

May 31, 2013

Members of the Ethics and Election Commission,

Seattle's downtown waterfront is soon to undergo a historic transformation. Work on the replacement of the Seawall has begun, as has construction of the Alaskan Way Tunnel, and the removal of the Viaduct and redevelopment of the overall waterfront will follow soon.

The City Council is, and will continue to be, involved in policy formation and decisions regarding this expansive plan. In particular, Council will have a policy-level role in directing the design and securing the funding for the "Waterfront Improvement Program" that in addition to Viaduct demolition will include: (i) a new Alaskan Way roadway; (ii) a new road connecting Elliot Avenue to the waterfront; (iii) a public "promenade" along the west side of Alaskan Way; (iv) a new connection between Pike Place Market and the Aquarium and waterfront; (v) development of a parking garage on the Pike Place Market PC-1N lot; (vi) improved east-west connections between 1st Avenue, Western Avenue and the waterfront; and (vii) park improvements to Piers 62/63 and Union Street Pier. (the "Waterfront Projects"). I've attached Attachment B-3 from the Central Waterfront Strategic Plan (recognized by Resolution 31399) which shows the Waterfront Improvement Program components and proposed funding sources.

Examples of potential near-term Council actions related to the Waterfront Improvement Program include continued oversight and direction on the overall program design and the approval of a Local Improvement District (LID) to provide a portion of the Waterfront Improvement Program's required funding. I have been working on the Waterfront Projects for over a decade. Before I came on the Council in 2010, I chaired Allied Arts' Waterfront for All committee during which we held two local charettes and one design collaborative for the Waterfront. We then took the ideas of over 100 local architects and designers and created a document called "Waterfront for All" which serves as the basis of many of the designs now being recommended for approval by the Waterfront design team.

I also served as Metro Transit's lawyer and have been involved for over 20 years on transit alternatives, routes, and impacts on downtown Seattle and the Waterfront. This includes transit into downtown and the corridors around the Waterfront.

In addition, I serve as an ex-officio member of the Seattle Aquarium Board, and support the work the Aquarium is doing on our Waterfront. I have been engaged in conversations and previous votes about the ultimate designs for the Connector between the Aquarium and Pike Place Market.

In other words, my involvement in the Waterfront has been considerable and I have been deeply involved in many facets of the project.

I am also a downtown resident. I have lived in the Watermark Tower on 1st and Spring since 2000. My husband and I have owned a 1000 sf unit in the building since 2001. I have always been public about the

location of my home and publicly disclosed my ownership of the property. Since being on the Council, I have co-chaired and vice-chaired the Council committees responsible for oversight of the Alaskan Way Viaduct and Sea Wall Replacement Program and Waterfront Seattle, and I have been actively involved on this project as a downtown resident with the Downtown Seattle Association and with the Downtown Neighborhood Council as well.

The immediate issue at hand is that a Local Improvement District (LID) is being discussed and will come before the Council for approval. The LID is one of the funding mechanisms to pay for the Waterfront Projects.

I am the only Councilmember who lives downtown and who will pay the assessment if it passes. I fully recognize the importance of the LID and support its formation.

I will be one of the 8000-9000 potential property owners within the LID who will be impacted. The assessed value of my condo is \$422,000 and the total value of the property tax base for the proposed LID area is somewhere in the range of \$20 billion. In other words, the value of my interest in this proposed LID is approximately **1/50,000** of the value of the properties involved.

The question that has arisen is whether my ownership interest puts me in a potential conflict position because of the upcoming LID. Director Barnett suggested that to be conservative I should no longer work on this Waterfront project, but he also advised me that I could request an advisory opinion from the Commission in accordance with SMC 4.16.085.

My history of involvement and residency in the Seattle waterfront has long been public. My residence in the area proposed for a Waterfront LID is the type of interest shared with many other Seattle residents that should not prevent me from representing my constituents in this very important process to the City of Seattle. Therefore, I am seeking an advisory opinion from the Ethics and Elections Commission regarding my potential role in future Council actions related to the Seattle Waterfront. I do not want to inadvertently stumble into a conflict of interest; simultaneously, since this is a project in which I have been involved for over a decade, I want to participate as fully and completely as allowable.

Specifically I am seeking answers to the following questions:

- 1) May I participate in Council discussions about the formation of the LID, including discussions about what program elements to fund with LID proceeds?
- 2) May I participate in actions on the formation of the LID, including actions on the total dollar amount of the LID, the geographic boundaries of the LID and/or the methodology used to assess properties within the LID?
- 3) May I participate in actions regarding relative weight of assessments between subareas within the proposed LID boundaries, based on relative value of benefits to be realized from the improvements (proximity will be a major factor)?
- 4) Once the LID is in place, including assessments determined, is any conflict or appearance of conflict ameliorated?

- 5) May I continue to participate in discussions or actions related to the design of program elements to be funded along the waterfront, or partially funded, by the LID? Does the same answer apply to all program elements, including those that are physically remote from my property?
- 6) Once design and funding source decisions have been made and the waterfront program moves to implementation, may I participate in discussion and actions related to Council's on-going oversight of construction activities? For example, if alternative construction staging options were presented to Council at some point in the future, could I participate in the matter?
- 7) If there are projects along the Seattle Waterfront that do not involve funding from the LID is my residence in the area so remote an interest as to not bar me from participating in any related Council actions?
- 8) If there are areas in which I cannot participate in my formal capacity, what role may I take as a private citizen? What steps should I take to avoid confusion that others might have about which role I am playing when I engage these matters as a private citizen?

I am asking the Commission to consider these questions and provide direction. My hope is that the Commission will make a determination that my situation is so similar to that of other Seattle residents that I may continue to work on the proposed LID as it develops without violating the Seattle Code of Ethics. Additionally it should be clear that, with respect to any waterfront projects that are not supported by the proposed LID and where there is no direct relationship to my residence, I am in the same situation as other councilmembers and there should be no ethical concerns related to my participation.

I appreciate your assistance in this matter. Should the Commission desire it, I would be happy to provide legal briefing and analysis.

Councilmember Sally Bagshaw