer@seattle.gov.
- Written comments were also submitted by U.S. mail to:
LID Hearing Examiner, City of Seattle, PO Box 94607, Seattle, WA 98124-6907

Oral Comment Was Provided As Follows:

- Each speaker was given up to 2 minutes to present public comment. However, due to the relatively low turnout of speakers compared with the number that had been expected, all speakers were asked if they had completed their comments and were given additional time and encouraged to complete their statements.
- When an individual speaker number was announced the speaker was instructed to:
 - a. Step forward to the microphone in the center aisle.
 - b. Speak directly into the microphone.
 - c. State and spell their name for the record.
 - d. A timer was visible to assist speakers with tracking the allotted time.
 - e. A green light turned yellow when the speaker had 30 seconds remaining.
A red light and tone indicated when a speaker's allotted time had ended.

II. Summary of Public Comments

A. Overview

The City received a total of 333 comments during the official public comment period.²

Hearing Date	Presented oral comment	Written comments received during hearing	TOTAL Comments
07/13/2018	25	12	37
07/17/2018*	10	8	18
07/18/2018	9	3	12
07/28/2018	25	33	58
TOTAL	69	56	125

* Three people signed up to present oral comments at the 07/17/2018 session who did not subsequently speak, and one other individual indicated he had signed up to speak but was mistaken as to the subject of the hearing.

Written Comments	USPS Mail	Email	TOTAL
Received during the public comment	29	179	208
Received prior to 7/13/2018	2	15	17
Received after 5:00 p.m. 7/31/2018	0	21	21
TOTAL	31	215	246

² 39 comments were received before or after this period and were not included in this report.

The public was requested to provide oral comments only once, but no restriction was imposed on written comments. The City received multiple comments (oral and/or written) from a single individual, multiple comments related to a single parcel, and single comments related to multiple parcels, such as those owned by the same individual:

	Distinct parcels	Distinct commenters
Identified parcels	210	284
Unknown parcels*	89	

* Each comment for the 89 unknown parcels is counted separately.

The Municipal Research and Services Center's Local And Road Improvement Districts Manual (6th Edition, 2009) notes that "[b]ecause the first hearing is for the purpose of deciding the basic question of whether to form the LID, the city should permit all parties to present fully their views on the LID formation," *however*, "[a]ny arguments concerning special assessments, whether as to their validity or amount, can only be raised at the subsequent hearing on the assessment roll. This includes any arguments as to whether benefits conferred by the contemplated improvement will be special or general. *Citizens for Underground Equality v. Seattle*, 6 Wn. App. 388, 492 P.2d 1071 (1972)."

Appropriate subjects related to formation include: necessity of the improvements; the character of the improvements and design; the location of the improvements; the boundaries of the LID; the cost of the improvements; and the city's contribution to the cost of the improvements.

It is not the Hearing Examiner's role in this matter to provide comment on, or a recommendation concerning the proposal or comments received from the public. Instead, in accordance with RCW 35.43.140, this report is an effort to succinctly compile, summarize the public comments received, and to summarize primary issues and concerns and consistent patterns of comments as presented by speakers or in written form.

B. Comment Summary

A summary of public comments both written and oral follows:³

1. The following subjects were addressed in some capacity in both written and oral opposition comments:

Those who spoke in opposition to the LID appeared to have many of the same coordinated talking points. In some instances, comments were submitted as prepared

³ For specific comments please see Attachment A to this Report, which includes both written comments and a transcript of the oral comments.

statements signed by different individuals or businesses. A significant portion of those that commented indicated support for the City's proposed improvements but expressed concern about perceived unfairness of being responsible for paying for the improvements via the LID process.

Many commenters indicated that they believed the LID proposal is to fund a park that serves the entire City, and tourists, and does not just benefit the property owners in the proposed area of the LID. They believe that the LID proposal is an unfair and inequitable allocation of cost to a limited group when the greater community benefits. Other often repeated opposition comments include the following:

- Many of these commenters also expressed concern about the perception that they are wealthy or "rich," when in fact they are not;
- The LID does not provide a physical or material benefit such as roads, sewers, water systems, or other utilities. Seattle has not used an LID to fund past park proposals. Concerns were expressed about the precedent of using an LID to fund a park;
- The infrastructure for the LID proposal is a regional asset, and is not a local benefit;
- The LID proposal does not fulfill Seattle's racial equity goals;
- The LID proposal is legally flawed for a variety of reasons, including: it is a quid pro quo in return for private contributions, based on an appraisal that is flawed in its methodology, and is not a single project;
- Owners receive no benefit unless they sell their property, and they are not in a position to nor do they desire to sell;
- Owners would be forced to sell due to the property tax increase;
- Small businesses would be forced to sell due to the property tax increase;
- Owners would be unable to sell due to the property tax increase;
- The proposed park improvements will bring unwanted elements such as: homelessness, trash, drug use, and increased traffic. These impacts devalue properties in the area of the LID, and do not improve values;

- The process is unfair, because it is not being put to a vote and property owners do not have more direct control. In addition, the public process has not been adequate, for example: no survey of property owners in the LID area has been undertaken; and some public process information is outdated by years;
- The LID Special Benefit Study is flawed for reasons including but not limited to its failure to: accurately describe areas within and subject to the study; baseline data was not accurate or available; and concerns that accurate measurement of the benefit is not possible;
- The parks amenities should be funded through the Seattle Metropolitan Park District, and not by an LID;
- The method for evaluating assessed value appears unfair, because properties that are permitted or planned to be improved by new construction will be assessed only by the current value of the property; and
- Potential cost overruns are likely and owners would be required to pay supplemental assessments. In addition, commenters expressed the concern that the proposal should be based in discretionary spending in case of cost overruns, but that the LID would instead make the proposal mandatory to complete.

2. Additional opposition comments were provided by individual commenters, and included the following:

- Proposed improvements at 1st and Pike and on Pike Street will cause irreversible and unsustainable overdevelopment of the historic entrance to the Pike Place Market and cause a significant risk to public safety.
- The exclusionary criteria applied to determine the boundaries of the LID were not applied equitably, because certain properties are excluded that are in equal proximity to the benefits as others that are included in that area. In other cases, properties were included that are not within adequate proximity to the improvements as others that benefit. For example: Someone who lives more than a mile away from Pier 62 on Battery Street stated that he doubted that any potential buyer would perceive a “special benefit” from living a mile away from the improvements.
- The project is marketed as a \$696 million project, with the LID landowners within the LID paying \$200 million. This is misleading because the LID project improvements only cost \$324 million and land owners are expected to foot \$200

million of that cost, with the City only providing \$40 million. The project is inequitable.

- Alternative funding mechanisms were suggested by several speakers including but not limited to: taxing cruise ships and other tourism-based industries (based on the assumption that tourists will benefit from the presence of the park); City general fund; city-wide park levy; let the property assessment increase with time and collect a higher property tax; and approach the proposal in phases that allows funding to come from other sources over time.
- The cost of the LID proposal is too high.
- LID improvements provide special benefits to business owners, but not to residential owners.
- Concerns were raised about “double taxation” as property owners would pay the LID assessment, and would also pay any increase in property tax attributable to increased value.
- The proposal’s special benefits cannot be accurately estimated.

3. The following subjects were addressed in some capacity in written support comments:

- The improvements are needed, and the LID funding is supported by the community.
- The funding from the LID will yield significant social, economic, and environmental benefits to the entire City.
- The LID ensures that property owners who benefit from increased property value contribute something for that increased value.
- The amount paid by property owners in the LID is only a small portion of the total amount for the proposal, and is a fair assessment. Other funding comes from the City, State and private philanthropy.
- LIDs have been used on other civic projects including the South Lake Union Streetcar, the 3rd Avenue bus tunnel and the Aurora Avenue Bridge.

- LIDs are a fair funding mechanism to ensure that those who benefit most, and financially, from public infrastructure pay more.

III.Oral Comment

A total of 72 people signed up to speak. Three individuals chose not to speak, and submitted comments in writing instead, and one individual was mistaken as to the subject of the hearing. The remaining 68 speakers spoke in opposition to the LID.

The following individuals own property within the proposed boundary of the waterfront LID, and spoke in opposition to the proposal:

Charles Smith
Richard Barbieri
Kirk Greene
Lee Hean
Elisabeth Ely
Denise Gaffney Neu
Sean Griffin
Robin Eng
Gene C. Liddell
Gary Owen
Robert Stevens
Wally Kegel
Brian Frederick
Rebecca Laszlo
Carol Ure
Frank Katz
Grace Norman
Kevin Peck
Steve Lowell
Mandy Brindle
Bryon Madsen
Steve Danishek
Harvey Allison
Mary Park POA for Andrew Kim
Richard Wieneke
Victoria Childs
David Westman
Tom Diller
Ridge Marshall
Valerie Heide Mudra
Jerry Waugh

William David Kenagy
Jason Roseler
Scott Chamberlin
Joe Matthys
Jeremy Glover
John Bates
Mark Snapp
Bob Stinebaugh
Mary Moreno
Elizabeth Kanny
Britt Tinglum
Juanita Benetin
Tony Gewald
Carolyn Hollack
Dorothy Ling
William Justen
Loren Freedman
Rebecca McAdams
Marilyn Sellers
Karen Gielen
Eric Faison
Christine Nicole Habeeb
Dan Wilson
Sandra Wilson
Ashley Vogue
Kim Burns
Sushan T Jain
Julia Lin

The following individuals spoke in opposition to the proposal, and were not identified as property owners:

Michael Fall on behalf of HART 1800 North Avenue LLC
Kai Ens
Scott Darlage
Jonathan Mark
Lui Watt
Joseph Dillon
Welt Saveland
Alex T. Silverman
Jackson Diller
Myer Harrell

IV. Written Comment

The following commenters own property or operate a business within the proposed boundary of the waterfront LID, and wrote in opposition to the proposal:

Karin Philokin
Vasanth Pilokin
Wally Kegel
William Kepper
Gene Liddell
Peter Lee
Robert Stevens
Waterfront Landings Condominium Association
Denise Gaffney Neu
William Patton
Joni Ostergaard
Board of Directors of the Waterfront Place Building Residential Condominium
Stephen Scott Hubbard and Maureen Therese Hubbard
Tim Zhang
Jody Lovell
Ashley Vogel
Gary Owen
Mary Magnano Smith
Ray Sato
Judith Wood
Lynn and Charlie Meyer
Steve Danishek and Dee Tezelli
William and Mary Susan Pitlick
Henner Krueger and Karen Merola Krueger
Brian Britton Simmons
Marilyn Sellers
Paul and Jean Henderson
Robert and Diane Tichy
Jagjeet and Janice Bindra
Steve Danishek
Susan Murphy
Alec Brindle
Rebecca Laszlo
Sara Intriligator
Gene Liddell
Elizabeth Kanny
Britt L. Tinglum and other residents at the Watermark Tower
John Bates

William Justen
Mary Moreno
Karen Gielen
Dan Wilson
Three Girls Bakery
World Spice Merchants
Diva Furniture
Timothy DeCure Collection
Riot Athletics
Spring Thyme Bakeshop
Pike Place Market Creamery
Pasta Casalinga
Alhambra
Okinawa Teriyaki
Quality Cheese Inc.
Britt's Pickles
Couturalle
Fenerie Style Studio
Diane's Market Kitchen
Modern Design Sotes
Westview Nails
Sosios
PureFood Fish Market
Sandylew
Mary K. Montgomery for Magnolia Community Council
Queen Anne Community Council
Erlinda Partridge
Kai Reynhardt
Armandino and Marilyn Batall
Stefanie Ann Choi
James Cline
Robert and Patricia Thompson
Javad Shirazi
Robert and Susan Turner
Nancy Dorn
Carol Verga
Charlotte Clay
Stephen Sandberg
Carol Brown
Pamela and Guri Roesijadi
Robin Eng and Susan Huntington
Stephen and Maureen Hubbard

W Benson Harer
Bernice Kegel
Aline Flower
James Brashears
Jonathan Mark
Elisabeth Ely
Sunny Liao
Diego Martinez
Jeff Homiak
Robert Handlin for B&E Investments LLC
Karen Cobb
Kirsten Smith
Karin Koonings
Joe Matthys
Robert Pavalunas
Jim and Dana Lazo
Deborah Cohen
Tara McCauley
Jean M. Bateman
Karel Reeves
Brian Patch
Alex and Sally Yan
Steve Goldblatt
David Shih
Paulette Adams
Pat Carlin
Gabrielle Tellier
Jon Kiehna
Denise Doveri
Bill Pearson
Sarah Norton
Alec Brindle
Kai Reynhardt
Tomsz Pozarycki
Janet Thompson
Mark Stepich
Birney Dempcy
Meredith England-Markun
Faizal Kassamali
Melody Anderson Wisdorf
Dana Papesh
Ted Tanase

Paula Wong
Cara Bailey
Nancy Dorn
Steve Weick
Aaron Long
Jan Nogales
Gregory DiGiacomo
Debra Lowe
Shauna Mazzulla
Yugala Priti Wright
Stefanie Choi
Xiaowei Cao
Steve Weick
Anne Repass
Bob Thompson
Kate Butler
Susan Rudolph-Loos
Greg Aden
Elizabeth Kanny
John Jenkins
Dorothy Ling
Eric Faison
Carol Kupyn
Sharyn Bozied
Myra Friedman
Leslie Haynes
Gene Burrus
Haley Shapley
John Fogg
David and Nancy Hughart
Mark Snapp
Karen Wong
James Harold Shutt
Michael Crum
Madeleine Brindle
Dawn Onesty
Phyllis Leventhal
Karla Litzenberger
Christian Scherp
Joyce Chang Hsu
suma kosami
Joan Bayley

Philip Bayley
Donald Patrick
Miller Freeman III
Susan Huntington
Mike Salzberg
Sandy Justen
Tammy Ayyoub
Randy Loomans
Knut Ringen
Chris Wall
Steve Coyne
Margaret Mizumoto
Shirley Beresford
Scott McCallum
Danno Muggli
Pamela and Guri Roesijadi
The Waterfront Coalition
Ed Marquand
Zachary Pesicka
Bernard J. Glynn, Jr.
Jill and Rod Hearne
David Dwyer
Lou Bond
Gene Leverty
Jeanette Johnson
Karen Davis
Tim Jacox
Jean Schiedler-Brown
Richard Prideaux K.
Marybeth Austin
M Jim Yamaguchi
Fran Hartmann
William and Virginia Kaczmarek
Elon Slutsky
Maureen Miller
Ruth Warren
Cynthia Marin
American Life, Inc.
Hilton Garden Inn-Downtown Seattle
Valerie Heide Mudra
Sheila Kramer
Emily Krisher


Curt & Aiko Cunningham
Scott Buch
Carol Ure
Cindy Buchanan
Mark McInerney.
Sarah Kraja Wall
John Ellis and Veronica Buffington
Clint Bennett
Orville Tice and Wendy Paul
Walt Saveland
Preben & Nicole Martin
Robert S. Stevens
Claus Gehner
Javier Tordable
Pat Carlin
Mike Pyatok
Ridge Marshall
Roger J Bass
Richard Nelson
Kirk Greene
Douglas Kelbaugh
Theresa and Joseph Bowen
Steve Coulter
Jane Richlovsky
Heidi Broadhead
Ann Pearce
Penny Swanberg
Brian and Elizabeth Frederick
Dave Jacobs
Danette Glassy
Paul Topping
Karel Reeves
Matthew Tedesco
Joanne Lorello
Adele Avant
Nick Micskey

The following commenters wrote in support of the proposal:

Michelle Connor for Forterra
AIA Seattle
Colleen Robertson
Beverly Martin

Catherine Eaton Skinner
James Uhler
Kevin Geiger
Alida Latham
Eunjean Song
Benjamin Burrill
Teresa Bigelow
Jane Nelson
Steven Clifford
Aimee O"Carroll
Michaela Ayers
Patrick Gordon
Carol Binder
Gabriela Alban
Jared Smith
Forest Eckley
Janice Sutter
The Trust for Public Land
Heather Redman
Thatcher Bailey
Woodland Park Zoo
Scott Bonjukian
The Nature Conservancy
Estela Ortega
Friends of Waterfront Seattle
Linda Mitchell

Respectfully submitted, this 31st day of August, 2018.



Ryan P. Vancil, Hearing Examiner

Barbara Dykes-Ehrlichman, Deputy
Hearing Examiner