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MEMORANDUM

To: Dave Ramsay, City Manager
From: Marilynne Beard, Assistant City Manager
Date: April 7, 2006
Subject: ANNEXATION POLICY ISSUES

Recommendation

Council discuss the impacts of the potential annexation and provide direction to staff where appropriate.

Background

At their April 4th meeting, the Council was presented with a brief overview of some of the policy issues surrounding the potential annexation of Kingsgate, Juanita and Finn Hill (the City's Potential Annexation Area, or "PAA"). The recent passage of Senate Bill 6686 provides State funding for up to ten years that would largely close the gap between projected revenues and expenses if Kirkland were to annex the PAA. Until now, it was felt that the annexation would be too great of a financial burden for Kirkland to pursue. Although the new legislation doesn't entirely close the financial "gap" of \$4.8 million, Kirkland is now in a position to reassess the annexation. The following table shows the estimated difference between revenues and expenditures after taking into consideration everything that has changed since the fiscal study was conducted last year.

	Estimated Fiscal Gap	Property Tax	Gas Tax	Utility Tax	Fire District Revenue	Sales Tax Credit	Revised Fiscal Gap
Kingsgate	(1,715,146)	43,238	47,600	11,823	(11,248)	145,483	(1,478,250)
Juanita	(820,925)	18,140	22,783	5,621	(34,297)	87,000	(721,678)
Finn Hill	(2,242,885)	80,776	62,247	13,674	(157,524)	105,086	(2,138,626)
Subtotal	(4,778,956)	142,154	132,630	31,118	(203,069)	337,569	(4,338,554)
Kirkland						3,703,712	3,703,712
Total						4,041,281	(634,842)

In a survey completed in 2005, residents in the PAA were asked if they thought that annexing to the City of Kirkland would be a good idea or a bad idea. When asked that question, 57% indicated they thought it would be a good idea, 28% thought it would be a bad idea and 16% didn't know or did not respond. This question was asked without regard to changes in levels of taxation. At the time, we were exploring the possibility of imposing a utility tax surcharge to make up some of the shortfall. When asked if they would be willing to pay more to annex, most respondents indicated that they were not willing to pay more to annex. The State funding would provide additional revenue to the City. An update of the taxes and fees paid by the average PAA household as unincorporated King County compared taxes paid as part of the City of Kirkland, still indicates a slight reduction in total taxes under Kirkland as shown in the table below. The following analysis assumes an assessed valuation of \$320,000 and assumption of the City's voted debt.

Tax or Fee	King County	City of Kirkland	Increase/(Decrease)
Property Tax Rate	\$11.00/\$1,000 AV	\$9.44/\$1,000 AV	(\$1.55/\$1,000 AV)
Annual Property Taxes	\$3,519	\$3,022	(\$ 497)
Surface Water Fees	\$102	\$170	\$ 68
Utility Taxes	0	\$382	\$382
Net Change	\$3,621	\$3,574	(\$ 47)

It should be noted that if a higher assessed value were used, the net savings is even more because the primary difference is in the property tax rates.

The annexation process follows a closely prescribed sequence of events. Within that process the City and the PAA have certain choice points with regard to timing, such as when an election is held and the effective date of annexation.

Under state law, annexations may be initiated in three ways:

1. **Resolution for Election Method.** When the City Council determines that the best interests and general welfare of the city would be served by annexation of contiguous unincorporated territory, the City Council may, by resolution, call for an election to be held to submit the annexation question to voters of the annexation territory. The City pays the costs of the annexation election.
2. **Petition for Election Method.** A petition signed by ten percent of the qualified electors residing in the annexation area is signed and filed with the City Council. The City Council then decides whether to approve or reject the proposed action. If approved, the question moves onto an election. Again, the City pays for the election.

In either of these two cases, the resolution or petition is filed with the Boundary Review Board (BRB). The BRB can approve the proposal, modify it or disapprove it. If approved, or approved with modification, a special election date is set. In either of the scenarios above, if the PAA residents vote to annex, the City Council must still vote to approve the annexation by ordinance.

The cost of the election will vary depending on whether it is conducted as the sole measure before the voters or along with other items, such as in a primary or general election.

3. **Property Owner or Assessed Value Petition Method.** In this annexation method, initiating parties (owners of at least 10% of the assessed valuation of the proposed annexation area) notify the City Council of their intent to commence annexation proceedings. The City Council meets with the parties to determine whether the City will accept, reject, or geographically modify the proposed annexation area. If the annexation area is accepted in the original or modified state, a petition for annexation is drawn up. If the petition is signed by owners of property representing 60% or more of the assessed valuation of the area, a hearing is held and the City Council votes to approve the annexation by ordinance.

This last option would not be the likely method to be used in an annexation of this size.

The ballot title can include up to four questions:

1. Do the voters in the PAA want to annex?
2. Do the voters approve the proposed zoning for the area?
3. Will the voters assume responsibility for a portion of the outstanding voted indebtedness of the City?
4. Do the voters also want to form a community municipal corporation (a community council)?

Not all of these questions need to be answered as one ballot measure (they can be separate). Three of the four questions can be approved by a simple majority of the voters voting in the annexation election. The question of assuming outstanding debt, whether asked on its own or in combination with one of the other questions requires 60% approval and a 40% validation (approved by 60% of at least 40% of voters who voted in the most recent general election).

A variety of other steps and notifications are required. For instance, the City must conduct a census of the area and notify a variety of state and local agencies of the annexation within specified time frames. An excerpt from Municipal Research and Services Annexation Handbook describes the process in greater detail and is included as attachment A to this memo.

By way of back ground, the annexation process and timeline used in the 1988 annexation is shown below.

Summary of 1988 Annexation Process

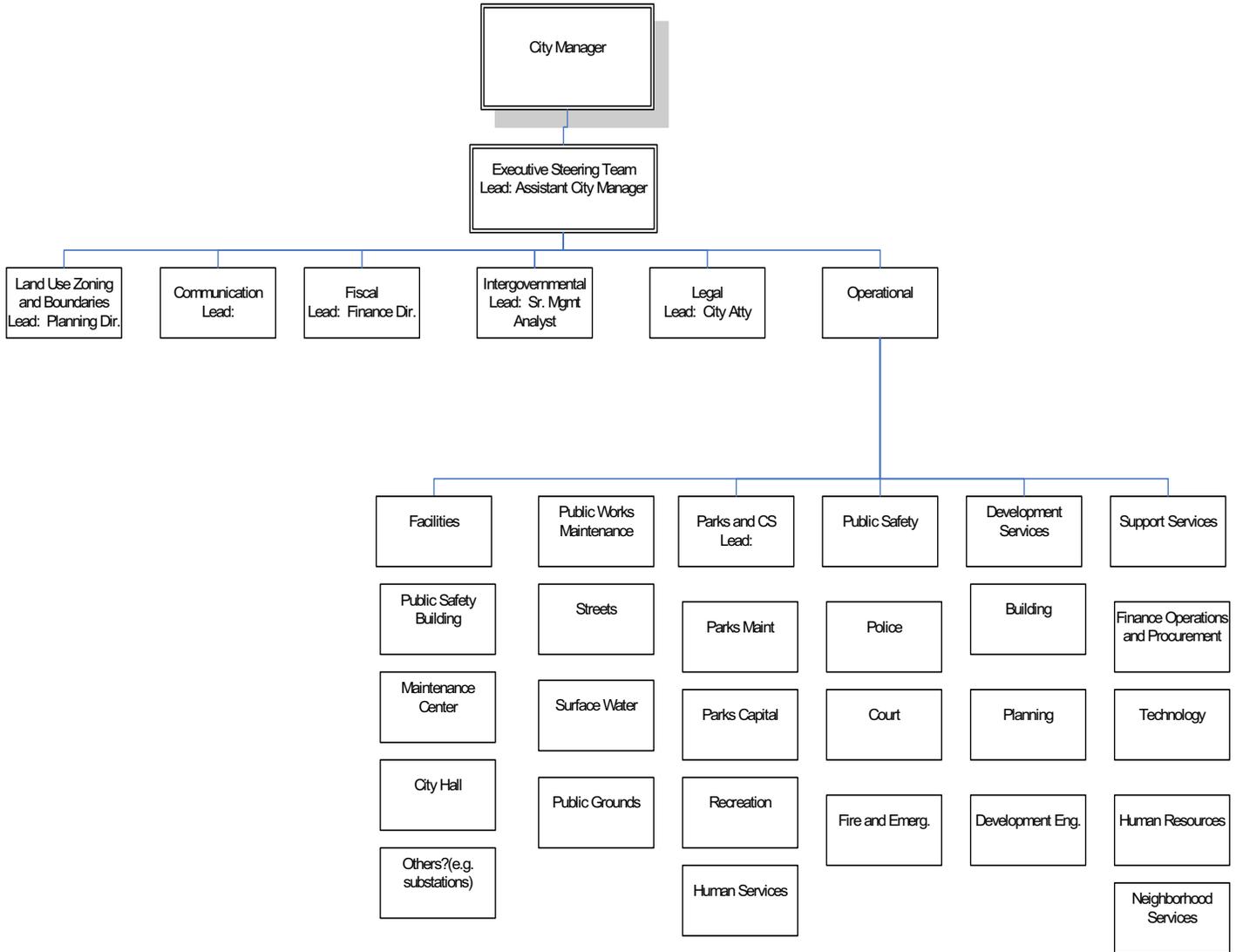
August 1986	Council Retreat – Council initiates process to annex Neighborhood boundaries identified Public opinion poll conducted (majority favored or were neutral)
October 1986	Citizen Advisory Committees appointed Meetings held in neighborhoods regarding service levels Departments prepare cost and revenue estimates
April 1987	Report and recommendations presented to Council for land use and sewer connection issues Land use issues forwarded to Planning Commission Planning Commission prepares Zoning Code amendments

June 1987	Council adopts Zoning Code amendments Council adopts ordinance temporarily extending membership on Planning Commission to annexation area residents Council adopts revised sewer requirements
July 1987	Committee work completed and forwarded to Council City files with Boundary Review Board a notice of intent to annex BRB approves annexations
August 1987	Public hearings held for City residents Council reaffirms intent to hold annexation election in November Committees disband Pro-annexation groups form City mails two factual brochures to all households in the PAA Complaint filed with Public Disclosure Commission by annexation opponents but it is denied
October 1987	Interlocal agreement with King County approved regarding transition of services (zoning, development permit processing, completion of two road capital projects, transfer of park facilities, wetland protection regulations, historic landmarks, emergency police protection, surface water facilities and drainage basin planning)
November 1987	Annexation election – approved by voters
January 1, 1988	Effective date of annexation City assumes responsibility for most municipal services

Annexation Planning and Policy Issues

A variety of policy issues and planning steps accompany an annexation of this magnitude. Council has discussed the possibility of forming a council subcommittee an annexation (further discussion is needed). Internally, City staff will need to begin discussions to identify all of the policy and implementation issues. Our recommendation is to form a series of special staff teams with one person as the designated lead and other staff and/or consultants brought into the team as needed. A series of operational teams covering functional areas will form. For instance, the public safety group will include both Police and Court with a need to coordinate at a high level on the timing of new services. In addition to planning for ongoing service delivery, the operational groups will also need to start identifying capital needs for streets, parks and surface water. The organization chart on the following page shows the proposed functional areas which are also described in narrative form.

PROPOSED INTERNAL MODEL



- **Communication and Community Involvement** – This team would work with Council to develop and implement a community involvement strategy and both external and internal communication plans. In the case of annexation, there are multiple decision makers – primarily the PAA residents who will decide whether or not to annex and the Kirkland City Council who will decide whether to accept the annexation area into the City. The existing residents of Kirkland do not have a direct vote however, the City Council can plan for a level of involvement that provides the appropriate level of input for the Council’s decision. The team would have one lead internally, but the individual elements of the communication plan may be carried out by other staff or consultants. Excerpt number 3 in Attachment A from the Annexation Handbook explains some of the strategies and restrictions associated with a communication strategy. It will be important to develop key messages for the Council and staff to use as they receive inquiries about annexation. Based on Council’s input at the last meeting, proposed key messages include:

The City of Kirkland is exploring the feasibility of annexing the areas of Kingsgate, Juanita and Finn Hill. A new law passed by the State Legislature addresses much of the funding shortfall that was identified in our most recent fiscal analysis. However, there remain a number of unanswered questions and issues that need to be addressed in order for the City to proceed in a manner that is responsible and equitable for its existing citizens and its potential new citizens in the annexation area.

Our key concerns continue to relate to the long term financial issues associated with annexation and the City’s continued ability to provide services when State funding expires. We will need to develop a long-term funding strategy. Economic development efforts that encourage commercial development and generation of greater sales tax revenue will be one important strategy in resolving the long term funding need.

Kirkland will be initiating conversations with residents of Kirkland, residents of the annexation area and other agencies and governments as soon as possible to further discuss these issues and to determine whether we should proceed with a more thorough planning process. Much work needs to be done, and Kirkland will need to engage consultants and hire additional temporary staff to properly address the advance planning work needed for annexation.

Kirkland honors and supports the identity of neighborhoods and will encourage the creation of citizen committees in each of the annexation neighborhoods to represent their interests relative to annexation.

We anticipate that the City will be receiving requests for information and staff and/or Council attendance at meetings to answer questions about annexation. Staff needs further direction about how these speaking requests will be addressed by the City Council.

- **Intergovernmental** – A number of complex intergovernmental relationships are in play with a variety of agencies including King County, the State of Washington, Fire Districts #41, #34 and Woodinville Fire and Life Safety, the Finn Hill Park District, the Northshore Utility District and the cities of Kenmore, Bothell and Woodinville (among others). The King County Executive has already

requested a meeting with City officials to continue our discussions that began last year.

The 2005 fiscal study included two special reports that were prepared relative to the special issues associated with fire districts and the park district that exist in our PAA. Copies of those reports are included as attachments B and C. Two key issues will be the relocation of the Kingsgate fire station being considered by Woodinville Fire and Life Safety and the future of the park district.

- **Legal** – This will involve analysis of the specific steps and sequence that must take place in order for the annexation to be considered and, if approved, implemented. The law is very specific about timing, public notice and notification of other agencies needed during the annexation process. In addition, we can anticipate legal challenges and questions to arise over a variety of issues such as gambling.
- **Fiscal** – Aside from updating/finalizing the fiscal study (how will we close the remaining financial gap?), we need to conduct a cash flow analysis to match revenue flow with phasing in services. The second excerpt from the Annexation Handbook describes how the major revenue sources are transitioned in an annexation (property tax, sales tax and state shared revenue). We will also need to develop a long term strategy for “weaning off” of state funding during the ten-year period of State funding.

Both the intergovernmental team and fiscal team will need to work with the State Office of Financial Management (OFM) on the specifics of how and when we will receive State funding and what reporting requirements will accompany the funding. The legislation itself is not specific about how funding will be allocated and it will be in our interest to work with the State early to establish requirements that are manageable for us. We will also need to obtain funding from King County to assist with one-time transition and capital costs of annexation which will be significant.

- **Land Use/Zoning/Boundaries** – The boundaries of the annexation area are already established. If the City wants to consider changes to the boundaries requested by annexation area residents, we will need to work with the appropriate agencies including taking the boundary changes through the countywide planning process. If we accept the boundaries as currently defined, then the annexation process could proceed in a more timely fashion.

The City will need to determine how the Zoning Code will apply to the annexed area and/or adopt County zoning. In the last annexation, the Zoning Code applicable to the annexation area was adopted prior to the election so that annexation voters knew what regulations and zoning overlays they were voting for (or against). For some residents of the annexation area, zoning will be a key interest.

- **Operational** – One of our most staff-intensive efforts will be the development of service phasing and implementation plans. In looking back at the 1988 annexation, there are things we might have approached differently. By way of “lessons learned,” the following observations were provided by staff who were with the City at the time of the last annexation:

- *Staffing wasn't increased on day one of the annexation but services were delivered which overburdened the system particularly for the Police Department. We were trying to make a good impression on day one and it was difficult.*

Staff underestimated the service level demands early on. Calls for service immediately increased beyond anything the County had experienced from the area because people's expectations had been raised. It took years to catch up.

Don't forget to add support staff in proportion to direct service (operating department staff). Support staff were the last to be added and resources became more scarce a few years after the annexation took effect.

If possible, delay the effective date of annexation to allow time to hire and ramp up services.

Although we have calculated the cost of service when the area is fully served, it will not be possible to provide the current Kirkland level of service on day one of the annexation. We will need to identify which services must be provided as of the effective date of the annexation, who will provide them and at what level. Options about service level and providers (e.g contracting back with King County) will have implications for the financial impacts both in the short term and long term.

The purchase and/or construction of new facilities to house staff will be an important issue in terms of cost and timing. Our most recent space study suggests that the current City Hall site will not be adequate to house new staff hired for annexation. A separate building (such as a public safety building) will be needed at a different location as well as expansion of the Maintenance Center and City Hall facilities. We are recommending that a separate working group be devoted to City facilities that will have cross-over membership with other operational areas. We won't necessarily want to make major investments in facilities until we know the outcome of an election, however, the time frame between the election and the provision of services may be limited.

Other Policy Issues

A few of the policy issues associated with annexation relate to choices about phasing, presentation of the ballot measure and timing of the annexation.

- In the 1988 annexation, separate elections were held in South Rose Hill, North Rose Hill and Juanita, because the City was unsure of the level of support in the three areas. As it turned out, all three areas voted to annex, but not to assume the City's existing debt (the annexation question and debt question were presented as separate ballot measures). The City Council agreed to annex all three areas anyway. The legislation that provides State funding provides for the imposition of .10% sales tax (and a credit against the State sales tax) if the City annexes an area with a population of at least 10,000 people. The sales tax rate increases to .20% for an area with a population of 20,000 or more. It would seem to be most advantageous to Kirkland if we were to annex at least two or all three areas in our PAA at one time, one of which needs to be Finn Hill in order to obtain the highest funding level of .20%. The following table shows the populations of the three annexation areas:

Neighborhood	Population
Kingsgate	11,700
Juanita	5,600
Finn Hill	15,300

The argument could be made that if we're eventually going to annex anyway, we might as well do it all at once given the amount of effort required to expand services to any of the three areas.

- The annexation ballot measure can be presented as separate ballot measures or combined. As mentioned earlier, if they are combined (“do you want to annex and will you accept existing debt”) then we will need a 60% majority with validation (40% of the total voters that voted in the last general election).
- Planning for an election date is a complex question that needs to take into consideration the timing of the vote relative to the effective date of the annexation (which drives both the revenue flow and date we start providing services to the area) as well as other elections that are taking place and our ability to secure the validation requirements for the voted debt portion of the vote. In addition, a significant amount of work needs to be completed before the Council can consider a resolution calling for an election.

Generally speaking, the following activities would take place (and overlap):

Community Information and Involvement Strategy	Ongoing Beginning As Soon As Possible
Form Citizen Committees by Neighborhood	Complete Before Zoning Work Commences
Develop Zoning Regulations	Requires Six months to One Year
Council Adopts Zoning Regulations	Prior to Boundary Review Board
Submit Annexation Proposal to Boundary Review Board	Need Approval Before Proceeding
Council Sets Date for Special Election	Within 30 days of BRB Decision and At Least 60 days Before Election Date
Annexation Election	1 st Tuesday in February, March, April, May, or on the Primary or General Election Date
Effective Date	As Identified in the Ballot Title
Begin Service Delivery Phase-in	Either Directly or Through Contracts (or both)

Begin Receiving County Road Tax	Beginning with effective date of annexation until the City property tax Levy takes over the following year
Conduct Census	Within 30 days of Effective Date
Notify OFM of Annexation (including Census)	After Election and Census but 75 Days Prior to Receiving <u>Sales Tax</u> and Six Months Prior to Collecting <u>State Shared Revenue</u> (Requires Census and Annexation Certification)
Levy Property Tax in Annexation Area	Based on Boundaries in Effect on March 1 st of Previous Year (i.e. annexation must be effective by March 1 st of one year in order to levy taxes for the following calendar year)

Further complicating this series of events is the timing of other elections, such as the City Council election taking place in 2007. Staff will need to develop a timeline that identifies key dates and works backward to allow enough time to complete the studies, community work and planning necessary for annexation. In order to be eligible to receive State funding, the City must “commence annexation of an area . . . having a population of at least ten thousand people prior to January 1, 2010.”

Policy Direction Needed and Next Steps

At this time, staff is requesting direction from Council on several key issues:

1. Do the key messages shown in the communication section above reflect the current sentiment of the Council and is there additional information (other than factual information already available through our website) that should be provided at this time? Attachment D shows a copy of our web page related to annexation shows the general content and links as they appear now.
2. How do you want to organize your efforts around annexation? Specifically, further discussion is needed as to whether an annexation subcommittee of the Council should be formed as an initial study group to review issues before they go to the full Council.
3. How do you want staff to respond to specific speaker requests or requests extended specifically to one or more of the City Council?

In the meantime, staff is taking the following steps:

- Contacting other jurisdictions that have undertaken large annexations to get input on “best practices.”
- Contacting King County to begin coordination with their elected officials and staff.

- Contacting the State Office of Financial Management to get more information about how the funding legislation will be implemented before we proceed much farther.
- Preparing estimates for additional temporary staffing needed to complete pre-annexation studies including planning staff and/or consultants to prepare Zoning Code amendments, finance staff to develop short and long term fiscal plans and a communications/community involvement specialist to develop and implement a public involvement strategy and provide ongoing communications with all identified stakeholders. Staff will prepare a recommendation for consideration at the mid-year budget review in June.
- Enhancing the City's website page on annexation to include ongoing updates and a "tax calculator" where PAA residents can compare their taxes in unincorporated King County versus the City of Kirkland.
- Preparing a series of maps with updated boundaries, special districts, public facilities and neighborhoods.

Staff will continue to provide Council with updates on annexation over the next several months and will prepare a more definitive plan with funding requests for presentation at the mid-year budget review.

First Excerpt from The Annexation Handbook, published by Municipal Research and Services Center of Washington, Revised November 2004.

Chapter Seven - Methods of Annexation in Code Cities

Seven methods of annexation are available to code cities. The 60 percent petition method is, by far, the most common. As discussed earlier, cities have found the election method, whether initiated by resolution or by petition, to be extremely cumbersome. Because of this and the expense of conducting an election, annexation elections are infrequent. Statutes authorizing annexations for municipal purposes are much more straightforward, but they apply only when a legitimate municipal reason for the annexation can be demonstrated. Statutes authorizing the annexation of federal areas are of even more limited application.

Note that in counties subject to the Growth Management Act, annexation may only occur with an urban growth area. RCW 35A.14.005.

I. Election Method, Initiated by Ten Percent Petition

The annexation of contiguous,⁴¹ unincorporated territory may be initiated by a petition signed by voters living in the area to be annexed. (Important Note: If a county road separates a city from territory it proposes to annex, the road must also be annexed or the territory will not be contiguous. Noncontiguous property cannot be legally annexed, except when it is annexed for municipal purposes, as discussed later in this chapter.)

A. Contents of Petition (RCW 35A.14.020)

The petition must:

1. Comply with the technical rules for petitions in RCW 35A.01.040 (See Appendix);
2. Call for an election to vote upon the annexation;
3. Describe the boundaries of the area proposed to be annexed;
4. State the number of voters residing in that area as nearly as possible; and
5. State any provisions relating to the assumption of debt by the owners of property of the area proposed to be annexed, the simultaneous adoption of a proposed zoning regulation for the area to be annexed, or the creation of a community municipal corporation.

The petition must be signed by qualified electors resident in the area proposed for annexation equal to ten percent of the votes cast at the last state general election in that area. (A qualified elector is a person 18 years of age or over, a citizen of the United States, and a resident for atleast 30 days. A qualified elector need not actually have registered to vote. AGLO 1974 No. 55.)

B. Contents of Petition - Optional (RCW 35A.14.025)

The petition *may* also provide for the simultaneous creation of a community municipal corporation and for the election of community council members pursuant to RCW 35.14.010 -060, or for the simultaneous inclusion of the annexed area into a named existing community municipal corporation. If the petition

provides for the creation of a new community municipal corporation, it must also describe the boundaries of the proposed service area, state the number of voters residing in that area as nearly as possible, and ask for the election of community council members by the qualified voters residing in the service area. See Chapter Five, Section IV. on community municipal corporations.

C. Approval By City Council

1. Filing of Petition and Determination of Sufficiency (RCW 35A.01.040, 35A.14.020)

After filing of the petition with the appropriate city official, it must be transmitted within three working days to the county auditor for a determination of sufficiency. RCW 35A.01.040. If there are sufficient valid signatures, the county auditor certifies the sufficiency of the petition to the city council. The council must pass a resolution within 60 days notifying the petitioners of its approval or rejection either by mail or by publishing a notice once a week for at least two weeks in one or more newspapers of general circulation in the city and in one or more newspapers of general circulation within the area proposed to be annexed. Council approval is a condition precedent to further proceedings on the petition. A formal public hearing is optional.

2. Additional Conditions to Annexation (RCW 35A.14.020)

The city council, in approving the annexation, may also require that any or all of these provisions be submitted to the electorate of the territory to be annexed:

- a. Whether property in the area proposed for annexation will be assessed and taxed at the same rate and on the same basis as is property in the annexing city and will be required to assume all or any portion of existing city indebtedness.
- b. Whether the city will require the simultaneous adoption of a proposed zoning regulation, if one has been approved and filed as provided in RCW 35A.14.330 and .340.

These questions, relating to the assumption of indebtedness and the adoption of zoning, may be submitted to the voters either separately or as a single proposition.

D. Petition Filed with County Legislative Authority and Applicable Review Board (RCW 35A.14.030, 35A.14.220)

After city council approval, the petition is to be filed with the legislative authority of the county in which the territory is located, along with a statement of the provisions on assumption of debt and/or the simultaneous adoption of a proposed zoning regulation. A copy of the petition and statement, if any, is also to be filed with the boundary review board, if one has been established, or otherwise with the county annexation review board for code cities, unless the annexation is exempt from review. An annexation of less than 50 acres or less than \$2 million in assessed valuation is not subject to review, except in counties with a boundary review board. (An area of less than ten acres and less than \$2 million in assessed valuation need not be reviewed by the boundary review board if the chair of the board states in writing that review is not necessary. See RCW 36.93.110.)

See Chapter Eight for a detailed description of review boards and their procedures.

E. Limitations on Consideration of Conflicting Petitions and Resolutions

After the city council has adopted a resolution proposing the annexation of territory, no territory included in the proposed annexation may be annexed by another city unless: (1) the boundary review board or annexation review board modifies the annexation proposal and removes the territory; (2) the boundary review board or annexation review board rejects the annexation; or (3) the city council or the voters, as the case may be, reject the proposed annexation. RCW 35A.14.231.

If a city incorporation has been proposed by the filing of a petition with the county auditor under RCW 35.02.020, an existing city may still annex territory included within the proposed incorporation if, within 90 days of that filing, a resolution proposing the annexation of that territory is adopted. Territory that is ultimately annexed to a city will be withdrawn from the incorporation proposal. RCW 35.02.155.

If an annexation is proposed by resolution more than 90 days after the filing of an incorporation petition that includes territory proposed for annexation, the annexation must “be held in abeyance” and may not occur unless: (1) the boundary review board modifies the proposed incorporation to remove the territory proposed for annexation; (2) the boundary review board rejects the proposed incorporation and the proposed city has a population of less than 7,500; or (3) the voters reject the proposed incorporation. RCW 35.02.155.

F. Decision of Review Board (RCW 35A.14.050)

The review board, whether a boundary review board or county annexation review board, has the following options with respect to an annexation proposal:

1. Approve the proposal as submitted;
2. Modify the boundaries of the proposal and approve as modified (there are different limitations on boundary modification, depending upon the review board; see Chapter Eight); or
3. Disapprove the proposal.

If the review board disapproves the proposed annexation, no further action may be taken on the proposal and no other proposal for annexation of the same or substantially the same territory (as determined by the board) may be initiated or considered for 12 months.

G. Decision Filed with County Legislative Authority (RCW 35A.14.050)

Upon review board approval (with or without modifications), the city council must indicate to the county auditor its preference for a special election date for submitting the proposal to the voters of the territory proposed to be annexed. The city council must indicate that preference at its next regular meeting, if that meeting is to be held within 30 days of its receipt of the review board decision, or at a special meeting to be held within that 30-day period. The county legislative authority must set the election date on the date indicated by the city.

H. Election on Annexation

1. Date of Election (RCW 35A.14.050, 29A.04.330)

The special election on the proposed annexation must occur on one of the dates provided under RCW 29A.04.330 that is 60 or more days after the preference is indicated.

Special election dates available under RCW 29A.04.330 are:

- a. The first Tuesday after the first Monday in February;
- b. The second Tuesday in March;
- c. The fourth Tuesday in April;
- d. The third Tuesday in May;
- e. The day of the primary election; or
- f. The first Tuesday after the first Monday in November.

2. Conduct of Election (RCW 35.29.151)

The election must comply with general election law (Title 29A RCW).

3. Cost of Election (RCW 35A.14.020)

The city is responsible for the election costs.

4. Notice of Election (RCW 35A.14.070, RCW 35A.14.025)

a. The notice must be posted for at least two weeks prior to the election date in four public places within the area proposed to be annexed, and

b. It must be published at least once a week for two weeks prior to the election in one or more newspapers of general circulation within the territory proposed to be annexed. One publication must also be from three to ten days prior to the election.

c. The notice of election must:

(1) Describe the boundaries of the proposed annexation (as may have been modified by the review board);

(2) State the purpose of the election (as in the petition);

(3) Require voters to cast ballots containing, as the case may be, words equivalent to:

For annexation _
Against annexation _

or

For annexation and adoption of proposed zoning regulation _
Against annexation and adoption of proposed zoning regulation _

or

For creation of a community municipal corporation _
Against creation of a community municipal corporation _

or

For annexation and creation of community municipal corporation _
Against annexation and creation of community municipal corporation _

or

For inclusion in [a named existing community municipal corporation] _
Against inclusion in [a named existing community municipal corporation]

—

or

For annexation and inclusion in [a named existing community municipal corporation] _
Against annexation and inclusion in [a named existing community municipal corporation] _

If the creation of a community municipal corporation is included in the resolution or petition, the ballot language in the notice must provide for voting on candidates for positions on the community council.

If assumption of all or a portion of indebtedness is proposed, the notice and ballot must contain an appropriate, separate proposition for or against the assumption of the portion of indebtedness that the city requires to be assumed.

(4) The notice must, in compliance with general election law, also contain the ballot title of measures to be voted upon at the election, the day and hours during which the polls will be open, and the address of each polling place. RCW 35A.29.151, RCW 29A.52.350.

I. Canvass of Election Returns (RCW 35A.14.080)

1. Duties of County Canvassing Board⁴² (RCW 35A.14.080)

On the Monday after the annexation election, the county canvassing board must:

- a. Canvass the returns; and
 - b. Submit a “statement of canvass” to the county legislative authority.
2. Minimum Vote Required for Approval of Annexation (RCW 35A.14.080, 35A.14.085)
- a. The proposition for or against annexation, or for or against adoption of the proposed zoning regulation, or for or against creation of a community municipal corporation (or any combination of these, as the case may be) may be approved by majority vote.
 - b. A proposition for or against the assumption of all or any portion of indebtedness is approved by a 60 percent majority of those voting on the proposition, and the number of persons voting is not less than 40 percent of the total number of votes cast in the area at the last preceding general election.
 - c. The annexation proposition may be submitted on the same ballot as the question to authorize an assumption of indebtedness. If the measures are combined, the annexation and assumption are approved only if the proposition is approved by a 60 percent majority of the voters voting and the turnout represents at least 40 percent of the total number of votes cast in the area at the last preceding general election. However, the city council may adopt a resolution accepting the annexation, but without the assumption of indebtedness, if the combined proposition is approved by a simple majority.

J. Duty of County Legislative Authority (RCW 35A.14.080)

If the voters approve any of the propositions, the county legislative authority must:

1. Enter in its minutes a finding to that effect;
2. Transmit and file a certified copy of its minutes to the city clerk; and
3. Transmit to the city clerk a certified abstract of the vote, showing:
 - a. The number who voted at the election;
 - b. The number of votes cast for and against the proposition; and
1. c. A statement of the number of votes cast in the area at the last preceding general election (if a proposition for assumption of indebtedness was voted on).

If a proposition for the creation of a community municipal corporation was submitted and approved, the abstract must include the number of votes cast for the candidates for community council positions. (Certificates of election are to be issued to the successful candidates. They are to assume office within ten days after the election.)

K. Duty of City Upon Receipt of Abstract of Vote (RCW 35A.14.090)

1. The city clerk must transmit the certified copy of the finding of the county legislative authority to the city council at its next regular meeting or as soon thereafter as practicable.
2. The city council must then adopt ordinances providing for annexation, the adoption of the proposed zoning regulation, the assumption of indebtedness, and/or creation of a community municipal corporation, as is appropriate. If the voters rejected a proposition on assumption of indebtedness, the council may refuse to annex the territory.

L. Effective Date of Annexation (RCW 35A.14.100)

The annexation and any propositions relating to zoning and assumption of indebtedness are effective on the date fixed in the annexation ordinance(s). Note, however, that there are important timing issues as to when an annexation occurs with respect to when the city's property tax levy can be effective in the newly annexed area and with respect to receipt of state-shared revenues, sales tax, and, if applicable, sales tax equalization payments. See Chapter Four, Section IV.

M. Notice of Annexation

1. Notice to State (RCW 35A.14.700)

The city must submit an annexation certificate and additional supporting documents to the state Office of Financial Management (OFM) within 30 days of the effective date of annexation. See Chapter Four, Section IV.A. Certificate forms and additional information are available from that office:

Office of Financial Management
Forecasting Division
300 Insurance Building
PO Box 43113
Olympia, WA 98504-3113
Telephone: (360) 902-0597

OFM requires submission of the following documents for the annexation certification process: (1) the signed annexation certificate, in triplicate (certificate form obtained from OFM); (2) three copies of the annexation ordinance containing the legal description of the area annexed; (3) three maps of the annexed area, conforming with OFM map requirements; and (4) the original (hand-written) Special Population Census Sheets used to enumerate the population and housing of the annexed area. OFM will send specific instructions upon request. The certificate is to be signed by the mayor and attested by the clerk. Filing of the certificate and the supporting documents is essential for a city to receive credit for increased population. This is important for the allocation and distribution of state funds to cities. See Chapter Four, Section IV.A.

The resident population of the newly annexed area, as of the effective date of the annexation, is to be determined by or under the direction of the mayor in accordance with OFM policies. OFM requires that the city conduct an annexation census within 30 days of the effective date of the annexation, but the actual enumeration should not begin until the effective date unless pre-

approved by OFM. Contact the Forecasting Division at OFM for information on the annexation census.

Upon certification of the annexation, OFM forwards revised population information to each state official or department responsible for making allocations or payments to cities and towns. However, if the revised certificate is forwarded 30 days or less prior to the commencement of the next quarter, then the population of the newly annexed area is not considered until the following quarter.

2. Special Notice to County Assessor and Auditor (RCW 35A.14.801)

To receive the levied but uncollected county road taxes beginning on the effective date of the annexation, the city must notify the county treasurer and assessor of the annexation *at least 30 days before the effective date*. The notice must be by certified mail and must include a list of annexed parcel numbers. The county is required to remit only those road taxes collected 30 or more days after receipt of the notification.

3. Other Notice

For information regarding the notice that should be given to the county, the Department of Revenue, and city departments, see discussion in Section I.O. of Chapter Six.

II. Election Method, Initiated by Resolution

The annexation of contiguous, unincorporated territory may also be initiated by city council resolution. After the annexation is properly initiated by resolution, the election procedures under this method are identical to those used in the election method initiated by the ten percent petition.

A. Legislative Determination (RCW 35A.14.015)

Initially, the city council must determine that the best interests and general welfare of the city would be served by the annexation.

B. Contents of Resolution

1. Mandatory Provisions (RCW 35A.14.015)

The resolution must:

- a. Call for an election to be held to submit the annexation proposal to the voters in the territory proposed to be annexed;
- b. Describe the boundaries of the area to be annexed;
- c. State the number of voters in the area to be annexed as nearly as possible; and
- d. State that the city will pay the cost of the election.

A formal public hearing is optional.

2. Optional Provisions (RCW 35A.14.015)

The city council should also decide whether any of the following optional provisions will be included in the resolution:

- a. Requiring the voters in the area to vote on the assumption of all or any portion of existing city indebtedness.
- b. Requiring the simultaneous adoption of proposed zoning regulations, prepared under RCW 35A.14.340, upon approval of the annexation.
- c. Requiring simultaneous inclusion of the area in a named existing community municipal corporation upon annexation. This proposition must be submitted to the voters as part of the annexation proposition, not separately. RCW 35.13.015.
- d. If there is no existing community municipal corporation, a community municipal corporation may be created simultaneously upon annexation, if the resolution calls for its creation and the election of community council members as provided in chapter 35.14 RCW. RCW 35A.14.025. (See Chapter Five, Section IV. of this publication.) This proposition may be submitted to the voters as part of the annexation proposition, or separately.

C. Filing of Resolution with County Legislative Authority and Applicable Review Board (RCW 35A.14.015)

A certified copy of the resolution is to be filed with:

1. The legislative authority of the county in which the proposed annexation is located; and
2. The boundary review board if one has been established; or
3. If a boundary review board has not been established, with the county annexation review board for code cities, unless the annexation is not subject to review under RCW 35A.14.220 (i.e. less than 50 acres or less than \$2 million in assessed valuation). RCW 35A.14.015

D. Limitations on Consideration of Conflicting Petitions and Resolutions (RCW 35A.14.231, 35.02.155)

See Section I.E. of this chapter.

E. Decision of Review Board (RCW 35A.14.050)

The review board, whether a boundary review board or county annexation review board, has the following options with respect to an annexation proposal:

1. Approve the proposal as submitted;
2. Modify the boundaries of the proposal and approve as modified (there are different limitations on boundary modification, depending upon the review board; see Chapter Eight); or
3. Disapprove the proposal.

If the review board disapproves the proposal, no further action may be taken on the proposal and no other proposal for annexation of the same or substantially the same territory (as determined by the board) may be initiated or considered for 12 months.

F. Decisions Filed with County Legislative Authority (RCW 35A.14.050)

Upon review board approval (with or without modification), the city council must indicate to the county auditor its preference for a special election date for submitting the proposal (with any modifications made by the review board) to the voters of the territory proposed to be annexed. The city council must indicate that preference at its next regular meeting, if that meeting is to be held within 30 days of its receipt of the review board decision, or at a special meeting to be held within that 30-day period. The county legislative authority must set the election date on the date indicated by the city.

G. Election, Canvass of Vote, Effective Date, Notice, Etc.

For information on the election process, canvassing of the vote, effective date of annexation, and the required notice, see discussion in Sections I.H. to I.M. of this chapter.

IV. Financial Impacts

Every annexation will have some financial impact on the annexing city. It may be positive (anticipated new revenues are greater than the additional service costs) or negative. It may be small (in which case it will not weigh heavily in the decisionmaking process) or it may be large. As part of an annexation study, every city needs to do at least a “back of the envelope” calculation to determine whether an additional, more detailed analysis should be done.

Second Excerpt from The Annexation Handbook, published by Municipal Research and Services Center of Washington, Revised November 2004.

A. Revenue

The revenue increases that will come to the city treasury because of an annexation depend substantially on the character of the area to be annexed. Factors such as the population of the area, its assessed valuation, and current and future land use patterns will affect most of the city's current revenue sources. In making its estimates, the city finance department needs to be aware that the date chosen for the annexation will have an impact on when new revenues are received and, in some cases, how much is received. This date is particularly important for property tax and sales and use tax revenues.

1. Timing of Property Tax Receipts

The property tax has the longest lag between annexation and the receipt of the first tax revenues. The boundaries of a city for property tax purposes are the “officially established boundaries” that exist on March 1 of the year in which the property taxes are levied.¹⁵ RCW 84.09.030. *Thus, a city may levy taxes during the current year for receipt during the next year for any annexation that is officially completed by March 1. If the annexation is completed after March 1, the city will have to wait until the following year to levy the tax to apply in the annexed area.* For example, if an annexation is completed by March 1 of Year 1, the city can levy taxes in November of Year 1 and receive its first substantial property tax revenue after April 30 of Year 2. If the annexation is not completed until March 2 (or later) of Year 1, the city will have to wait until November of Year 2 to levy its property tax and will not receive its first revenues until the spring of Year 3. Upon annexation, the city does receive the revenue from the levied but uncollected county road district taxes (RCW 35.13.270, 35A.14.801), but this may be less money than the city would get if it were levying its own tax. Also, the road district tax revenues must be placed in the city street fund rather than the general fund, and the city might find that a drawback. For property tax purposes, it definitely pays to plan ahead when considering an annexation.

To receive the levied but uncollected county road taxes beginning on the effective date of the annexation, the city must notify the county treasurer and assessor of the annexation at least 30 days before the effective date. The notice must be by certified mail and must include a list of annexed parcel numbers. RCW 35.13.270, 35A.14.801.

2. Timing of State-Shared Revenues

The state-shared revenues (gasoline tax, liquor board profits, and the liquor excise tax) are distributed to cities on the basis of population. For a city to have its population adjusted for an annexation for purposes of state-shared revenue distributions, the Office of Financial Management (OFM) must certify the annexation, after which it will notify the appropriate state agencies of the population change. For purposes of state shared revenues, the revised city boundaries and the new population are not recognized until the date that OFM approves the annexation certificate submitted to it by the city.

To initiate this certification process, a city must send an annexation certificate and certain required supplemental documents¹⁶ within 30 days of the annexation to OFM's Forecasting Division. See RCW 35.13.260; 35A.14.700. (See Chapter Six, Section I.O., or Chapter Seven, Section I.M. for the needed address and telephone number.) OFM then processes the documents for certification and, following certification, informs the state agencies that make revenue distributions to cities what population figures to use in the next quarter's distributions. The relevant quarterly periods begin on January 1, April 1, July 1, and October 1.

However, in order for a city or town to receive state-shared revenues in the coming quarter that reflect its new population, OFM and the relevant state agencies need to know about the annexation population addition well *before* the beginning of these quarterly periods. OFM must notify the other agencies more than 30 days prior to the beginning of a quarterly period for the population of the annexed area to be included for purposes of revenue distributions. RCW 35.13.260; 35A.14.700. The state agencies must thus be notified, as the case may be, by November 30, February 28, May 31, or August 31. For OFM to make timely notification to the other agencies, it must receive the annexation certificate and required supplemental documents even sooner. OFM has indicated that, for an annexation of less than 100 people, one week before this notification date is probably soon enough. For annexations of 100 to 500 people, OFM wants two weeks notice. For annexations of 500 to 10,000 people, OFM must be notified at least a month before the notification date. For those with a population of over 10,000, OFM must receive the necessary paperwork at least six months before.

An example may be helpful. Assume that an annexation involves 2,000 people and the city submits the necessary annexation documents to OFM on January 28. That gives OFM a month to work with the city before the February 28 date by which OFM needs to notify the other state agencies. The city should receive its additional state-shared revenues beginning in the second quarter of the year, which begins April 1. If OFM does not receive the annexation documents until February 5, say, chances are that, since the annexation is greater than 500 people, OFM will not be able to include it by the February 28 "deadline," and the city will have to wait until the third quarter to begin receiving its additional distributions for the annexed area.

3. Timing of Sales and Use Tax Receipts

Effective July 1, 2000, sales tax changes may take effect only on January 1, April 1, July 1, or October 1.¹⁷ Sales tax changes, for purposes of this new legislation, includes changes resulting from annexation. See RCW 82.14.005. Additionally, this law provides that local governments must notify the Department of Revenue (DOR) at least **75 days** before the change takes place. Previously, a tax rate could be changed effective the first day of any month and there was no mandatory 75-day notice period.

Cities may want to take these dates into account when planning annexations. To maximize its sales tax revenue from a newly annexed area, the effective date of an annexation should now be the first day of a quarter - January 1, April 1, July 1, or October 1. (Of course, where the annexation is of residential or undeveloped land, these dates are of no significance.) Here are some examples of how things worked in the past and will change under this new law.

1. Effective date of annexation, January 1. Before the passage of this new law, DOR changed the tax code for the businesses in the annexed area on January 1, the retailers remitted the tax to DOR in February, and the city received its distribution at the end of March. Under the new law, exactly the same events will occur. The new law has had no effect on when the city gets its first sales tax from the annexed area. The lag in the receipt of sales tax revenues is simply a function of the time it takes to collect and distribute the money.
2. Effective date of annexation, February 1. In the past, DOR changed the tax codes on February 1 and, after receiving the tax receipts from the merchants in March, distributed to the city at the end of April. Now, a city that annexes effective February 1 will not be able to levy its sales tax in that area until April 1 (the first day of the next quarter) and will not receive any distributions from the annexed area until the end of June. Therefore, under the new law, the city receives two months less revenue from the annexed area if it annexes on February 1.
3. Effective date of annexation, March 1. Before the new law took effect, a city that annexed on March 1 had the tax codes in the annexed areas changed effective March 1 and got a distribution at the end of May from taxes DOR received in April. Now, a city that annexes at the beginning of March will receive one month's less revenue than in the past. The tax codes will not be changed until April 1 (the first day of the next quarter) and revenue collected during that month will not be distributed by DOR until the end of June.

To summarize, in the past, the date of the annexation had no effect on when the city received its sales tax from the annexed area - the lag between the time the tax was first levied and when it was distributed to the city was always the same. Under the new law, if a city annexes effective the first day of the second month of any quarter, it will receive two months less revenue than it would have under the old law. If it annexes effective the first day of the third month in a quarter, it will receive one month's less revenue. Only if it annexes on the first day of a quarter will this new law have no effect on its revenues compared to the prior law.

Note also that the new requirement that DOR be notified 75 days before first day of the month in which the city wants taxes to be collected further complicates matters. To start collecting sales tax on January 1, for example, the city council must pass an ordinance approving the annexation and notify DOR by October 18. It may make sense in many cases (but it is not required by the new law) to set the effective date of the annexation at January 1 (in the example given here), rather than some earlier date, so that the city does not incur the expenses of serving the annexed area until it starts collecting the sales tax at the earliest possible date under the law. Under prior practice, the notice period for submitting reports of annexations and sales tax rate changes to DOR was much shorter.

Third Excerpt from The Annexation Handbook, published by Municipal Research and Services Center of Washington, Revised November 2004.

Chapter Three - The Annexation Information Program

The success of an annexation program is often directly dependent on public attitudes. Accordingly, it is important that members of the public be fully informed on the issues involved so that the final decision truly reflects the general will. An annexation information program can help to dispel false rumors, misunderstandings, and incorrect information. Annexations can then be more readily judged on their own merits.

Public Relations. A carefully planned public relations program is essential in communicating annexation facts to the public. *However, when an election is involved, caution must be exercised not to use public facilities for promoting the ballot proposition, in violation of state law. Specific statutory provisions will be discussed below.*

The public relations program can be initiated by sharing factual information pertaining to the annexation proposal with local newspapers, radio stations, and television stations. A speakers' bureau, which might include city officials and other civic leaders, could furnish speakers to service clubs, business groups, and professional organizations.

An effective way to reach the people is through a coffee hour on each block, where one or several city officials (other than the governing body) can sit down with a group of residents and answer direct questions. To the extent that the meeting is a one-to-one exchange, it will be far more influential than large public meetings.

When the annexation involves a considerable residential population or an annexation election, a committee of "citizens for annexation" is desirable. The residents of the area will be less likely to feel that the big city is trying to "gobble them up" if their own friends are sponsoring the annexation. Any printed material for distribution would be prepared and signed by such a committee.

Cost/Benefit. There are two very important questions for which the people in the annexation area will want answers: (1) what benefits will the annexation provide? and (2) what will it cost? These questions require clear and definitive answers. Persons contemplating annexation normally base their final decision on their understanding of the answers to these questions. While many benefits are quantifiable, others are difficult or impossible to measure in terms of dollars. For example, improved police protection may reduce property loss and bodily injury which in turn results in savings on medical expense and loss of wages. It would be unrealistic to attempt to predetermine a dollar value for such possible losses.

The Fact Sheet. A fact sheet, a pamphlet describing the annexation and its consequences, is helpful. The pamphlet should have at least a map of the annexation area, a list of the benefits and improvements that will result from annexation, and a clear statement of the financial implications of the annexation. The financial statement should include a simple chart showing comparative costs for residents in the fringe area and in the city, listing such differences as property tax rates, utility costs, fire insurance rates, and service charges. These costs should be computed at the time the annexation is proposed, and should be so labeled, since costs may vary over time.

Examples of brief fact sheets and cost comparisons are reproduced in the compilation prepared to supplement this report. Several cities and interested citizen groups have also prepared extensive information pamphlets on annexation. Due to their length, they are not included in this publication. Examples may be obtained on a loan basis from the Municipal Research & Services Center at the address listed on the cover page.

Community Identity. Community organizations such as improvement clubs, service clubs, and social clubs may also be valuable in informing residents of annexation issues. Such organizations often promote community spirit and provide arenas for involvement in local issues and affairs. The support or opposition of such organizations can be very important to a city's annexation program.

Apprehension is often expressed that once an area annexes it will lose its identity. Therefore, some city officials dispel such concern by publicly supporting individual area identity and group citizen involvement. The community municipal corporation might be a possible answer to this apprehension in some areas, as examined in detail in Chapter Five of this publication.

How ambitious the public relations effort needs to be will depend, of course, on the size and character of the population involved. In any annexation publicity program, however, the two most effective elements are ready access to cost/benefit information and the direct public encounter, preferably with small groups of people in neighborhood homes.

Caution Applicable to Election Method. If the election method of annexation is to be used, a word of caution is necessary. Since a ballot proposition is involved, the public information program must be tailored to comply with RCW 42.17.130.⁸

No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: PROVIDED, That the foregoing provisions of this section shall not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

The state's Public Disclosure Commission has adopted administrative regulations aimed at clarifying the intent of the statute:

WAC 390-05-271 General Applications of RCW 42.17.130. (1) RCW 42.17.130 does not restrict the right of any individual to express his or her own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency.

(2) RCW 42.17.130 does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.

WAC 390-05-273 Definition of Normal and Regular Conduct. Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17.130, means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

The conclusion to be drawn from these regulations is that *cities and towns should not publish promotional material urging a favorable vote in an annexation election.* City employees should not use city facilities and resources to actively attempt to influence voter response.

However, a distinction may be drawn between promoting an annexation and merely providing factual information directed at enabling voters to make their own decisions based on factual data, rather than uninformed speculation. The annexation statutes specifically authorize a city or town to “provide factual public information on the effects of a pending annexation.” See RCW 35.13.350, 35.21.890, 35A.14.550, and WAC 390-05-271, -273, reproduced above.

If a private citizen group is involved, any legal ambiguities as to the information that can be provided may be avoided when the citizens group, rather than the city, prepares, finances, publishes, and distributes the annexation information pamphlets. Citizen groups may not only provide factual information, but also advocate positions. Any such group would be well advised to check with the Public Disclosure Commission (711 Capitol Way, Room 403, Olympia, WA 98504; telephone (360) 753-1111) early in its formation stages, to learn whether any campaign financing information or forms will be expected of the committee.

City of Kirkland Annexation Assessment Tasks
Assessment of Financial and Capital Implications for Fire Service for Different
Annexation Scenarios
June 14, 2005

Section 1. Purpose

The purpose of this memo is to outline the possible implications of the City of Kirkland's potential annexation of an area to the north of the City to fire and emergency medical services (EMS). The City of Kirkland's Fire Department currently provides fire protection by contract for service with King County Fire Protection District No. 41 (FD 41), which includes the Finn Hill and Juanita area and a large western portion of the Kingsgate area. In addition, parts of Kingsgate are served by Woodinville Fire & Life Safety District (Fire District 36), and, in much smaller part, by Fire District 34 (operated by the City of Redmond Fire Department).

Through interviews with the Kirkland Fire Department and Fire District 41, Berk & Associates has identified cost and revenue estimates for fire service for the annexation areas under different annexation alternatives and the implications of timing for the annexation of each area, including:

- Kirkland annexes all three areas at once;
- Kirkland annexes two areas first and one later in time; and
- Kirkland annexes a single neighborhood at a time.

This memo also outlines implications of each annexation scenario on operating and capital costs, governance, and the legal and practical effects of transferring assets across districts.

In addition, included here is a discussion of the cost and revenue implications to the City of Kirkland if the City were to annex to Fire District 41 and fully transfer City fire operations to Fire District 41. That discussion includes the tax capacity of FD 41 to pay for the current level of fire service enjoyed by current residents, how that might change with annexation, and the disposition of current property taxes being levied within Kirkland for fire service in such a scenario.

Section 2. Summary of Findings

Kirkland now provides fire service by contract in all of FD 41 including most of the current potential annexation area (PAA), except for the easterly areas of Kingsgate. Because the Kirkland Fire Department is the provider of service in any scenario the service impact on residents is likely to be unnoticeable as result of annexation.

Kirkland could face a variety of complex operating, capital and asset transfer costs, depending on the perspective of the analysis. From Kirkland's perspective, taking on the whole PAA would eliminate the District's contract payment of \$3 million per year, and the City would levy taxes in the PAA to replace the contract payment.

Annexing the PAA by neighborhood presents different scenarios and financial implications for the City and the District due to the differing sizes of the neighborhoods and the state laws governing asset transfer upon annexation of District territory. Leaving Finn Hill in the territory of FD 41 seems to

present the best opportunity for FD 41 to remain viable. In addition, the annexation of Kingsgate poses the most challenging operating and financial situation for the City in terms of costs that don't exist today. Juanita represents the least challenging annexation situation. FD 41's challenge is to ensure that enough revenue exists to be able to support a contract for operations.

In an alternative scenario, there would be little incentive for Kirkland residents to annex to FD 41 because their tax burden would nearly double for services they are already receiving, unless the City reduced its tax levy by the same amount.

Section 3. Background

King County Fire Protection District No. 41 is an independent municipal corporation responsible for providing fire suppression and emergency medical services to an unincorporated area of King County lying north of the corporate boundaries of the City of Kirkland and south of the corporate boundaries of the Cities of Kenmore, Bothell and Woodinville. This area includes Finn Hill, Juanita, and a large western portion of Kingsgate, all within Kirkland's Potential Annexation Area (PAA). The Fire District is governed by an elected Board of Commissioners and has one employee.

Joint Service Contract. The City of Kirkland's Fire Department currently provides fire protection to the City and PAA through an intergovernmental contract for service with Fire District 41. The contract was signed in 1988 and is scheduled to expire in 2008. The City provides firefighter/EMT staffing to respond to service calls and Kirkland is also responsible for managing and maintaining the capital assets (fire stations, fire trucks, aid cars, and other equipment) owned by FD 41 and the City. The Board of Commissioners of FD 41 is consulted on policy issues and the operating budget for the joint services, but the contract delegates day-to-day management and supervision of fire and emergency services to the Kirkland Fire Chief. The contract may be terminated by either party at the end of any calendar year by giving written notice no less than twelve months prior to the date of termination.

Operating Costs. Under its contract with the City, FD 41 is required to pay a percentage of the operating costs for joint services. The District's percentage contribution is equal to its percentage share of the assessed valuation (AV) of property in FD 41 plus the City (Figure 1), which in 2005 totaled 26.8% of joint services expenses, or \$3.03 million. FD 41's likely contribution for 2006 will be \$3,106,000.

Figure 1
City of Kirkland and Fire District 41:
2005 Assessed Valuation (AV) and Operating Costs for Fire Services

	2005 AV	% AV	2005 Operating Costs
City of Kirkland	\$7,872,486,056	73.2%	\$7,954,002
District 41	\$2,875,528,891	26.8%	\$3,032,569
Total	\$10,748,014,947	100.0%	\$10,986,571

Source: City of Kirkland

The expenses for operating fire and EMS services are set forth in a joint operating budget approved by both the City Council and the Board of Commissioners. The District and the City each own three fire

stations which house professional staff, vehicles and equipment. The joint budget includes the cost of repairing and maintaining fire stations. The budget includes a 5% charge by the City for general administration expenses and overhead in supporting fire department operations.

FD 41 has no debt – all fire stations and equipment are paid for.

Fire District Levy. The District’s primary funding source is a regular property tax levy. In 2004 and 2005, FD 41 was authorized to collect a property tax levy of \$0.94 per \$1,000 of assessed valuation, which was scheduled to raise approximately \$2.7 million. Due to a projected operating shortfall of approximately \$330,000 in 2005, the Board of Commissioners called a special election to ask the voters to lift the levy lid to \$1.20 per \$1,000 of AV beginning with 2006 collections. A summary of the District’s financial position as of 2005 is shown in Figure 2. On May 17, 2005, the voters approved the levy lid lift, raising the fire district tax levy to \$1.20 per \$1,000 of assessed valuation.

**Figure 2
Fire District 41: Former and Current Tax Levy**

	Current/2005 Levy	New/2006 Levy
Total AV of Fire District 41	\$2,875,528,891	\$2,875,528,891
FD 41 Levy (per \$1,000 AV)	\$0.94	\$1.20
Total FD 41 Projected 2005 Revenue	\$2,702,997	\$3,450,635
FD 41 Share of 2005 Operating Budget	\$3,032,569	\$3,032,569
Operating Surplus/(Shortfall)	(\$329,572)	\$418,066

Source: City of Kirkland, Berk & Associates

Kirkland’s Potential Annexation Area. Figure 3 shows the shares of assessed valuation by neighborhood for both the PAA and the Fire District, and a description of the stations operated within FD 41 boundaries follows the table.

**Figure 3
Kirkland’s PAA and FD 41 AV Shares by Neighborhood**

	Total AV of Kirkland's PAA	% of Total PAA	Total AV of FD 41	% of Total FD 41
Kingsgate	1,145,520,225	30%	159,277,768	6%
Finn Hill	2,230,594,605	58%	2,230,594,605	78%
Juanita	485,656,518	13%	485,656,518	17%
Total	3,861,771,348	100%	2,875,528,891	100%

Source: City of Kirkland, Berk & Associates

The percentages of total potential annexation area based on AV do not equal the percentages of total Fire District 41 because the PAA is larger than FD 41 (see Figure 3 above and map in Exhibit 1). Consequently, the annexation of one area will have different financial implications than another.

There are currently three fire stations in Kirkland’s PAA that are the property of Fire District 41.

Finn Hill. There are 2 fire stations in the Finn Hill area (Station 24 in North Finn Hill and Station 25 on Holmes Point Drive, which belong to Fire District 41). FD 41 plans to consolidate the two stations into one facility, with the new station expected to open in the first quarter of 2007. The construction of the new station will be funded by a bond issue to be presented to District voters in early 2006.

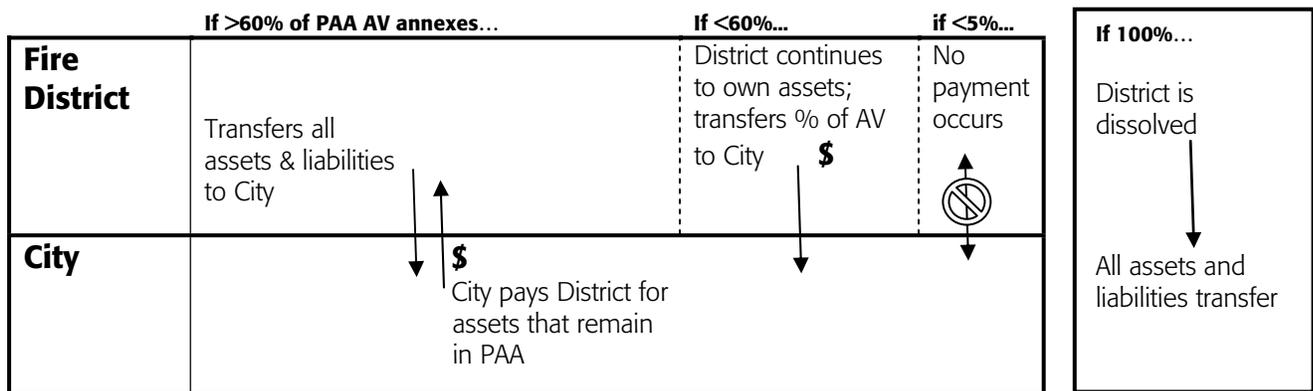
Juanita. There is one fire station in Juanita (Station 27), which belongs to Fire District 41.

Kingsgate. Kingsgate is served by three fire districts: Fire District 41 (primarily from Station 27 in Juanita), Woodinville Fire & Life Safety (Fire District 36), and, in much smaller part, Fire District 34 (operated by the Redmond Fire Department). There are no fire stations in Kingsgate that are the property of Fire District 41, but there is one that is owned by Woodinville (Station 34).

Section 4. Washington’s Asset Transfer Laws for Fire Districts

State law guides the asset transfer among districts in the event of a change in governance, and it is useful to understand each situation as applicable to Kirkland’s annexation scenarios. In practice, asset transfer agreements are subject to negotiation and rely on communication between the two governments. For more information, please reference the RCWs or Municipal Research and Services Center of Washington’s (MRSC) Annexation Handbook, or RCW 35.02.190. The graphic below and text that follows explains how asset transfer works.

**Figure 4
Asset Transfer: A Theoretical Example**



Source: Berk & Associates, Revised Code of Washington

If 60 percent or more of the assessed real property valuation of a fire district is annexed to a city, the city will own all of the district’s assets. However, the city is to pay the district a sum equal to the percentage of the value of the real and personal property in the district that remains outside the annexed area. The payment is to be made within one year of the annexation, in cash, property, or contracts for fire protection services (RCW 35.02.190 and RCW 35A.14.380).

Another important point is that the residents in the fire protection district but outside the annexed area may hold an election to require the annexing city to assume responsibility for providing fire protection and for operating and maintaining district property, facilities, and equipment. In such a situation, the district must pay a reasonable fee to the city (or district) for the services it provides.

If less than 60 percent of the assessed real property valuation of a fire district is annexed to a city, the district maintains ownership of its assets. However, the district is to pay the city (in cash, properties, or contracts for fire protection services) a percentage of the value of its assets equal to the percentage of the value of the real property in the district that has been annexed into the city. This payment is to be made within one year, or within the time the district continues to collect taxes in the annexed area (RCW 35.02.200 and 35A.14.400).

If less than five percent of the area of the fire protection district is included in the area annexed, no payment is due the annexing city from the district, except in certain circumstances (RCW 35.02.205, RCW 35A.14.400).

If 100% of a fire protection district is included in the annexing city, all of the assets and liabilities of the district are to be transferred to the city upon annexation. The fire district in this case will be automatically dissolved.

It is important to highlight that the payment can be made in either cash, property, or contracts for fire protection services, so the City and District would have some latitude in resolving asset transfer. One example of how these payments can be made is an agreement between King County Fire District 25 and the City of Renton, in which the annexation of part of Fire District 25 by Renton resulted in a 10-year contract amount. The Fire District essentially “paid down” the total asset transfer amount over a period of time through a long-term contract with the City of Renton.

If an annexation were to occur, the City and District would need to reach an agreement on the value of the assets to be transferred, including the value of stations, vehicles and cash in reserve. For the purposes of this report, an estimated value was derived (Figure 5). In the event of an annexation and asset transfer, appraisals of all the assets of FD 41 would need to be completed in order to refine this estimate. For example, with the passage of the levy in May 2005, Fire District’s estimated reserves will probably increase over the next few years.

Figure 5
Fire District 41: Estimated Value of Assets
(Stations, Apparatus and Cash Reserves)

	Asset Value
Cash	\$700,000
Station 24 (Finn Hill)	\$880,000
Station 25 (Finn Hill)	\$1,855,000
Station 27 (Juanita)	\$2,635,000
Total	\$6,070,000

Source: City of Kirkland Fire & Finance Departments
Ryan Dunham Realty

Section 5. Implications of Annexation Scenarios

For the purposes of estimating the operating implications of various annexation scenarios on the City of Kirkland, an approximate proportion of Kirkland's property tax revenues that are normally used for fire services was calculated as a point of reference. As Figure 5 demonstrates, approximately \$1.01 out of City's total regular property tax levy of \$1.30 is theoretically used for fire protection. It is important to note that this number is stated in a way that is potentially misleading, since the City of Kirkland provides a host of other municipal services besides fire services within its \$1.30 levy amount.

Figure 6
City of Kirkland: Regular Property Tax Levy Revenues Spent on Fire Services

City of Kirkland Property Taxes (per \$1,000 AV)	\$1.30
City of Kirkland AV	\$7,872,486,056
Kirkland's 2005 Regular Property Tax Revenues	\$10,275,198
City of Kirkland Fire Budget	\$7,954,002
% of Kirkland's Regular Levy Spent on Fire	77.7%
Portion of Regular Levy Spent on Fire	\$1.01

Source: City of Kirkland, Berk & Associates

The following tables (Figures 7 and 8) describe the operating impacts of various annexation scenarios on the City of Kirkland and Fire District 41. A narrative description of the financial implications follows the tables, including asset transfer estimates that could occur between the City of Kirkland and Fire District 41 (Figure 9).

Figure 7
Impact of Annexation Scenarios on City of Kirkland

Annexation scenario	Taxable AV of Annexation Area	% of Total PAA	Total Potential Revenue (\$1.30 City Levy)	Potential Revenue for Fire Services *
Kingsgate only	1,145,520,225	30%	\$1,489,176	\$1,156,975
Finn Hill only	2,230,594,605	58%	\$2,899,773	\$2,252,901
Juanita only	485,656,518	13%	\$631,353	\$490,513
Finn Hill & Juanita, not Kingsgate	2,716,251,123	70%	\$3,531,126	\$2,743,414
Juanita & Kingsgate, not Finn Hill	1,631,176,743	42%	\$2,120,530	\$1,647,489
All three areas at once	3,861,771,348	100%	\$5,020,303	\$3,900,389

* (\$1.01 of \$1.30 Levy)

Source: City of Kirkland, Berk & Associates

**Figure 8
Impact of Annexation Scenarios on Fire District 41**

Annexation scenario	Taxable AV of FD 41	% of Total FD 41	Remaining Taxable AV of FD 41	Remaining FD 41 revenue at \$1.20 levy
Kingsgate only	159,277,768	6%	2,716,251,123	\$3,259,501
Finn Hill only	2,230,594,605	78%	644,934,286	\$773,921
Juanita only	485,656,518	17%	2,389,872,373	\$2,867,847
Finn Hill & Juanita, not Kingsgate	2,716,251,123	94%	159,277,768	\$191,133
Juanita & Kingsgate, not Finn Hill	644,934,286	22%	2,230,594,605	\$2,676,714
All three areas at once	2,875,528,891	100%	\$0	\$0

Source: City of Kirkland, Berk & Associates

**Figure 9
Asset Transfer between the City of Kirkland and Fire District 41**

Annexation scenario	% of Total FD 41	Ownership of Assets	FD 41 transfers to City	City transfers to FD 41
Kingsgate only	6%	District 41	\$340,000	
Finn Hill only	78%	City of Kirkland		\$1,360,000
Juanita only	17%	District 41	\$1,030,000	
Finn Hill & Juanita, not Kingsgate	94%	City of Kirkland		\$340,000
Juanita & Kingsgate, not Finn Hill	22%	District 41	\$1,360,000	
All three areas at once	100%	City of Kirkland	\$6,070,000	

Source: City of Kirkland, Berk & Associates

1. Partial Annexation: Kirkland annexes a single neighborhood at a time

There is a summary table at the beginning of each section outlining the implications of partial annexation. The following notes apply to all of these summary tables: (1) \$1.01 is the current property tax equivalent levied by Kirkland for fire services; (2) Woodinville Fire & Life Safety is located within the Kingsgate PAA and serves the PAA, however no payment for services is currently paid to Woodinville by District #41 or the City of Kirkland; (3) a positive "Difference" in tax revenue indicates that the City would receive more property tax revenue than it would lose in Fire District payments.

Financial Implications of Annexing Finn Hill.

Finn Hill				
	Assessed Value	As % of Total	Levy Rate	Tax Revenue
City of Kirkland PAA	\$2,230,594,605	58%	\$1.01	\$2,252,901
Fire District #41	\$2,230,594,605	78%	\$1.01	\$2,252,901
Difference				\$0
Asset Transfer To/(From) City				(\$1,360,000)

The Finn Hill area has the largest assessed valuation of Kirkland's total Potential Annexation Area with \$2.2 billion in AV or 58% of the PAA. The area also comprises 78% of assessed valuation of Fire District 41. If the Finn Hill area is annexed to Kirkland, the City of Kirkland would gain approximately \$2.9 million in property taxes, of which \$2.3 million would be available for fire services. FD 41 will be left with approximately \$800,000 in annual revenues (at \$1.20 levy).

Since the Finn Hill area comprises approximately 78% of Fire District 41 AV, the City of Kirkland will own all of the district's assets, but only after it compensates the district in the amount of approximately \$1.4 million (Figure 9). The payment has to occur within one year of annexation and can be made in cash, property, or contracts for fire protection services. For the purposes of asset transfer, both stations existing today in the Finn Hill area are assumed to be assets of FD 41 although only one may exist in the future when annexation occurs.

Implications of Annexing Juanita.

Juanita				
	Assessed Value	As % of Total	Levy Rate	Tax Revenue
City of Kirkland PAA	\$485,656,518	13%	\$1.01	\$490,513
Fire District #41	\$485,656,518	17%	\$1.01	\$490,513
Difference				\$0
Asset Transfer To/(From) City				\$1,030,000

Juanita has the lowest assessed valuation, representing only \$485 million or 13% of Kirkland's total PAA. If Kirkland were to annex Juanita only, the City would gain approximately \$630,000 in property tax revenues, of which \$490,000 would be available for fire services. Fire District 41 would lose approximately 17% of its assessed valuation base and would remain operational with \$2.9 million in annual revenues from Finn Hill and Kingsgate.

Juanita comprises only 17% of Fire District 41, which, according to the RCW, would mean that if Kirkland were to annex the area, the ownership of the assets would remain with FD 41. The fire district would transfer \$1 million to the City of Kirkland (Figure 9).

Implications of Annexing Kingsgate.

Kingsgate				
	Assessed Value	As % of Total	Levy Rate	Tax Revenue
City of Kirkland PAA	\$1,145,520,225	30%	\$1.01	\$1,156,975
Fire District #41	\$159,277,768	6%	\$1.01	\$160,871
Difference				\$996,105
Asset Transfer To/(From) City				\$340,000

Kingsgate is potentially the most problematic of the three potential annexation areas, as the issue is complicated by the presence of three different fire districts in the area: Fire District 41, the Woodinville Fire & Life Safety District, and, in much smaller part, Fire District 34 (operated by the Redmond Fire Department).

If the City of Kirkland were to annex Kingsgate, the City would gain approximately \$1.5 million, of which \$1.2 million would potentially be available for fire services. However, as mentioned above, Fire Station 34 is located in Kingsgate and owned by Woodinville Fire & Life Safety District. According to RCW 52.08.025, annexation to a city automatically removes territory from a fire protection district and renders the annexing city responsible for fire protection in the annexed area. If Kingsgate is annexed to Kirkland, Woodinville Fire & Life Safety District would no longer have jurisdiction to serve the area (other than through automatic aid) and the following potential scenarios could unfold:

1) *Kirkland could contract with Woodinville Fire Life & Safety to continue to respond, and charge Kirkland on some basis.* During 2005, there were approximately 550 service calls received by Woodinville's Station 34 from within the boundaries of Kingsgate proposed annexation area. According to the City of Kirkland Fire Department, this volume of calls is roughly equivalent to annual number of calls at Fire Station 25 at Holmes Point. Under automatic aid agreements, response to calls will occur in this area as long as Woodinville chooses to keep the station in that area.

2.) *Woodinville Fire & Life Safety could leave Kingsgate.* Considering the relatively high volume of calls for the area, Kirkland would want to maintain response there by staffing and maintaining operations somewhere east of I-405, and ideally that response would come from the current Station 34. Before the disposition of the station is considered, the Kirkland Fire Department estimates that it would cost approximately \$750,000 in one-time expenses and up to \$1.2 million annually to operate Fire Station 34, maintaining the current service levels provided by Woodinville Fire & Life Safety. If Woodinville leaves Kingsgate and relocates its response elsewhere in the district, then Fire District 41 (or Kirkland, post-annexation) and Woodinville would have to resolve the disposition of the station. Either Kirkland could occupy the facility and staff the station (and Woodinville would likely charge rent to Kirkland); Kirkland could buy the facility from Woodinville; or FD 41 (or the City of Kirkland) could build a separate station in the area at an approximate cost of \$2 million (the greatest-cost-option).

An important point about the annexation of Kingsgate is that the service-related issues that need to be resolved with Woodinville Fire & Life Safety would probably need to be resolved between the two districts (FD 41 and Woodinville) even if there was no annexation. It is likely that Woodinville would relocate Station 34 in either case since the station is outdated and does not provide the optimum location for response. In addition, Woodinville has a \$1.50 fire district levy, and FD 41's levy would be lower even with a levy lid lift, so the tax burden on Kingsgate residents would decrease.

The area of Kingsgate that is part of Fire District 41 (in the south and west) represents 6% of the AV of the district. If the annexation were to take place, the ownership of the assets would stay with the district and it would have to pay approximately \$340,000 to the City of Kirkland in terms of asset transfer (Figure 9). However, there could potentially be two additional asset transfer transactions in the Kingsgate case. If Woodinville and Redmond's service areas within the Kingsgate PAA boundary each comprised more than 5% of their respective fire districts, an asset transfer from both districts to the City of Kirkland would have to occur. As evidenced in Figure 10 below, only approximately 3% of assessed valuation of Fire District 34 (operated by Redmond FD) is within Kingsgate, warranting no action with regard to asset transfer should Kingsgate be annexed to Kirkland. However,

approximately 9% of Woodinville Fire & Life Safety District’s assessed valuation is within Kingsgate, potentially necessitating an asset transfer from the District to the City of Kirkland in the event of annexation. Again, the asset transfer could take the form of cash, a property transfer or a service agreement. Due to the lack of data regarding Woodinville’s value of assets (including the value of stations, vehicles and cash in reserve), we did not estimate the amount of the asset transfer.

**Figure 10
Percent of Assessed Valuation of Various Fire Districts
within Kingsgate**

Fire District	Total AV	AV within Kingsgate	% AV within Kingsgate
Woodinville Fire & Life Safety	6,544,205,112	877,024,057	13%
Fire District 34 (Redmond)	3,515,992,834	109,218,400	3%
Fire District 41	2,875,528,891	159,277,768	6%

Source: Berk & Associates

2. Kirkland annexes two areas first and one later in time

Implications of Annexing Finn Hill and Juanita, not Kingsgate.

Finn Hill and Juanita				
	Assessed Value	As % of Total	Levy Rate	Tax Revenue
City of Kirkland PAA	\$2,716,251,123	70%	\$1.01	\$2,743,414
Fire District #41	\$2,716,251,123	94%	\$1.01	\$2,743,414
Difference				\$0
Asset Transfer To/(From) City				(\$340,000)

The Fire District 41 would be left with approximately \$150,000 in property tax revenue from its tax base. The City of Kirkland would receive \$3.5 million annually in property taxes from the newly annexed areas, of which \$2.7 million could be used for fire services.

In terms of asset transfer it would be a similar scenario to the one described above (Finn Hill and Kingsgate). The total of Finn Hill and Juanita comprise 94% of assessed valuation of Fire District 41, thus the City of Kirkland would own all of the district’s assets, but would have to pay \$340,000 in asset transfer (Figure 9).

Implications of Annexing Kingsgate and Juanita, not Finn Hill.

Kingsgate and Juanita				
	Assessed Value	As % of Total	Levy Rate	Tax Revenue
City of Kirkland PAA	\$1,631,176,743	42%	\$1.01	\$1,647,489
Fire District #41	\$644,934,286	22%	\$1.01	\$651,384
Difference				\$996,105
Asset Transfer To/(From) City				\$1,360,000

Kirkland would collect approximately \$2.1 million in property tax revenues from Kingsgate and Juanita, of which \$1.6 million would be allocated to fire services. Fire District 41 would exist with \$2.1 million annual revenues, after losing 30% of its assessed valuation.

Kingsgate and Juanita together comprise only 22% of Fire District 41, which would mean that if Kirkland were to annex the area, the ownership of the assets would remain in the fire district. The fire district would be obligated to transfer \$1.4 million to the City of Kirkland (Figure 9).

Annexing Finn Hill and Kingsgate, not Juanita.

This option is very impractical because it divides Kirkland's PAA, and therefore will not be discussed in this partial annexation analysis. Geographically, Juanita is located between the Finn Hill and Kingsgate (see map in Exhibit 1). It is very unlikely that it will not be annexed to Kirkland if the other two neighborhoods are.

3. Kirkland annexes all three areas at once

If the City of Kirkland were to annex all three areas at once, the City would be able to collect approximately \$5 million in property tax revenues from the area with some share available for fire services. The City would also have to address the issue with Fire Station 34 in Kingsgate (described in "Kingsgate only" annexation scenario above). Fire District 41 would most likely have to be dissolved, as only a very small geographical pocket of District property would remain in the northeast corner of Finn Hill (see map in Exhibit 1).

In the case of dissolution of FD 41, all of the assets and liabilities of the District would have to be transferred to the City upon annexation. The total asset transfer would be approximately \$6.0 million or the value of all district's assets. Once again, it is appropriate to mention that the payment has to occur within one year of annexation and can be made in cash, property, or contracts for fire protection services.

Potential Annexation of City of Kirkland to Fire District 41

Another option is for the City of Kirkland to annex to Fire District 41 with passage of a Council ordinance stating the intent to annex, and an affirmative vote of a simple majority of Kirkland and FD 41 residents in a special election (RCW 52.04.061). Any city or town annexed to a fire protection district is entitled to levy up to \$3.60 per \$1,000 of assessed valuation, less any regular levy made by the fire protection district or by a library district. After a city is annexed to a fire protection district, any territory annexed by the city would also be annexed and be a part of the fire protection district.

If the City of Kirkland annexes to Fire District 41, the levy rate for fire services in the City would be the same amount as is presently levied in FD 41: \$1.20 per thousand of assessed valuation which would be imposed on all taxpayers in FD 41 as it is now, but would constitute a new tax burden on the residents of the City of Kirkland, unless the City of Kirkland reduces its levy by a like amount. (In practical fact, the FD 41 levy would replace the City of Kirkland's levy).

Instituting a new fire district levy in addition to the current City property taxes (which are \$1.30 per thousand of assessed valuation) would almost double the tax burden for its citizens (see Figure 10

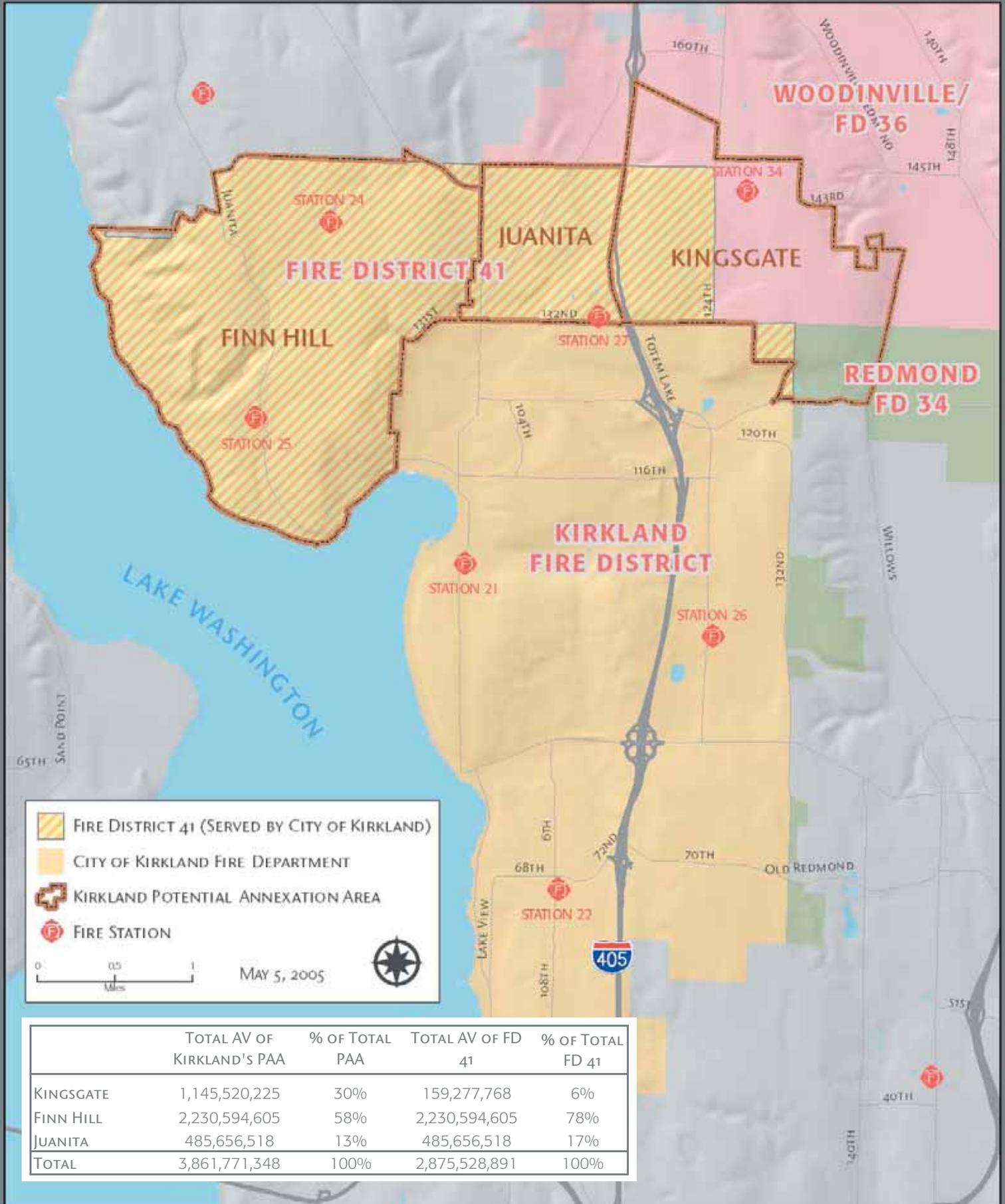
below). Kirkland residents are currently paying for fire services as part of the City's general property tax levy, so there would be no incentive for the voters to approve the annexation into the fire district unless the City could either offer more services for the higher tax rate, or if the City lowered its general tax burden by the amount levied by the Fire District. It is unlikely that the citizens would favor an almost double increase in taxes even if they received more services, and lowering the tax would bring Kirkland's tax levy down to \$0.10 per thousand of assessed valuation, thereby decreasing its general fund revenues for City services by the proportionate amount.

**Figure 10
Potential Increase in Tax Burden for Citizens of Kirkland
if Annexed to Fire District 41**

	Current	If Kirkland Annexed to FD 41
Sample House Value	\$300,000	\$300,000
City of Kirkland Levy Rate	\$1.30	\$1.30
City of Kirkland Annual Taxes Paid	\$390	\$390
Fire District Tax Levy	-	\$1.20
Fire District Annual Taxes Paid	-	360
Total Annual City and FD Taxes Paid	\$390	\$750

Source: Berk & Associates

EXHIBIT 1: KIRKLAND POTENTIAL ANNEXATION AREA



	TOTAL AV OF KIRKLAND'S PAA	% OF TOTAL PAA	TOTAL AV OF FD 41	% OF TOTAL FD 41
KINGSGATE	1,145,520,225	30%	159,277,768	6%
FINN HILL	2,230,594,605	58%	2,230,594,605	78%
JUANITA	485,656,518	13%	485,656,518	17%
TOTAL	3,861,771,348	100%	2,875,528,891	100%

**City of Kirkland Annexation Assessment:
Legal, Governance and Financial Implications for the
City of Kirkland and Finn Hill Park District
June 14, 2005**

Purpose

The purpose of this report is to assess the potential implications for the Finn Hill Park District of the City of Kirkland's potential annexation of Finn Hill area. Through interviews with the Kirkland Parks Department and the commissioners from the Finn Hill Park District, Berk & Associates has identified the current revenues collected, services provided by the park district and how they compare to Kirkland Parks' current level of service and LOS after annexation. This memo also outlines implications of the annexation on the legal and governance status of the Park District, including disposition of the tax levy, and options for service after annexation.

Summary of Findings

- Upon annexation, the Finn Hill Park District will remain the operator of O.O. Denny Park unless an action is taken by the Board of Commissioners to dissolve the district. The City of Seattle is the owner of the park and responsible for capital investments over \$2,000.
- The District now levies \$0.07 per \$1,000 AV and this yields approximately \$153,000 annually from the levy for park operation. The current levy will expire at the end of 2008. While levy revenue currently exceeds the amount needed to maintain O.O. Denny Park, excess fund balances go to repay pre-levy debt issued during the creation of the District.
- Park District Commissioners perceive contract maintenance of O.O. Denny Park to be comparable or better than City of Kirkland levels of service in terms of quality and cost. Overall the District spends \$46,000 less than the City's original bid to maintain the single park. However, a comparison of level-of-service and cost reveals that the services provided at O.O. Denny Park are different and lower than Kirkland's other waterfront parks, raising a question about disparities in LOS in the PAA compared to the rest of the City long-term.
- Long-term, the District is situated to take on three other currently-passive parks, including Juanita Woodlands, Juanita Triangle, and Juanita Heights parks. Big Finn Hill Park is expected to remain a King County regional park.
- After annexation, Finn Hill Park District Commissioners had anticipated that park management would be transferred to the City of Kirkland. However, some negotiation about differing levels of service in the Finn Hill area relative to the rest of the City would be needed. District Commissioners suggest that they would not pay more to Kirkland for what they believe is an adequate level of service at O.O. Denny Park.
- Three post-annexation scenarios exist for operations of O.O. Denny Park and other park lands in the Finn Hill area.
 1. **District-operated, District-financed, contractor-maintained.** A low-financial and coordination cost for the City Kirkland that would meet the maintenance needs for O.O. Denny Park, but would not transfer responsibilities for park service to Kirkland long-term and a disparity in LOS would remain.
 2. **District-operated, District-financed, City-maintained.** The District remains the operator of the park, the District levy stays in place, and the District turns over the levy

to Kirkland for park maintenance. Some negotiation with District Commissioners may be required as Kirkland's level of service is perceived to be higher-cost than current.

3. **City-operated, -financed and -maintained.** FHPD is dissolved and Kirkland operates parks using City general fund revenues.
 - Long-term, the City and District must consider the long-term costs to operate all four parks (O.O. Denny, Juanita Triangle, Juanita Highlands, and Juanita Woodlands), and whether the current levy would be sufficient to pay for maintenance for all four parks compared to the maximum levy capacity of the District (up to \$0.60 per \$1,000 assessed valuation).

Section 2. History/Introduction

Background. In recent years, due to budgetary shortfalls, King County became unable to operate and maintain a number of local parks in its jurisdiction which led to their transfer to cities or closure. One of these parks was O.O. Denny Park, a 40-acre park within the Finn Hill area northwest of Kirkland. Helen Denny, the widow of O.O. Denny, willed the park land to the City of Seattle with a stipulation that it was to be operated and maintained as a park in perpetuity. In the event that it failed to be operated as a park space, O.O. Denny Park would revert to Children's Home Society, which could keep or sell the land for development.

The residents of Finn Hill took an active interest in creating a Park District in order to keep up an adequate level of maintenance and to prevent the park land from potential future development. On November 5, 2002, nearly 70 percent of Finn Hill residents voted in favor of the creation of a local Park and Recreation District under RCW 36.69, including an accompanying tax levy of 7 cents per \$1,000 assessed valuation (AV). The Finn Hill Park District (FHPD) became active in 2003 and besides taking up the maintenance of O.O. Denny, it was slated to operate two other small parks in the area – Juanita Heights and Juanita Woodlands. The disposition of these parks are still not in FHPD's control as of this writing.

FHPD Governance, Finance Authority and Structure. The Finn Hill Park District is a junior taxing district with a maximum allowed regular property tax levy of 60 cents per \$1,000 AV and the authority to charge fees and rates for rental or for facilities. The property tax levy is authorized for a 6-year period, meaning the current levy will expire after taxes levied in 2008. As a junior taxing district, FHPD would have its levy capacity diminished if the aggregate of all junior and senior taxing districts exceeds the \$5.90 limit. The District also has the authority to issue general obligation debt, LID bonds and revenue bonds.

The district has the same boundaries as the Finn Hill potential annexation area which is approximately from the Kirkland City line north along 100th Avenue NE, and then east on Simmons Road and along 145th Street to the southern border of St. Edward Park and the Lake. FHPD has no permanent staff; the District is operated by five elected, unpaid volunteer Commissioners. Before the creation of FHPD, the City of Seattle contracted with King County to maintain and operate O.O. Denny Park, but later transferred this responsibility to FHPD. In 2003, FHPD competitively bid and later contracted with Total Landscaping, a private firm, to provide maintenance services for the park.

Other Parks in the Finn Hill Area. Finn Hill Park District was also supposed to assume operation and maintenance of two smaller parks in the area that are currently undeveloped: Juanita Triangle (0.5 acres) and Juanita Heights (3.2 acres), on the condition that the King County transfers the clean title (“quiet title”) to the Park District. These titles have not yet been transferred to FHPD, but King County has a verbal commitment with the Finn Hill Park District to transfer the parks (there are several liens against Juanita Heights Park and King County is working on clearing its title). According to the King County Parks Department, this issue is complicated and the timing of clear title and transfer would be difficult to predict.

Juanita Woodlands is a forested 40-acre park adjacent to Juanita Triangle. The site was held in trust by the Washington State Department of Natural Resources (DNR) for the purpose of generating school construction funds. Economic pressures have forced DNR to put the Woodlands on the market, spurring neighbors in the surrounding community to support the preservation of that park land as well. The neighborhood group raised a portion of the funds necessary for King County to purchase the land from DNR, and in early 2005 the land deed was officially signed over to King County. However, King County and the Finn Hill community still need to find \$1.5 million to offset some of the land purchase cost, or they will face eventual development of up to 5 acres of the property. King County would like to transfer the ownership and operation of this park to Finn Hill Park District; however, the County would do so either after the \$1.5 million is raised or subject to payment of this debt by the assuming party. Otherwise, King County could transfer the ownership sooner on the condition that it can set 5 acres of Juanita Woodlands aside for sale to cover the \$1.5 million gap.

A large 220-acre Big Finn Hill Park is also located within the boundaries of the FHPD; however, it is classified a regional park by King County, who continues to operate it. King County will most likely not transfer this park to Kirkland in the event of annexation of Finn Hill area.

**Figure 1
Ownership Structure of Parks within Finn Hill Park District Boundaries**

	Ownership	Operator	Service Provider
OO Denny	City of Seattle	Finn Hill Park District	Total Landscaping
Juanita Triangle	King County	King County	King County
Juanita Heights	King County	King County	King County
Juanita Woodlands	King County	King County	King County
Big Finn Hill	King County	King County	King County

Source: Berk & Associates

Section 3. Services Provided

O.O. Denny Park. This park offers a long stretch of waterfront on Lake Washington as well as a trail about one mile long that climbs through the woods into the valley of Big Finn Creek. There is also a large virgin Douglas fir which is believed to be 600 years old and 26.3 feet in circumference. The Finn Hill community has strived to re-establish salmon spawning in Denny Creek that runs though the park. Other amenities include:

- Trash receptacles

- Public restrooms
- Two parking lots, one on each side of the road
- Information board about the park
- Picnic shelter which can be reserved by phone

Other Parks. Juanita Heights Park is currently owned and designated by King County for recreation use and offers a hiking trail. No other amenities are available. Juanita Woodlands and Juanita Triangle are also owned by the County and designated as passive “multi-use” parks, with no facilities or amenities. None of these three parks are currently part of Finn Hill Park District operations, but FHPD and King County envision that eventually these will become local parks.

Section 4. Revenues Collected

Beginning in 2003, Finn Hill Park District has levied approximately \$0.07 per \$1,000 assessed value (AV) in a six-year levy, and has the capacity to levy up to \$0.60 per \$1,000 AV.

Figure 2
2005 Projected Finn Hill Park District Revenues

Total 2005 FHPD AV	\$2,176,365,700
Levy (per \$1,000 AV)	\$0.07029
Total FHPD 2005 Projected Revenue	<u>\$152,977</u>

Source: Berk & Associates

Since the District become operational in 2003, but did not start collecting the levy revenues until 2004, FHPD ran a deficit of about \$70,000 for its first year of operations and relied on short-term debt for operations. Since the levy revenues are significantly higher than the current maintenance contract spending, that “surplus” will be used in later years to pay for the 2003 deficit.

Section 5. Park District Operating/Capital Needs

Finn Hill Park District indicated that there are currently no outstanding unmet operating or capital needs for the current parks. Per the conditions of the contract with the City of Seattle, FHPD only has an obligation to cover up to \$2,000 annually in capital costs. Beyond that amount it is the responsibility of City of Seattle as the legal owner, or the future operator, to negotiate with the City to assume capital costs.

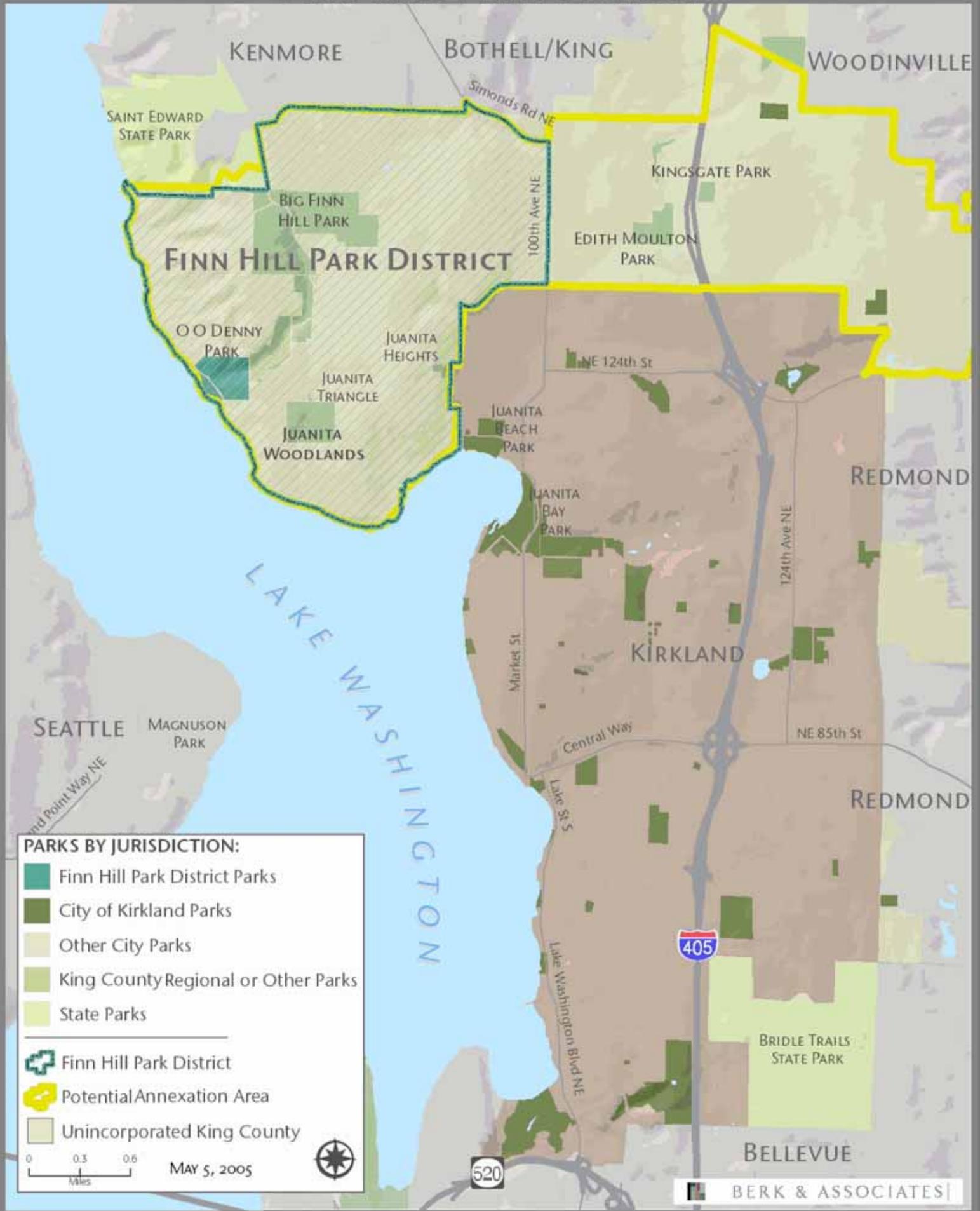
A key issue for the City of Kirkland will be how quickly King County will transfer the remaining park lands to the Finn Hill Park District per its verbal agreement. Long-term, it will be important to establish that the current levy, or that future levy capacity, can address the capital and operating needs of the District, which could include O.O. Denny Park plus, potentially the Woodlands, Triangle, and Highlands parks. While those parks do not today have significant development or maintenance costs, they will have at least minimal maintenance costs in the future.

Section 6. Options and Implications for Service Post-Annexation

Three post-annexation options exist for Kirkland and the Finn Hill Park District to provide park services:

1. **District-operated, District-financed, contractor-maintained.** The District remains the operator of the park, keeping the District levy in place, and the current contract with Total Landscape remains (this is the lowest-financial and coordination cost for Kirkland, and would not use Kirkland Parks to provide services). This would likely meet the needs for the FHPD's maintenance demands at O.O. Denny, but would not transfer responsibilities for park service to Kirkland long-term. In addition, it would create a situation with different levels of service for waterfront parks provided in the PAA relative to the rest of the City. Long-term, this could only be an interim solution.
2. **District-operated, District-financed, City-maintained.** The District remains the operator of the park, the District levy stays in place, and the District contracts with the City (i.e. in effect, turns over the levy to Kirkland) to provide park maintenance provided by City employees. This helps Kirkland to pay for maintenance from a non-general-fund source and keeps the finance and governance authority over parks with the residents of Finn Hill. However, this scenario is least preferable for the FHPD, as District residents are already taxing themselves for maintenance of their parks and Kirkland's level of service is perceived to be a higher-cost-model than current services from Total Landscape.
3. **City-operated, -financed and -maintained.** The District is dissolved, the District's levy goes away, and Kirkland must use general fund dollars to operate the District's properties. This is theoretically the best situation for the Park District as it represents the interim solution envisioned by Park District Commissioners until Kirkland annexation, but this situation brings no new money to pay for parks from the City of Kirkland's perspective. It is possible that the expiration of the levy offers some timeframe for transition of FHPD's assets to Kirkland. District dissolution is provided for in RCW 53.48 relating to port districts, which states that a district can be dissolved by petition of the majority of the board of commissioners as presented to the Superior Court of the County.

EXHIBIT 1: FINN HILL PARK DISTRICT



PARKS BY JURISDICTION:

- Finn Hill Park District Parks
- City of Kirkland Parks
- Other City Parks
- King County Regional or Other Parks
- State Parks

- Finn Hill Park District
- Potential Annexation Area
- Unincorporated King County

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CURRENT WEB PAGE CONTENT:**Kirkland's Potential Annexation Area**

Kirkland's potential annexation area has population of approximately 35,000 people and is commonly divided into three neighborhoods: Kingsgate, Upper Juanita, and Finn Hill. This area of approximately seven square miles extends north of the City to approximately NE 145th Street with Lake Washington as the western boundary and the Sammamish Valley as the eastern boundary. This area is largely residential, with approximately 13,000 dwelling units and 225 places of business.

To view a map of the Potential Annexation Area please [click here](#)

What is the Annexation Process?

Under state law, annexations may be initiated in three ways:

1. **Resolution for Election Method.** When the City Council determines that the best interests and general welfare of the city would be served by annexation of contiguous unincorporated territory, the City Council may, by resolution, call for an election to be held to submit the annexation question to voters of the annexation territory. The City pays the costs of the annexation election.
2. **Petition for Election Method.** A petition signed by 10% of the qualified electors residing in the annexation area is signed and filed with the City Council. The city Council then decides whether to approve or reject the proposed action. If approved, the question moved onto an election. Again, the city pays for the election.

In either of these two cases, one the resolution or petition is filed with the county annexation review board (the Boundary Review Board or BRB), and if the proposed annexation is contested by another jurisdiction or by citizens, a date is fixed for a public hearing by the BRB. If the Board holds a hearing, the city may make a brief presentation and petitioners and any resident of either the annexation area of the city may speak. The Boundary Review Board can approve the proposal or modify it, or disapprove it. If approved, or approved with modification, a special election date is set.

3. **Property Owner or Assessed Value Petition Method.** In this annexation method, initiating parties (owners of at least 10% of the assessed valuation of the proposed annexation area) notify the City Council of their intent to commence annexation proceedings. The City Council meets with the parties to determine whether the City will accept, reject, or geographically modify the proposed annexation. If the annexation area is accepted in the original or modified state, a petition for annexation is drawn up. If the petition is signed by owners of 60% or more of the assessed valuation of the area, a hearing is held and the City Council decides to effect the annexation by ordinance.

Annexation Links

Reports & Studies

Review Reports & Studies done by the city of Kirkland Regarding Annexation

Kathy Lambert Website

View King County Council Members website.

Washington State

Legislature Track bills regarding Annexation

Kirkland Annexation Q & A

Find more information regarding Annexation in Kirkland

Jane Hague Website

View King County Council Members website.

E-Mail Notifications

Sign up for Annexation Updates through your e-mail.

Survey Results Review the results of a 2005 poll of annexation area residents

Council Agenda Items Review the annexation issues that the City Council is reviewing