



CITY OF KIRKLAND
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MEMORANDUM

To: Dave Ramsay, City Manager
From: Marilynne Beard, Assistant City Manager
Date: August 25, 2009
Subject: POTENTIAL ANNEXATION UPDATE

RECOMMENDATION:

City Council receives an update on annexation work items and approves a letter to King County requesting transition funding.

BACKGROUND DISCUSSION:

The purpose of this memo is summarize activities that have taken place since the last update and to present additional information on four policy issues.

On July 9, 2009 the Boundary Review Board approved the City's annexation proposal. The time frame for filing an appeal to their decision in Superior Court ended on August 10, 2009 and no appeal was filed. At their July 21 meeting, the City Council approved a resolution requesting that the King County Council place a measure on the November 3 ballot regarding the question of annexation. At the July 21 meeting, the City Council also approved an ordinance establishing zoning for the annexation area which will be included as a component of the ballot measure in November. The City Council's request was approved by the King County Council at their July 27 meeting and so the measure will be placed on the November 3 ballot.

Committees were appointed to write pro and con statements for the annexation ballot measure which will appear in the voters' pamphlet. On August 4, Council reviewed the proposed explanatory statement for the voters' pamphlet. A number of annexation-related issues are being considered simultaneously to this process. Staff will be preparing an informational mailer for the annexation area residents providing information about the potential annexation. The mailer will be reviewed by legal staff and the Public Disclosure Commission before it is presented to the public.

The remainder of this memo will address four specific areas of study – fire and emergency medical service transition, provision of solid waste and recycling services in the PAA, further consideration of a possible effective date and a request to King County for transition funding.

Fire and Emergency Medical Transition

City staff is continuing to meet with the Woodinville Fire and Life Safety Fire District (WFLS) regarding a plan for service transition should the annexation be approved by voters. Two staff groups with representatives from the District and the City are meeting on a regular basis to identify service delivery options and related issues and to develop financial data that would be needed for an interlocal agreement. Staff from the City and WFLS jointly selected Berk and Associates to assist with development of financial information.

The District and the City are also engaged in a voluntary mediation process to facilitate discussion of the potential transition. Two mediation sessions were held, one on July 12 and another on August 17. In the interim, staff work continues on data development. Agreement was reached during mediation as to work products that would be completed before the next scheduled mediation session. The mediation services are being provided by the King County Dispute Resolution Center (DRC) under an existing interlocal agreement between the City and the DRC.

The City Council also requested information about the City's obligation under new legislation to maintain existing service levels in the PAA. The legislation cited is SSB 5808 which provides for an interlocal method of annexation, potential transfer of fire service employees from districts to the annexing city and provision for continuity of service levels during transition. The specific section related to maintenance of service levels in code cities is shown below:

*NEW SECTION. **Sec. 10.** A new section is added to chapter 35A.14 RCW to read as follows:*

(1) If any portion of a fire protection district is proposed for annexation to or incorporation into a code city, both the fire protection district and the code city shall jointly inform the employees of the fire protection district about hires, separations, terminations, and any other changes in employment that are a direct consequence of annexation or incorporation at the earliest reasonable opportunity.

(2) An eligible employee may transfer into the civil service system of the code city fire department by filing a written request with the code city civil service commission and by giving written notice of the request to the board of commissioners of the fire protection district. Upon receipt of the request by the civil service commission, the transfer of employment must be made. The needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in this section and RCW 35.10.360 and 35.10.370 shall head the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the code city fire department when appropriate positions become available. Employees who are not immediately hired by the code city shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies.

(3)(a) Upon transfer, an employee is entitled to the employee rights, benefits, and privileges to which he or she would have been entitled as an employee of the fire protection district, including rights to:

(i) Compensation at least equal to the level of compensation at the time of transfer, unless the employee's rank and duties have been reduced as a result of the transfer. If

the transferring employee is placed in a position with reduced rank and duties, the employee's compensation may be adjusted, but the adjustment may not result in a decrease of greater than fifty percent of the difference between the employee's compensation before the transfer and the compensation level for the position that the employee is transferred to;

(ii) Retirement, vacation, sick leave, and any other accrued benefit;

(iii) Promotion and service time accrual; and

(iv) The length or terms of probationary periods, including no requirement for an additional probationary period if one had been completed before the transfer date.

(b) (a) of this subsection does not apply if upon transfer an agreement for different terms of transfer is reached between the collective bargaining representatives of the transferring employees and the participating fire protection jurisdictions.

(4) If upon transfer, the transferring employee receives the rights, benefits, and privileges established under subsection

(3)(a)(i) through (iv) of this section, those rights, benefits, and privileges are subject to collective bargaining at the end of the current bargaining period for the jurisdiction to which the employee has transferred.

(5) Such bargaining must take into account the years of service the transferring employee accumulated before the transfer and must be treated as if those years of service occurred in the jurisdiction to which the employee has transferred.

NEW SECTION. Sec. 11. *A new section is added to chapter 35A.14 RCW to read as follows:*

Upon the written request of a fire protection district, code cities annexing territory under this chapter shall, prior to completing the annexation, issue a report regarding the likely effects that the annexation and any associated asset transfers may have upon the safety of residents within and outside the proposed annexation area. The report must address, but is not limited to, the provisions of fire protection and emergency medical services within and outside of the proposed annexation area. A fire protection district may only request a report under this section when at least five percent of the assessed valuation of the fire protection district will be annexed.

NEW SECTION. Sec. 12. *A new section is added to chapter 35A.92 RCW to read as follows:*

Code cities conducting annexations of all or part of fire protection districts shall, at least through the budget cycle, or the following budget cycle if the annexation occurs in the last half of the current budget cycle, in which the annexation occurs, maintain existing fire protection and emergency services response times in the newly annexed areas consistent with response times recorded prior to the annexation as defined in the previous annual report for the fire protection district and as reported in RCW 52.33.040. If the code city is unable to maintain these service levels in the newly annexed area, the transfer of firefighters from the annexed fire protection district as a direct result of the annexation must occur as outlined in section 10 of this act.

The legislation requires the City to continue to meet existing response times provided by the existing fire district through the term of the City's budget cycle or provide for a transfer of district employees. Practically speaking, the City has already agreed in principle to hiring any Woodinville firefighters that may be laid off as a result of the annexation. The number of new firefighters budgeted in the annexation model (9 FTE) is more than the number of firefighters

estimated by Woodinville to be impacted by the annexation (6-8 FTE). The City also plans to maintain or improve response times and several service delivery models are being explored with Woodinville to assure response times are met. Further interpretation has been requested from the Municipal Research and Services Center regarding the requirements of this new law.

The City has made every effort to maintain open lines of communications with the district to develop a workable and financially sustainable service transition recommendation. Woodinville district staff has been most helpful in these discussions and we anticipate continued productive planning efforts.

Solid Waste and Recycling Services

A staff subcommittee is working with the City's solid waste contractor regarding transition of solid waste disposal and recycling services. Transition of solid waste services is governed in part by State law as well as contractual provisions in agreements between the City and its waste hauler. There are a number of complex legal, operational and policy issues related to solid waste services.

- One of the policy issues relates to the prohibition against self-hauling garbage within the city limits (also called "mandatory garbage" because the prohibition effectively requires all residents and businesses to pay for solid waste and recycling services). Under King County, PAA residents are not required to subscribe to curbside pick-up but may self-haul to transfer stations. Approximately 10% of PAA residents currently self-haul.
- Another issue is the transition from the current hauler for the area (Allied Waste) and the City's exclusive waste hauler (Waste Management). There will be a need for the City's hauler to "ramp up" to provide service to the PAA including acquisition of new equipment, hiring new personnel and establishing new accounts.
- Finally, there is an issue regarding customer billing services and a decision as to whether the City wants to continue to bill for solid waste and recycling services on the bimonthly utility bill or have the solid waste contractor provide billing services for all City residents (both for the existing city customers and new PAA customers).

Prior to bringing a discussion and recommendation to the City Council, the staff needs to fully explore the legal and service ramifications of the City's policy choices with regard to solid waste service transition and better understand Waste Management's concerns about assuming responsibility for the area.

Effective Date of Annexation

At the June 16 Council study session, staff presented a discussion regarding possible effective dates for annexation. The two driving factors considered in the staff analysis were financial/cash flow impacts and the time frame needed to hire and train police officers to serve the area. If PAA residents vote to annex, the City Council is required to establish an effective date for annexation following the certification of the election results in late November or early December.

An additional factor raised by a resident of the PAA (Toby Nixon) relates to the impact on the eligibility of PAA residents to file for the City Council election. The June 16 study session focused on two possible effective dates – April 1 and July 1, 2011. Because the July 1 effective date creates a slightly better financial outcome, the Council indicated a preference for that date. Mr. Nixon asked for clarification with regard to the relationship between the effective date and the candidate filing period since 2011 will be a City Council election year. The filing period will be in early June. If the effective date is not until July 1, PAA residents will not be eligible to file for election. For this reason, Mr. Nixon asked City Council to reconsider its preferred effective date – changing it to April 1 – in order to allow PAA residents to be eligible to file for the 2011 City Council election.

Funding Request from King County

Several years ago, the City requested funding assistance from King County to help defray the transition costs of annexation. The County offered the City a total of \$1.5 million in County General Fund incentive funding, \$500,000 in street drainage funds and \$500,000 in Real Estate Excise Tax for parks capital needs. The annexation incentive fund of \$10 million has since been dispersed and any remaining amount was reappropriated for other purposes. Nonetheless, the City Council may still want to request assistance from King County to assist with transition services, projects or costs. Although the County's financial situation is dire, there may be uncommitted cash resources, particularly from special purpose (i.e. capital) funding sources that may be available. The attached draft letter includes a request for funding of pre-annexation costs as well as a request to complete all planned and funded capital projects in the PAA. After Council review, the letter (as edited) can be forwarded to King County. Any funding assistance would be secured through an interlocal agreement between the City and King County.

September 2, 2009

DRAFT

The Honorable Kurt Triplett
King County Executive
701 Fifth Avenue Ste 3210
Seattle, WA 98104

Dear Executive Triplett:

As you are aware, the Kirkland City Council has been actively pursuing the potential annexation of the three neighborhoods to our north. The City's potential annexation area (PAA) represents a major increase in population and land area and will require a significant investment of resources.

At their April 7, 2009 meeting, the City Council voted to proceed with filing an annexation proposal with the Boundary Review Board declaring our intent to annex Kirkland's PAA and on July 9, 2009 the Boundary Review Board approved the City's annexation proposal. At their July 21 meeting, the City Council approved a resolution requesting that the King County Council place a measure on the November 3 ballot regarding the question of annexation and the King County Council approved Kirkland's request.

With the decision to proceed with annexation vote, the City of Kirkland would like to request a financial offer letter outlining the County's commitment to provide assistance to Kirkland's annexation efforts. We cannot emphasize enough the importance of a partnership approach to the annexation issue. Kirkland's PAA is one of the largest remaining unincorporated urban areas in King County. The size and scope of Kirkland's PAA presents significant start-up and transition challenges. The City is undertaking a thorough operational planning effort to ensure a smooth transition, and we appreciate the continued assistance that your staff has provided during this planning phase. We will need the County as a strong financial partner if citizens in the PAA vote to proceed with annexation.

The City is aware of the County's financial challenges. Kirkland faces similar challenges. We understand that annexation of large unincorporated urban areas is one of the solutions to the County's budget problem. The City is looking for any kind of financial or in-kind assistance that can be provided during the transition phase of the annexation.

Infrastructure Funding Needs

Previously, the City identified over \$17.8 million in unfunded capital projects in the PAA that were of concern including road and surface water projects. Recognizing the County's current financial difficulties, the City understands that funding for all of these projects is unrealistic. We do believe that it is the County's responsibility to complete projects that are currently funded in the County's Capital Improvement Program. In light of the County's current plans to address some of these needs, we request confirmation of the County's commitment to complete its

currently funded transportation and surface water projects in the annexation area. The City requests assurance that these projects will be complete before the potential annexation date.

The City also requests consideration of providing capital funding from dedicated sources as a means to address future capital needs. Special purpose reserves such as impact fees, real estate excise tax, road funds and surface water reserves could be transferred to the City to the extent that those revenues were raised from the annexation area.

Transition Funding

In order to provide a smooth transition to service delivery in the annexation area, the City will need to begin hiring new staff prior to the effective date of annexation and prior to receiving revenue from the area. Some services will be phased in as resources become available to the City. However, public safety services are essential, and the City will be staffing up to be prepared to provide police service on the effective date of annexation. State annexation funding will be accessed to defray some of these costs; however, in order to maximize the availability of state funding, the City will need to be cautious about accessing the funds too quickly. Our 2010 funding need for Public Safety alone is \$1.33 million. We are requesting any assistance possible from King County to assist in the transition process including General Fund contributions and/or transfer of assets such as surplus properties that do not have operational.

As you know, the City Council carefully scrutinized this annexation because of the magnitude of the issues and its significance to the future of our community. The State of Washington is a critical partner in the annexation effort and the State's 10-year annexation financial assistance will help with essential transition funding if we move forward with annexation. We are hopeful that the County will be a financial partner in this mutual effort as well. Thank you for your consideration.

Sincerely,
Kirkland City Council

by James Lauinger, Mayor

cc: Metropolitan King County Councilmembers
ATTN: Thomas Bristow, Interim Chief of Staff
Saroja Reddy, Policy Staff Director
Anne Noris, Clerk of the Council
Frank Abe, Communications Director
Beth Goldberg, Deputy Director, Office of Management and Budget (OMB)
Elissa Benson, Deputy Director, Office of Strategic Planning and Performance
Management
Karen Freeman, Senior Policy Analyst
Dave Ramsay, City Manager
Marilynne Beard, Assistant City Manager