

**ORDINANCE NO. 2011-09-053**

**AN ORDINANCE OF THE CITY OF BELLINGHAM AMENDING BELLINGHAM MUNICIPAL CODE CHAPTER 2.56.050, SECTION (C), RELATING TO LOCAL IMPROVEMENT DISTRICT ASSESSMENT ROLL HEARINGS AND APPEALS OF HEARING EXAMINER RECOMMENDATIONS**

**WHEREAS**, Chapter 35.44 RCW authorizes the City council to designate a hearing examiner or other officer to conduct assessment roll hearings for a local improvement district; and

**WHEREAS**, B.M.C. 2.56.050 grants jurisdiction to the Hearing Examiner to conduct the assessment roll hearing and make recommendations to City Council; and

**WHEREAS**, RCW 35.44.070 requires the City by local ordinance to establish procedures for appealing a hearing examiner's recommendations for an assessment roll;

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**Section 1:** Subsection 2.56.050 shall be amended to read as follows:

- A. No change.
- B. No change.
- C. On the following matters, which shall be within the jurisdiction of the Hearing Examiner notwithstanding any other provision in the Bellingham Municipal Code, the Hearing Examiner shall enter findings of fact, conclusions of law, and recommendations to the City Council:
  - 1. Formation of a local improvement district;
  - 2. Approval of local improvement district assessments, including contests of the preliminary assessment reimbursement area and preliminary assessment for local improvement districts pursuant to BMC 14.02.060;
    - a. After the Hearing Examiner conducts the assessment roll hearing, he or she will reduce his or her findings and recommendations to writing and file the written report with the Finance Director. Within five business days of receiving such report, the Finance Department will mail notice that the report has been filed to any person who filed a written protest at or prior to the public hearing on the assessment roll, in accordance with RCW 35.44.080. A copy of the Hearing Examiner's report will be available to the public in the office of the Finance Director.

**b.** Upon receipt of the Hearing Examiner's report of his or her findings and recommendations, the City Council will review the same. As soon as all timely appeals from the findings and recommendations have been decided or the time allowed for filing appeals has expired with no appeals having been filed, the City Council may accept the assessment roll as prepared, or may correct, revise, raise, lower, change or modify the roll or any part hereof, or may set aside the roll and order the assessment to be made de novo, and at the conclusion thereof, confirm the assessment roll by ordinance. If an appeal has been filed from the findings or recommendations of the Hearing Examiner, it shall be heard and determined and the results thereof incorporated into the assessment roll before it is confirmed.

**c.** An appeal may be filed only by a party who timely submitted a written objection to the assessment roll at or prior to the assessment roll hearing. The notice of appeal shall state clearly (1) the number of the local improvement district, (2) the appellant's name and address and of the appellant's attorney or other agent, if any, (3) address and assessor's parcel number of property to be assessed, (4) the recommendation being appealed, (5) the error of fact, law, or procedure alleged to have been made by the Hearing Examiner and the effect of the alleged error on the recommendation, and (6) state the redress sought by the appellant. The notice of appeal shall be filed, together with a fee of \$250, in accordance with BMC 1.26.010(A).

**d.** The City Council will set a time and place for a hearing on the appeal before the City Council, provided the time shall be as soon as practicable in order to avoid accumulating additional interest on the obligations of the local improvement district. Notice of the time and place for the appeal proceeding shall be sent to the appellant.

**e.** Review by the City Council on appeal shall be limited to and shall be based solely on the record from the public hearing; provided, however, that the City Council may permit oral or written arguments or comments when confined to the content of the record of the hearing below. Written arguments will not be considered unless filed in accordance with BMC 1.26.030(A). No new evidence may be presented.

f. In respect to the matter appealed, the City Council may adopt or reject, in whole or in part, the findings and recommendations of the Hearing Examiner or make such other disposition of the matter as is authorized by RCW 35.44.100 and subsection (c) above. The City Council will reduce its determination to writing, file the original in the record of the local improvement district, and transmit a copy of the same to the appellant. No ordinance confirming an assessment roll may be enacted by the Council until all appeals to the Council are decided.

g. Any appeal from a decision of the City Council regarding any assessment may be made to the Superior Court within the time and in the manner provided by law.

3. Petitions for street and alley vacations;

D -G. No Change

**Section 2: Severability.** If any provision of this ordinance is declared by any court of competent jurisdiction to be contrary to law, then that provision will be null and void and will be deemed separable from the remaining provisions of this ordinance and will in no way affect the validity of the other provisions of this ordinance.


**Section 3: Effective Date.** This ordinance shall become effective 15 days after the date of its final passage.

PASSED by the Council this 12th day of September, 2011.

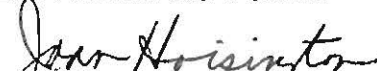
  
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Council President **PRO TEMPORE**

APPROVED by me this 15th day of September, 2011. -

  
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Mayor

ATTEST:   
for Finance Director

APPROVED AS TO FORM:

  
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OFFICE OF THE CITY ATTORNEY

Ordinance Amending BMC 2.56.050 - 3

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