



CITY OF KIRKLAND

CITY COUNCIL

Joan McBride, Mayor • Penny Sweet, Deputy Mayor • Dave Asher • Jessica Greenway
Doreen Marchione • Bob Sternoff • Amy Walen • Kurt Triplett, City Manager

Vision Statement

*Kirkland is an attractive, vibrant, and inviting place to live, work and visit.
Our lakefront community is a destination for residents, employees and visitors.
Kirkland is a community with a small-town feel, retaining its sense of history,
while adjusting gracefully to changes in the twenty-first century.*

123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • TTY 425.587.3111 • www.ci.kirkland.wa.us

AGENDA

KIRKLAND CITY COUNCIL MEETING

City Council Chambers

Tuesday, October 19, 2010

6:00 p.m. – Study Session – Peter Kirk Room

7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.ci.kirkland.wa.us, or at the Public Resource Area at City Hall on the Friday afternoon prior to the City Council meeting. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (587-3190) or the City Manager's Office (587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 587-3190, or for TTY service call 587-3111 (by noon on Monday) if we can be of assistance. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION, Peter Kirk Room*
 - a. Debt Issuance
4. *EXECUTIVE SESSION*
 - a. To Discuss Labor Negotiations
5. *HONORS AND PROCLAMATIONS*
 - a. Lori Bennett and Mike Reardon – Thirty Year Service Awards
 - b. Arbor Day Proclamation
 - c. City of Kirkland Debt Management Policy Certification
6. *COMMUNICATIONS*
 - a. *Announcements*
 - b. *Items from the Audience*
 - c. *Petitions*

EXECUTIVE SESSIONS may be held by the City Council to discuss matters where confidentiality is required for the public interest, including buying and selling property, certain personnel issues, and lawsuits. An executive session is the only type of Council meeting permitted by law to be closed to the public and news media

ITEMS FROM THE AUDIENCE provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

7. *SPECIAL PRESENTATIONS*

- a. Kirkland Performance Center Annual Report

8. *CONSENT CALENDAR*

- a. *Approval of Minutes:* (1) October 5, 2010
(2) October 6, 2010

- b. *Audit of Accounts:*
 - Payroll* \$
 - Bills* \$

c. *General Correspondence*

d. *Claims*

- (1) David Russell Myrland

e. *Award of Bids*

f. *Acceptance of Public Improvements and Establishing Lien Period*

g. *Approval of Agreements*

h. *Other Items of Business*

- (1) Resolution R-4841, Approving the City of Kirkland’s Allocation for the North East King County Regional Public Safety Communications Agency (NORCOM) Budget
- (2) Procurement Report

9. *PUBLIC HEARINGS*

- a. Sewer Comprehensive Plan Update

10. *UNFINISHED BUSINESS*

- a. Annexation Quarterly Update 3

11. *NEW BUSINESS*

12. *REPORTS*

a. *City Council*

- (1) Regional Issues

GENERAL CORRESPONDENCE

Letters of a general nature (complaints, requests for service, etc.) are submitted to the Council with a staff recommendation. Letters relating to quasi-judicial matters (including land use public hearings) are also listed on the agenda. Copies of the letters are placed in the hearing file and then presented to the Council at the time the matter is officially brought to the Council for a decision.

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City’s official newspaper.

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

NEW BUSINESS consists of items which have not previously been reviewed by the Council, and which may require discussion and policy direction from the Council.

ITEMS FROM THE AUDIENCE

Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority. All other limitations as to time, number of speakers, quasi-judicial matters, and public hearings discussed above shall apply.

b. City Manager

(1) Calendar Update

13. ITEMS FROM THE AUDIENCE

14. ADJOURNMENT

**CITY OF KIRKLAND****Department of Finance & Administration****123 Fifth Avenue, Kirkland, WA 98033 425.587.3100****www.ci.kirkland.wa.us**

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracey Dunlap, Director of Finance and Administration
Michael Olson, Deputy Director

Date: October 7, 2010

Subject: Debt Issuance Introduction

Background

In preparation for debt issuance for the City's upcoming facilities projects, a Request for Proposals (RFP) for Financial Advisory Services was conducted to select a Financial Advisor. The primary role of the Financial advisor is to support the debt issuance activity of the City including making recommendations on the timing, sizing, maturity schedules, call provisions and other details of bond issues and reviewing and making appropriate recommendations on all ordinances, official statements, and other documents necessary for debt issuance.

The City received 5 responses to the RFP which closed on September 8, 2010. Three firms were selected for interviews which concluded on October 4, 2010. SDM Advisors Incorporated was selected based on their extensive experience in public finance, experience and familiarity with the City of Kirkland, and their availability and ability to support Kirkland through the upcoming debt issuances.

SDM Advisors noted in initial communications that the City might have the opportunity to reduce its borrowing cost significantly by accelerating the proposed financing to 2010, and using the current Build America Bond program with the 35% interest subsidy for taxable bonds.

If the financing size approaches \$40 million, the net present value benefit to the City could exceed \$1 million. Note that this number is subject to change based on the relative movements in the tax-exempt and taxable bond markets, and depending on the call provisions selected by the City. Another factor inherent in the estimate of benefit is whether the Build America Bond program is extended into 2011, and the level of interest subsidy provided through any extension.

Issuance of bonds before the end of 2010 will require a strong commitment on the part of the City Council, staff and the City's financing team. SDM Advisors have proposed the following timeline to accomplish a bond issuance before the end of 2010, taking advantage of the current economic environment and the Build America Bond program.

Key Steps in Time and Responsibility Schedule

SDM Advisors has provided the following preliminary schedule to accomplish a bond sale before the end of 2010:

<u>DATE</u>	<u>ACTIVITY</u>
10/19	City Council Study Session – Council briefing
10/20	Release invitation for underwriter interviews
10/20	Draft Preliminary Official Statement (POS) distributed for review
10/27	Comment on draft POS provided by financing team
11/1	City Council briefing
11/4-5	Underwriter interviews
11/8	Bond ratings requested
11/8-9	Selection of underwriter(s)
11/16 ⁽¹⁾	City Council approval of Bond Resolution
Wk of 11/15	Bond rating update calls
Wk of 12/6 ⁽²⁾	Bond pricing
Wk of 12/20	Bond closing

⁽¹⁾ The Bond Ordinance may take a form that provides for delegation of sale activities to the City Manager, Director of Finance and Administration or others, with or without consultation with the Finance Committee or others. This would provide greater flexibility relative to selection of market timing.

⁽²⁾ The bond pricing date will be determined in consultation with the City's underwriter, based on overall supply and timing of bond issuance and other market activity. It is anticipated that the weeks of 11/15 and 11/22 will be crowded with bond issuance in Washington and nationally. Additionally, there are two large State of California transactions expected to be sold in November, which could impact schedules.

Fred Eoff and Susan Musselman from SDM Advisors will present an overview of the bond issuance process at the Study Session on October 19.



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager
From: Tracey Dunlap, Director of Finance and Administration
Date: October 7, 2010
Subject: Lori Bennett and Mike Reardon 30 Year Service Awards

We would like to honor and appreciate two members of the Finance and Administration team with a 30 Year Service Award. Both Lori Bennett and Mike Reardon joined the City of Kirkland in 1980 and have served in a variety of locations and capacities. They currently share their dedication and wealth of City knowledge in the accounting division.

Lori started her career as the cashier for the City following her graduation from Juanita High School. Additionally, Lori has handled millions of dollars of City funds as she paid all City invoices for over 9 years. More recently, she has taken on the treasury and banking functions, ensuring that the City always has funds to pay the vendors and, more importantly, the payroll. Lori is a pleasure to work with and as a lifetime resident of Kirkland she always has the inside scoop on what's happening in the City. She embraces the "Kirkland First" initiative and is often found shopping and playing in Kirkland. We appreciate her sense of humor, dedication, and willingness to take on new challenges within the department.

Mike started his career as the Senior Accountant in the Public Works department. After 27 years and four Directors, he physically relocated to the Finance and Administration Department, but continued his oversight of utilities accounting. When initially hired, City Hall was located on Central Way. When a desk was not available, Mike's first workspace was located inside the unused bank vault. Although Mike has only been with our department a few years, we have truly enjoyed having him as part of our team. He has been devoted to the City utilities and Public Works financial oversight for all of the 30 years he has been at the City. He has been integral to all aspects of financial reporting, audits, and budgeting for the Public Works Department. With the completion of his 30 years of service, Mike is retiring on October 29th. We are excited for Mike as he transitions to something other than "bean counting". He is looking forward to spending time with his lovely wife, Sherry and taking on projects on their farm. We wish Mike all the best as we extend a heartfelt "thanks" to him as he retires. He will be missed.



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager
From: Deb Powers, Urban Forester
Date: October 19, 2010
Subject: Kirkland Arbor Day 2010 Proclamation and Invitation

RECOMMENDATION

Approve attached proclamation.

BACKGROUND

Attached is the proclamation declaring **Saturday, November 13, 2010** as Arbor Day in the City of Kirkland. The Mayor, City Council and the public are invited to attend a natural area restoration planting and commemorative tree planting ceremony in Juanita Bay Park from 9am to noon.

The event is being co-hosted by the City of Kirkland and the Green Kirkland Partnership. Participants and volunteers are welcome to join the Green Kirkland Partnership in planting native trees and shrubs in areas of Juanita Bay Park that have been previously cleared of invasive vegetation. The Arbor Day festivities conclude at noon with Kirkland Mayor Joan McBride planting a native tree to celebrate Arbor Day.

This proclamation, along with the Arbor Day Ceremony, will fulfill one of the four standards required for Kirkland to become a Tree City USA for the Year 2010. The Tree City USA designation from the National Arbor Day Foundation requires annual renewal in order to show that the City has met all four standards:

1. Urban forest budget of at least \$2 per capita
2. An urban forestry board or related body
3. Tree regulation
4. Proclamation and celebration of Arbor Day.

Arbor Day 2010 will provide the criteria for Kirkland's 9th consecutive year as Tree City USA.

cc: Sharon Rodman
Paul Stewart



A PROCLAMATION OF THE CITY OF KIRKLAND

Designating November 13, 2010 as Kirkland Arbor Day

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this celebration, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Washington, the "Evergreen State," has celebrated Arbor Day since 1917; and

WHEREAS, trees provide recreational benefit, moderate the temperature, clean the air, produce oxygen, provide habitat for wildlife, and minimize the adverse impacts of impervious surfaces thus reducing the public and private costs for stormwater management; and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community which improves the quality of life; and

WHEREAS, trees wherever planted in Kirkland can be enjoyed by citizens and visitors, making Kirkland the place to be; and

WHEREAS, Kirkland received its 8th consecutive Tree City USA award from the National Arbor Day Foundation in 2009; and

WHEREAS, Kirkland's Arbor Day is a ceremony with the Green Kirkland Partnership to plant a native tree in Juanita Bay Park on Saturday, November 13, 2010, at noon in honor of the City of Kirkland's commitment to urban forestry and native areas restoration;

NOW THEREFORE, I, Joan McBride, Mayor of Kirkland, do hereby proclaim November 13, 2010 as Kirkland Arbor Day and urge all citizens to celebrate Arbor Day by planting a tree, to support the City's efforts to care for our trees and woodlands, and to support our community forestry program.

Signed this 19th day of October, 2010

Joan McBride, Mayor



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracey Dunlap, Director of Finance and Administration
Michael Olson, Deputy Director

Date: October 6, 2010

Subject: City of Kirkland Debt Management Policy Certification

The City of Kirkland was formally recognized for having its Debt Policy certified by the Association of Public Treasurers of the United States and Canada (APT US&C) and was honored at the APT US&C's 45th Annual Conference in Charleston, South Carolina in July 2010.

APT US&C's Debt Policy Certification Program was established five years ago to guide governments in effective preparation of comprehensive capital financing policies. The main purpose is to provide finance officers and other practitioners with objective assistance in policy formulation. It also focuses on development and implementation of policy guidelines that address the unique needs and concerns of each jurisdiction. The City of Kirkland was one of two agencies awarded certification this year.

A debt policy is only certified when the Association's Debt Policy Certification Review Team acknowledges that the policy has successfully met all the criteria – including consistency with the governmental entity's legal authority, and appropriateness for the policy's capital funding objectives. Certification is viewed favorably by the bond rating agencies and that the certification process ensures that the policy reflects current best practices as well as subjecting the policy to an external review.



CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett

From: Carrie Hite, Deputy Director
Jennifer Schroder, Director

Date: October 7, 2010

Subject: Council presentation: Kirkland Performance Center

RECOMMENDATION:

For the City Council to receive a presentation on the Kirkland Performance Center operations by Executive Director, Dan Mayer.

BACKGROUND DISCUSSION:

Attached is the annual report from Dan Mayer, list of the Board of Directors, and the 2010 operating budget to date.

On 2008, the City renewed the 10 year lease with Kirkland Performance Center (KPC) for operations of the performance center. The City contributes to the operations of Kirkland Performance Center in several ways.

First, as the landlord of the facility, the City has certain obligations with respect to the infrastructure of the building. These obligations are primarily limited to maintaining the facility's HVAC system and freight elevator, as well as the testing and repair of the theater's fire suppression system. The City also incurs costs related to property insurance. At the present time, the total annual costs to the City as landlord are about \$20,000 per year plus a set aside (\$45K - \$65K) depending on specific capital projects. This year the city will spend approximately \$56,000 on capital (painting).

Secondly, the City returns to KPC all funds derived from the admission tax collected from KPC ticket sales. This was granted for the first five years of the new lease agreement. In 2007, the City returned almost \$40,000; in 2008, it totaled \$45,974.00; in 2009, the total was \$28,002. For 2010, the City is projecting to return \$32,000.

Thirdly, the City allocates one time funds each year to assist in the operations and maintenance costs. The City has a history of contributing one time funds of \$50,000 for the years 2004-2009. In 2010, this amount was reduced to \$34,000. KPC will be requesting financial support from City Council again this year.

The fourth way the City contributes is by providing the lease to KPC rent free. In the initial lease, the consideration of value of Kirkland Performance Center's contributions to the development of the performing arts, to maintain and operate the building, was value enough to waive any rent requirement. This was extended to the second ten year lease.

Attachment A is the annual report from Dan Mayer. Attachment B is a list of the Board of Directors. Attachment C is the 2010 operating budget to date.



October 7, 2010

Mayor Joan McBride and the Kirkland City Council
City of Kirkland
123 Fifth Ave.
Kirkland, WA 98033

Dear Mayor McBride and City Council Members:

On behalf of myself as Executive Director and our whole Board of Directors, thank you for the opportunity to present our annual update to you on Kirkland Performance Center. This has been a year of tremendous change for our theatre and organization. In February of 2010, I was proud to accept the position of Executive Director of KPC after serving as Interim Executive Director for just over a year. I am thrilled to lead this organization and work in service of its mission; the performing arts matter, now more than ever, and KPC has a track record of serving our community with innovation, collaboration, and inclusion.

The past two years have been challenging for non-profits and governments across the United States. Many arts organizations have not survived. Kirkland Performance Center, buoyed by the dedication of its Board of Directors, has weathered the storm, and, with continued support from the City of Kirkland, is ready to turn the corner and begin a bold new decade of performing arts programming. Attendance is up, expenses are down, and permanent leadership is in place.

Retrospective on our 2009-2010 Season

It has never been clearer to our organization that our community values the performing arts, even in tough economic times. Attendance at KPC's Presented Shows increased by 9% overall during our 2009-2010 Season, even though there were fewer performances. People are turning to the arts for edification, enlightenment, and entertainment, now more than ever. Although funding continues to be a challenge for KPC, this consistent and emphatic vote of confidence from our constituents gives us faith that this work is worth doing.

The recent 2009-2010 Season featured many highlights including:

- One of the world's top fingerstyle, steel-string guitarists, Grammy nominee Alex de Grassi
- *In The Mood* returned to KPC to present a retro 1940's musical featuring singers, dancers, and the sensational String of Pearls Big Band Orchestra.
- Kirkland native Jake Bergevin lead the Javatown Swing Orchestra through his latest work featuring moody jazz ballads and bossa novas.

- Kronos Quartet, who have single-handedly redefined chamber music and led the field with over 600 new compositions and collaborations internationally
- Grammy Award winning singer/songwriter/pianist Marc Cohn
- Former members of King Crimson Trey Gunn and Pat Mastelotto
- And, a Musical Conversation with Philip Glass, one of the most influential composers and musicians of the 20th Century

Our Upcoming 2010 - 2011 Season

KPC has been working in our community to provide amazing performances for over ten years, and we know we've accomplished a lot, but what's so exciting about being here is that we still have so many possibilities in front of us. During our 2010 – 2011 Season, you can expect a fresh focus on music. KPC's acoustics are like none other in the Northwest. That's why this year we're bringing more music than ever before while still maintaining the diversity of programming that has been our hallmark since 1998.

The upcoming 2010 – 2011 Season features many highlights including:

- Globally recognized trumpeter and *The Tonight Show's* bandleader for thirty years, Doc Severinsen & El Ritmo de la Vida
- African composer and performer Alpha Yaya Diallo
- Oregon artists Hanz Araki & The Celtic Conspiracy will perform a non-traditional holiday performance celebrating the Winter Solstice
- Harmonica master Lee Oskar and his band will blow the roof off our theatre with their artistic styling and musical innovation.
- American Idol contestant Melinda Doolittle singing classic rhythm and blues.
- The spectacular feats of athleticism and jaw-dropping tricks of Chinese Acrobats of Hebei
- And, the eccentric and mysterious blues legend Leon Redbone.

Partnerships with Local Arts Organizations

One of the tenets of KPC's mission is to provide a home for other Eastside and regional arts organizations. We have also continued to maintain strong relationships with the local and regional arts community by providing a high quality venue and professional support services, allowing a dozen producing partner companies to present their work in our theatre. Partners appearing over the past year include:

- Seattle International Film Festival (SIFF)
- Kirkland-based Studio East's StoryBook Theater
- Seattle Repertory Jazz Orchestra
- Jim French's Imagination Theatre
- Lyric Light Opera
- Master Chorus Eastside
- Washington Wind Symphony

Our partnership with SIFF is growing in size and depth with each successive Season. New aspects to this past Season included a SIFF Eastside Opening Night, partnership with the Russian Community Support Group around Russian-language films, and 35-mm projection which increased the range of films presented. Attendance this past June was up over 2009 and we have a tentative commitment that SIFF will be back for June 2011.

Our partnership with Kirkland Arts Center was particularly successful in identifying shared efficiencies and collaborative programming opportunities. In addition to sharing a Marketing / PR staffer for the duration of the 2009-2010 Season, we also team up with visual art classes that accompanied two of our featured artists: Caribbean Garifuna singers and musicians *Umalali* and multi-media guitarist Trey Gunn.

Charitable Partnerships

Every year since our founding, KPC has provided free marketing, box office services, web-based ticketing, theatre equipment and technical expertise to non-profits who use our facilities. These services are highly professionalized and will likely be unavailable to our partner charities if eliminated.

To date in 2010, KPC has provided professional assistance to: Holy Family Academy, Evergreen Healthcare, City of Kirkland Teen Union, Srimanira, Russian Community Support Group, Northwest Chopin Society, A.G. Bell Elementary, Northwest Aerials Gymnastics and Dance, Sankara Eye Foundation, Christ Church Academy of Kirkland, Beni Hassan Shriners, Pacific Islamic Community Center, and many more. As demonstrated by this list, KPC's presence in the community is leveraged to create important public benefit for a diverse spectrum of stakeholders. Direct support of KPC is also indirect support of all our partner charities with services that are not available elsewhere.

Education Programs

As part of its organizational mission, Kirkland Performance Center provides discounted matinee tickets for Eastside school children, with even greater discounts for those on free and reduced lunch programs. Subsidized by KPC's "Field Trip Fund" and operating cash, these performances by national and international presented artists fill a true educational gap in our community; there is no equivalent professional program in the Kirkland area. During our 2010-2011 Season, KPC will offer student matinee performances by The Chinese Acrobats of Hebei, Seattle Shakespeare Theatre's *Romeo and Juliet*, and Ugandan flautist and educator Samite.

Additionally, Kirkland Performance Center has served more than 22,000 students since 2001 through our in-school residency program, *A World of Arts*. This program brings presented artists to predominately Eastside schools for on-site performance and in-depth workshop experiences. KPC believes that these face-to-face interactions with working artists offer students a rare view into the world of a professional artist, often for the first time in their lives, which in turn, can increase their understanding of their world in general.

During the 2009-2010 Season alone, KPC served more than 2,000 students and presented three groups as part of the *World of Arts* program, and provided more than 800 young people with matinee tickets.

Financial Report

Audited financial statements for our 2009 fiscal year are currently being finalized and should be available for distribution by the beginning of November. While we anticipate a net deficit for 2009, the “silver lining” is that the FY2009 deficit will be only half as large as the devastating loss we experienced in FY2008. We are acutely aware of these deficits and have continued to take steps to address the economic realities that we currently face. KPC will survive this recession by decreasing expenses and realizing new sources of revenue.

The current year has proven to be very challenging for KPC financially, as it has been for many non-profit organizations in the region. With three months to go in the fiscal year, we are confident that we will end the year with positive, though very small, net operating income. The summer months have been difficult because we were closed for the recent repainting project and there was no rental income. We are hopeful that strong ticket sales this Fall combined with a successful Gala at the end of October and a robust year end giving campaign will improve our net profit margin from this summer and return us to a balanced budget by year end. We are cautiously optimistic that we are on the road to better financial health and the increased attendance figures last Spring and the incremental increases in donated income will continue. Attached is an unaudited Statement of Activities for January 1 – August 30, 2010 and 2009.

Board

KPC is proud of its growing and diverse Board of Directors. Headed by Board President Lauret Ballsun, this group of 27 dedicated community leaders is very active in overseeing the financial, fundraising and operational activities of the organization. This has been a very active year for board recruitment with ten new board members joining our board since January 2010. It is a diverse group of professionals that represent a wide range of backgrounds and skills.

What this group shares is a passion for the performing arts and a dedication to support KPC and its programs. During the last six months, we have reconstituted our Resource Development Committee and recruited a Strategic Planning Committee that will work with staff to develop a long range plan for the organization’s future. Also, this year we have had a very active Special Event Committee that has worked tirelessly planning our upcoming auction and gala on October 30th at the Hyatt Regency Bellevue.

A roster of Board Members is attached.

City Support / Conclusion

The operational support that the City of Kirkland has steadfastly provided to Kirkland Performance Center has been a major reason why our organization has remained strong over the past twelve years. As stated previously, despite tremendous support and attendance from our constituency of patrons, contributed income remains a challenge for our organization, and the City of Kirkland’s operational support is more important now than it has ever been.

Last year we reported to the City Council at a time of great challenges and uncertainty for KPC. We have new leadership and are building a new vision of how we can best serve the community for the future. We have begun strategic planning that does not assume “business as usual” but rather seeking how we can build on the track record of service that KPC has in the community and strives

to serve even more people and continue to be a vital hub for entertainment, economic development, and inspiration for the entire region.

Thanks for all you have done for our theatre and organization, and we look forward to many years ahead of a successful partnership with the City of Kirkland.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Y. Mayer", with a long horizontal flourish extending to the right.

Daniel Y. Mayer
Executive Director

enclosures

**KIRKLAND PERFORMANCE CENTER
2010 Board of Directors**

Officers

President

Lauret Ballsun

President, LBC Pharmaceutical Professionals, LLC

Immediate Past President

Cindy Zech

Community Leader

President Elect

Jeffrey Twersky

Partner, Miller Kadish

Vice President

Kristin Olson

Shareholder, O'Shea Barnard Martin & Olson PS

Treasurer

Mike Nelson

Vice President, Union Bank

Secretary

Dodi Briscoe

Career Coach

Officers At-Large

Doreen Marchione

Councilwoman, City of Kirkland

Susan Raunig

Community Leader

Elsa Steele

Managing Librarian, Kirkland Library

Mike Ward

Sr. Director Intellectual Property Microsoft

Members

David Alskog

Partner, Livengood, Fitzgerald & Alskog

Matthew C. Bueser

Director – 737 Program Business Operations, The Boeing Company

Jeff Cole

Director of Corporate Real Estate

David Feller

*Senior Vice President, Investments
Wells Fargo Advisors*

G.G. Getz

Broker, Windermere Real Estate

Stephen L. Gomes

COO, Creative Motion Control Inc.

Kevin Harrang

Director, Business Development MetaJure, Inc.

Kevin M. Hughes

Government Relations, Hughes and Associates

Srivani Jade

Musician

Ben Lee

Senior Project Manager, The Boeing Company

David Mangone

Partner, WattsMedia

Lee Oskar

President, Lee Oskar Productions

Joyce Paul

Artistic Director, Arpan

Gary Reilly

Engineer, Microsoft

Deborah Rice

Owner, Direct Mailing Solutions

Bill Schultheis

Investment Counselor

Annette Seats

Community Leader

Beth M. Strosky

Attorney, Housing Justice Project, KCBA

Attachment C
Kirkland Performance Center
2010 Statement of Activities
(YTD Comparison to 2009)
for the period Jan 01, 2010 through Aug 30, 2010

	2010	2009	Variance	% Change
Income				
Earned Income				
Facility Rental Fees	125,784	120,503	5,281	4%
Ticket Sales	178,844	197,258	(18,415)	-9%
Box Office Fees and Services	34,742	33,220	1,523	5%
Concession Sales	19,752	14,265	5,487	38%
Other Misc Income	9,252	25,784	(16,532)	-64%
Earned Income	368,373	391,029	(22,656)	-6%
Contributed Support				
Individuals	197,418	146,233	51,185	35%
Corporate	36,234	29,883	6,351	21%
Foundation	8,051	29,083	(21,032)	-72%
Government	71,273	70,876	397	1%
Other Donated Support	7,845	28,079	(20,233)	-72%
Total Contributed Support	320,821	304,153	16,668	5%
Total Income	689,194	695,182	(5,988)	-1%
Expense				
Personnel	358,132	355,171	2,960	1%
General Administrative	71,783	70,516	1,267	2%
Marketing	67,781	86,805	(19,024)	-22%
Presenting Expense	166,157	244,041	(77,884)	-32%
Theater Operations	66,662	58,668	7,995	14%
Fundraising	6,660	13,648	(6,989)	-51%
Other Misc Expenses	1,966	545	1,421	261%
Total Expense	739,141	829,395	(90,254)	-11%
Net Operating Income	(49,946)	(134,213)	84,267	63%



KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
October 05, 2010

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:

Members Present: Councilmember Dave Asher, Councilmember Jessica Greenway,
Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember
Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Members Absent: None.

3. STUDY SESSION

a. Totem Lake Symposium Debrief

Joining Councilmembers for this discussion in addition to City Manager Kurt Triplett were Economic Development Manager Ellen Miller-Wolfe, Director of Planning and Community Development Eric Shields and Interim Public Works Director Ray Steiger.

4. EXECUTIVE SESSION

None.

5. HONORS AND PROCLAMATIONS

Councilmember Greenway recognized audience member Matt Strausberg whose attendance was a step toward earning a final merit badge for Eagle Scout status.

a. Walk Your Child to School Week

Mayor McBride and Councilmember Asher presented the proclamation to Chris Williamson and Amanda Maggiora, volunteer coordinators from Ben Franklin Elementary School.

6. PUBLIC HEARINGS

a. Resolution R-4838, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S SUPPORT FOR PROPOSITION NO. 1, SALES AND USE TAX FOR CRIMINAL JUSTICE, FIRE PROTECTION, AND OTHER GOVERNMENT PURPOSES."

Mayor McBride opened the public hearing. Following a review of the proposition by Intergovernmental Relations Manager Erin Leonhart, testimony was provided

by: Richard McDermott, Dan Satterberg and Stephanie Knightlinger. No further testimony was offered and the Mayor closed the hearing.

(1) Proposition No. 1 Sales and Use Tax for Criminal Justice, Fire Protection, and Other Government Purposes

The Metropolitan King County Council adopted Ordinance 16899 concerning funding for criminal justice, fire protection, and other government purposes. This proposition would authorize King County to fix and impose an additional sales and uses tax of 0.2%, split between the county (60%) and cities (40%). At least one-third of all proceeds shall be used for criminal justice or fire protection purposes. County proceeds shall be used for criminal justice purposes, such as police protection, and the replacement of capital facilities for juvenile justice. The duration of the additional sales and use tax will be as provided in section 6 of Ordinance 16899. Should this proposition be: Approved _____ Rejected _____

Motion to approve Resolution R-4838, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S SUPPORT FOR PROPOSITION NO. 1, SALES AND USE TAX FOR CRIMINAL JUSTICE, FIRE PROTECTION, AND OTHER GOVERNMENT PURPOSES."

Moved by Councilmember Dave Asher, seconded by Councilmember Doreen Marchione

Vote: Motion carried 4-3

Yes: Councilmember Doreen Marchione, Councilmember Dave Asher, Councilmember Jessica Greenway, and Mayor Joan McBride.

No: Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

- b. Resolution R-4839, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S OPPOSITION TO INITIATIVE 1053 ON THE NOVEMBER 2, 2010, GENERAL ELECTION BALLOT."

Mayor McBride opened the public hearing. Intergovernmental Relations Manager Erin Leonhart reviewed the initiative. No further testimony was offered and the Mayor closed the hearing.

(1) Initiative Measure No. 1053 Initiative Measure No. 1053 concerns tax and fee increases imposed by state government. This measure would restate existing statutory requirements that legislative actions raising taxes must be approved by two-thirds legislative majorities or receive voter approval, and that new or increased fees require majority legislative approval. Should this measure be enacted into law? _____ Yes _____ No

Motion to Approve Resolution R-4839, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S

OPPOSITION TO INITIATIVE 1053 ON THE NOVEMBER 2, 2010, GENERAL ELECTION BALLOT."

Moved by Councilmember Dave Asher, seconded by Deputy Mayor Penny Sweet
Vote: Motion carried 5-2

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, and Deputy Mayor Penny Sweet.

No: Councilmember Bob Sternoff, and Councilmember Amy Walen.

7. COMMUNICATIONS

- a. Announcements
- b. Items from the Audience

Terrie Fletcher
Dr. Chip Kimball

- c. Petitions

8. SPECIAL PRESENTATIONS

- a. Senior Council Presentation

Members of the Senior Council including Chair Penny Kahn, Stuart Ostfeld, Rich Allen, Kathy Iverson, Carolyn Kelso and Dave Wager, shared information regarding their activities.

- b. Green Tips

Surface and Wastewater Manager Bobbi Wallace encouraged participation in the City's Adopt a Storm Drain program.

9. CONSENT CALENDAR

- a. Approval of Minutes: September 21, 2010

- b. Audit of Accounts:
Payroll \$2,027,615.70
Bills \$1,614,839.83
run # 951 checks # 520250 - 520259
run # 952 checks # 520260 - 520421
run # 953 checks # 520422 - 520466
run # 954 checks # 520468 - 520601

- c. General Correspondence
- d. Claims

- e. Award of Bids
- f. Acceptance of Public Improvements and Establishing Lien Period
- g. Approval of Agreements
- h. Other Items of Business

(1) Sewer Comprehensive Plan Update - Set Public Hearing Date

October 19, 2010 was set as the public hearing date.

(2) Property Acquisition

A purchase and sale agreement entered into on September 17, 2010 between Jill Glaser, trustee of the Beach Family Trust, and the City of Kirkland in the amount of \$225,000 for the purchase of a single parcel (123850-0575-06) of 2.58 acres contiguous to Forbes Lake Park, was ratified.

Motion to Approve the Consent Calendar

Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

10. UNFINISHED BUSINESS

- a. Resolution R-4840, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A SELF FUNDED MEDICAL PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH A THIRD PARTY ADMINISTRATOR AND OTHER PROVIDERS NEEDED TO OPERATE THE PLAN AND THE FUND TO BE CREATED TO FINANCE THE PLAN. "

Finance and Administration Director Tracey Dunlap and Human Resources Director Bill Kenny shared updated information and responded to Council questions and comment.

Motion to Approve Resolution R-4840, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A SELF FUNDED MEDICAL PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH A THIRD PARTY ADMINISTRATOR AND OTHER PROVIDERS NEEDED TO OPERATE THE PLAN AND THE FUND TO BE CREATED TO FINANCE THE PLAN. "

Moved by Councilmember Jessica Greenway, seconded by Councilmember Amy Walen

Vote: Motion carried 6-1

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.
No: Councilmember Bob Sternoff.

Council recessed for a short break.

b. Eastside Rail Corridor Update

Transportation Engineering Manager Dave Godfrey provided an update on the public process and next steps for the development of an interest statement by the Transportation Commission about the future development of the Corridor.

11. NEW BUSINESS

a. SR 520 Tolling - Washington State Department of Transportation Presentation

Washington State Department of Transportation Toll Division Director Craig Stone gave a presentation on SR 520 Tolling and its potential impacts on Kirkland.

b. Council Procedures - Boards and Commissions

City Clerk Kathi Anderson reviewed the issues for Council discussion and received direction to come back at a future meeting with a resolution incorporating Council input to amend the procedures.

c. Planning Commission Appointment

Motion to appoint Glenn Peterson to the remainder of an unexpired term ending March 31, 2011 on the Planning Commission.

Moved by Councilmember Dave Asher, seconded by Councilmember Bob Sternoff
Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

12. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding the recent All City Board and Commissions dinner; Roger Goodman's address at the Regional Law, Safety and Justice Committee meeting; Eastside Time Bank; Juanita Neighborhood meeting; Puget Sound Regional Council Executive Board actions on SR 520; GE residential high speed car charger/watt station; Neighborhood Food Drive; Mayor's Field Trip in Snoqualmie

Valley with Bill Knudsen, King Conservation District Chair.

b. City Manager

(1) Calendar Update

Council agreed to reschedule the December 21, 2010 meeting to December 14th, and to cancel it if not needed.

13. ITEMS FROM THE AUDIENCE

None.

14. ADJOURNMENT

The Kirkland City Council regular meeting of October 5, 2010 was adjourned at 10:15 p.m.

City Clerk

Mayor

CITY OF KIRKLAND CITY COUNCIL

Council Meeting: 10/19/2010
Agenda: Approval of Minutes
Item #: 8. a. (2).



Joan McBride, Mayor • Penny Sweet, Deputy Mayor • Dave Asher • Jessica Greenway
Doreen Marchione • Bob Sternoff • Amy Walen • Kurt Triplett, City Manager

Vision Statement

*Kirkland is an attractive, vibrant, and inviting place to live, work and visit.
Our lakefront community is a destination for residents, employees and visitors.
Kirkland is a community with a small-town feel, retaining its sense of history,
while adjusting gracefully to changes in the twenty-first century.*

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AGENDA KIRKLAND CITY COUNCIL NORKIRK NEIGHBORHOOD SPECIAL COUNCIL MEETING

**Heritage Hall
203 Market Street**

**Wednesday, October 6, 2010
7:00 – 9:00 p.m.**

- | | |
|------------------|---|
| 6:45 – 7:00 p.m. | 1. Informal Casual Conversations |
| 7:00 – 7:05 p.m. | 2. Welcome and Introduction – Mayor Joan McBride |
| 7:05 – 7:10 p.m. | 3. Comments from the Neighborhood Association Board |
| 7:10 – 7:30 p.m. | 4. Introductions from City Council Members |
| 7:30 – 8:45 p.m. | 5. General Discussion and Questions from the Audience |
| 8:45 p.m. | 6. Adjourn |
| 8:45 – 9:00 p.m. | 7. Social Time |

Mayor Joan McBride called the October 6, 2010 Kirkland City Council Special Meeting to order at 7:05 p.m. The following members of the City Council were present: Mayor Joan McBride, Councilmembers Dave Asher, Jessica Greenway, Doreen Marchione, Bob Sternoff, and Amy Walen. Deputy Mayor Penny Sweet was excused.

The Kirkland City Council Special Meeting was adjourned at 8:45 p.m.

City Clerk

Mayor



CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager
From: Kathi Anderson, City Clerk
Date: October 7, 2010
Subject: CLAIM(S) FOR DAMAGES

RECOMMENDATION

It is recommended that the City Council acknowledge receipt of the following Claim(s) for Damages and refer each claim to the proper department (risk management section) for disposition.

POLICY IMPLICATIONS

This is consistent with City policy and procedure and is in accordance with the requirements of state law (RCW 35.31.040).

BACKGROUND DISCUSSION

The City has received the following Claim(s) for Damages from:

- (1) David Russell Myrland
6619 132nd Avenue NE #100
Kirkland, WA 98033

Amount: Unspecified amount

Nature of Claim: Claimant states damage resulted from malicious prosecution and false imprisonment.



CITY OF KIRKLAND
 Department of Finance & Administration
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
 www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager
From: Tracey Dunlap, Director of Finance and Administration
Date: October 5, 2010
Subject: 2011 NORCOM Budget Approval

RECOMMENDATION:

Approve Kirkland's share of the 2010 NORCOM budget.

BACKGROUND DISCUSSION:

On July 1, 2009, the North East King County Regional Public Safety Communications Agency (NORCOM) began dispatch operations. The interlocal agreement forming NORCOM calls for each participating agency to approve their portion of NORCOM's budget before it is adopted on December 10, 2010 (ILA Section 12(c)). While technically the City of Kirkland will approve NORCOM's budget as part of the adoption of the 2011-12 budget in December, the approval date may not be in advance of the due date, so we are asking for the 2011 NORCOM budget to be approved by resolution.

Kirkland's share of the 2011 NORCOM costs are summarized in the table below.

	2010	2011
Kirkland (Existing City)		
Fire	370,375	404,668
Police	<u>1,444,395</u>	<u>1,410,914</u>
Subtotal	1,814,770	1,815,582
Annexation Increment		
Fire	-	8,799
Police	-	<u>384,898</u>
Subtotal	-	393,697
Total Kirkland Share		
Fire	370,375	413,467
Police	<u>1,444,395</u>	<u>1,795,812</u>
Total	1,814,770	2,209,279

NORCOM adopts its budget annually, so this approval applies to 2011 only. An estimate for 2012 will be included in the biennial budget and we will likely bring a similar resolution forward in late 2011 to approve the final 2012 number when it is approved by the Governing Board in 2011.

RESOLUTION R-4841

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE CITY OF KIRKLAND'S ALLOCATION FOR THE NORTH EAST KING COUNTY REGIONAL PUBLIC SAFETY COMMUNICATIONS AGENCY (NORCOM) BUDGET.

WHEREAS, the North East King County Regional Public Safety Communications Agency (NORCOM) was formed effective November 1, 2007; and

WHEREAS, NORCOM is in the process of adopting its annual budget for 2011; and

WHEREAS, the NORCOM Interlocal Agreement, to which the City is a party, requires that the City Council approve the City's allocation for NORCOM's budget;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City of Kirkland's allocation for the North East King County Regional Public Safety Communications Agency (NORCOM) budget, as proposed to be included in the City of Kirkland 2011 – 2012 Preliminary Budget, is hereby approved.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2010.

Signed in authentication thereof this ____ day of _____, 2010.

MAYOR

Attest:

City Clerk



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager
From: Barry Scott, Purchasing Agent
Date: October 5, 2010
Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF OCTOBER 19, 2010

This report is provided to apprise the Council of recent and upcoming procurement activities where the cost is estimated or known to be in excess of \$50,000. The "Process" column on the table indicates the process being used to determine the award of the contract.

The City's major procurement activities initiated since the last report, dated August 25, 2010, are as follows:

	Project	Process	Estimate/Price	Status
1.	Data911 Computers for Police Patrol Vehicles	Cooperative Purchase	\$153,176	Purchase made using GSA Schedule 70 contract with Data911.
2.	Fire Department Laptops and Vehicle Mounting Devices	RFP Process	\$150,000-\$160,000	RFP released on 9/28 with proposals due on 10/25.
3.	Totem Lake Green Trip Program Outreach	RFP Process	\$50,000-\$60,000	RFP released on 10/5 with proposals due on 10/26.
4.	Technical Advisor Design Services for Public Safety Building	RFQ Process	\$200,000-\$300,000	RFQ released on 10/4 with proposals due on 10/18.
5.	Dell Computers (194)	Cooperative Purchase	\$263,215.81	Purchased using WA State Dept. of Information Services Master Contract with Dell.

Please contact me if you have any questions regarding this report.

**CITY OF KIRKLAND**123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.ci.kirkland.wa.us**MEMORANDUM**

To: Kurt Triplett, City Manager

From: David Snider, P.E., Interim Capital Projects Manager
Ray Steiger, P.E., Interim Public Works Director

Date: October 7, 2010

Subject: PUBLIC HEARING - COMPREHENSIVE SEWER PLAN UPDATE

RECOMMENDATION:

It is recommended that City Council conduct a Public Hearing on the City's Sewer Comprehensive Plan (SCP) Update.

BACKGROUND AND DISCUSSION:

The City owns and operates a public sewer collection and disposal system within its corporate boundaries, and a comprehensive plan update has been finalized in accordance with Washington Administration Code (WAC 173-240-050). The current update to the SCP includes an analysis of the existing City sewer system network, its operations, financial viability, and recommended programs to maintain the system in good working order and to correct deficiencies needed to meet future service demands.

The City contracted with Roth Hill Engineering Partners, LLC, to prepare the SCP update. For the first phase of the update, Roth Hill Engineering Partners, LLC collected pertinent sewer system data and created a computerized wastewater flow model for use in analyzing the City's overall sewer system network. With the model created they then accomplished the following scope of services:

- Performed a review and update of sewer system policies and criteria to ensure future improvements are consistent with adjacent jurisdictions' comprehensive plans.
- Estimated the effects of future land uses on population and household trends within several service areas.
- Analyzed key system components such as lift stations and connecting pipes.
- Assessed the capability of the existing sewer system to meet existing and future demands.
- Identified existing sewer system deficiencies and developed the Capital Facilities Plan, including priorities for construction.
- Summarized financing methods for recommended facility improvements, and
- Documented the City's maintenance and operations program for existing sewer facilities.

In April 2009, Council was presented with a copy of an *Agency Draft* of the SCP for their review. At that time, staff also informed Council that the *Agency Draft* had been forwarded to the Washington State Department of Ecology (DOE) and to the Utilities Technical Review Committee (UTRC) of King County for their review and acceptance. As a courtesy, draft copies of the SCP were also sent to our neighboring cities and utility districts for their review. The final SCP is subject to approval by City Council once acceptance of the *Agency Draft* is obtained from the DOE and the UTRC; acceptance by both agencies occurred in August (DOE) and September (UTRC), 2010.

October 7, 2010

Page 2 of 2

A complete copy of the SCP is available for review online at the Public Works Homepage (http://www.ci.kirkland.wa.us/depart/Public_Works.htm) under "What's New". However, some of the highlights within the SCP are as follows:

- The City of Kirkland first constructed sanitary sewer facilities in the Downtown and West-of-Market areas in the early 1940s as part of a federal government war housing project.
- The City currently provides sewer service to approximately 57,000 persons within an 8.24 square mile service area, including a residential population of 33,600 and an employment population of 23,400.
- The City maintains 116 miles of sewer mainlines and six sewer lift stations.
- The City's sewer service area consists of nine large drainage basins.
- The City operates several joint-use facilities that provide service to areas of the City of Bellevue, the Northshore Utility District and the King County Wastewater Treatment Division (KCWTD).
- The City's wastewater is discharged at 32 locations into KCWTD's main sewer trunk line that primarily runs along the Eastside Rail Corridor (formerly the BNSF Railroad right-of-way).
- Approximately 25% of the City's sewer system is experiencing significant root intrusion and infiltration of storm or ground water. The Infiltration & Inflow Program (I & I) identified in the CIP, allows the City to work towards eliminating sources of I & I throughout the City. This can be accomplished by various maintenance improvements such as replacing manhole lids with weather-tight lids, and with CIP projects including replacing aging sewer mainline and side sewer connections.
- In 1998 the Emergency Sewer Program (ESP) was developed to extend sewer mainlines to areas of Kirkland without a public sewer system. Property owners within the City's sewer system that have a septic system that is failing or has failed may request to connect to the City sewer system through the ESP.

An essential outcome of the SCP is the production of a Sewer Capital Facilities Plan list. For the updated SCP, a total of 14 new sewer mainline upgrades were identified together with three proposed sewer lift station improvements. Within the SCP, the 17 new improvements add up to a total of \$60M in short and long-term project needs, and all projects are accounted for in the 2011 - 2016 Preliminary Capital Improvement Program identified as either "Funded" or "Unfunded" projects.

Pending any modifications to the SCP, as a result of the Public Hearing, staff will return to Council at a future meeting with a recommendation to approve to Sewer Comprehensive Plan by Resolution.

Attachments: A Plan Table of contents
B Plan Chapter 1

cc: Tracy Dunlap, Director of Finance and Administration
Eric Shields, Director of Planning and Community Development
Rob Jammerman, Development Engineering Manager
Bobbi Wallace, Surface and Wastewater Manager

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CHAPTER 1

INTRODUCTION

PURPOSE AND SCOPE



The City of Kirkland's Sewer Comprehensive Plan Update has been prepared according to the Washington Administrative Code (WAC) 173-240. These regulations require that all formed sewer utilities prepare a Sewer Comprehensive Plan outlining the City's present and reasonable foreseeable need in the future. The Plan is intended to supersede the 1993 Sewer Comprehensive Plan. This Plan was prepared in 2006 and 2007 and the date, 2008, reflects the issuance year.

This Plan establishes the sewer system policies and criteria in accordance with the City's framework, analyzes the existing sewer system and its operations, and recommends improvements to correct deficiencies and meet future service needs. This Plan provides the City with a guide to evaluate the impacts of future proposed development and land use on the sewer system. The scope of the Plan is as follows:

- Review and update the sewer system policies and criteria to ensure future improvements are consistent with adjacent jurisdictions' comprehensive plans.
- Estimate the effect of future land uses on population and household trends within the sewer service area.
- Document the existing sewer system.
- Analyze key system components such as lift stations and connecting piping.
- Assess the capability of the existing sewer system to meet existing and future demands.
- Identify existing sewer system deficiencies and develop the Capital Facilities Plan, including priorities for construction.
- Summarize financing methods for recommended facility improvements.
- Document the City's maintenance and operations program for the sewer facilities.

AUTHORIZATION

The City Council, recognizing the obligation to provide for the needs of its present and future customers, directed Roth Hill Engineering Partners, LLC to analyze and prepare an updated Sewer Comprehensive Plan. Authorization to proceed was given on August 9, 2006. This Plan has been prepared in compliance with the state law and county ordinances.

PLAN ORGANIZATION

The subsequent sections of this Plan are organized as follows:

Chapter 2 reviews planning considerations that are pertinent to the City's sewer system. Included are descriptions of the City's sewer service area, sewer system history, adjacent purveyors, related plans, and physical features.

Chapter 3 includes sewer system policies and criteria for design and planning parameters of the City's sewer system.

Chapter 4 summarizes the existing and future land use, zoning, employment and population data.

Chapter 5 summarizes existing sewer system facilities and major components, including the telemetry system, lift stations, and the conveyance system. Additionally, included are descriptions of sewage disposal facilities, Infiltration and Inflow (I/I) information and sewage quality.

Chapter 6 summarizes the hydraulic analysis of the sewer system facilities. Additionally, included is an analysis of the system operations and capacity for current and future flows, identification of any system deficiencies, and the improvements required to resolve those deficiencies.

Chapter 7 outlines the Capital Facilities Plan necessary to meet the City's future sewer system needs.

Chapter 8 describes the general financial framework that addresses the City's overall financial status.

Chapter 9 summarizes the City's sewer operation program. Included therein is an overview of sewer system responsibility and authority, system operation and maintenance plan, equipment supplies and inventory and emergency response.

The Appendices include: the State Environmental Policy Act Determination; Agency Comments/Responses; Sanitary Sewer Pre-Approved Notes, Design Criteria and Plans; Existing Service Agreements, TAZ Planning Data; and Rodding Schedules.

APPROVAL PROCESS

This Plan is required to meet state, county, and local requirements. The Plan complies with the requirements of the Department of Ecology (DOE) as set forth in the Washington Administrative Code (WAC) 173-240-050,

the Department of Health (DOH) as set forth in WAC 271-040, and the Revised Code of Washington (RCW) as set forth in RCW 57.16.010. This Plan is also consistent with King County Code (KCC) Title 13.24 with respect to sewer system planning.

The City will submit this document to adjacent utilities and local governments having jurisdiction to assess consistency with their ongoing and adopted planning efforts. Additionally, King County, DOE, and DOH must review and approve the Plan. The King County approval is accomplished through the Utilities Technical Review Committee (UTRC) which reviews all proposed comprehensive plans prior to a recommended submission to the County Council.

The City Council will approve the final Sewer Comprehensive Plan Update after all other approvals have been obtained.

ENVIRONMENTAL ASSESSMENT

The City has determined this Plan does not have a probable significant adverse impact on the environment and has issued a Determination of Non Significance under WAC 197-11-340(2). This decision was made after review of the completed State Environmental Policy Act checklist and other information on file with the lead agency. The environmental determination issued by the City for the Sewer Comprehensive Plan is provided in **Appendix A**.

It should be noted, however, that each Capital Facilities Plan project presented in this Plan will undergo subsequent project-specific environmental review as part of the preliminary and final design process.

DEFINITIONS

The following terms are used in this Plan.

Collector Sewer - A sewer that discharges into a main or trunk sewer and has no other tributary sewers.

Gravity Sewer Capacity - The maximum capacity for a gravity sewer is the volume of flow that can be carried in a sewer at a depth to diameter ratio of 0.80.

Hydraulic Analysis - A computer simulation of a sewer system to determine its conveyance capacity and the demands on the system.

Infiltration - Infiltration is the entrance of groundwater into the sanitary sewer system through cracks, pores, breaks and defective joints in the sewer-piping network.

Inflow - Inflow refers to direct flow of stormwater into sanitary sewer systems through hookups from stormwater collection facilities and illegal connections.

Interceptor Sewer - A sewer that receives flows from a number of trunk sewers and conducts such wastewater to a point for treatment or disposal.

Lift Station - A sewage pumping facility which consists of a wet well for collecting wastewater; mechanical equipment such as pumps, valves and piping; electrical and control equipment, and a force main. In this Plan, synonymous with “Pump Station”.

Lift Station Capacity - The maximum capacity for a lift station is equal to the peak, wet weather flow that the largest pump within the lift station has been designed to convey.

Main or Trunk Sewer - The principle sewer to which collector sewers are tributary is called a main or trunk sewer. A main or trunk sewer receives many collectors' branches and serves a subbasin.

Planning Area - A geographic area as specifically defined on a map in a comprehensive plan that is a logical area for expansion of the system. Conversion of a planning area to a service area requires King County approval of an amendment to a comprehensive plan.

Purveyor - A purveyor is an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person or other entity owning or operating a public sewer system. Purveyor also means the authorized agents of such entities.

Sanitary Sewer - A sewer that carries liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters.

Service Area - A geographic area within which service to customers is available as specifically defined on a map in a comprehensive plan and approved by King County, as required.

ABBREVIATIONS

AC	Asbestos-Cement (Pipe)
API	Annual Percentage Increase
APR	Annual Percentage Rate
APWA	American Public Works Association
ASTM	American Society for Testing and Materials
AWC	Association of Washington Cities
AWWA	American Water Works Association
BRB	Boundary Review Board
cf	Cubic Feet
CFP	Capital Facilities Plan
CI	Cast Iron (pipe)
CIP	Capital Improvement Program
Conn.	Service Connection
CPA	Certified Public Accountant
CPP	Countywide Planning Policies
d/D	Depth/Diameter
DI	Ductile Iron (pipe)
DNR	(King County) Department of Natural Resources and Parks
DOE	(Washington State) Department of Ecology
DOH	(Washington State) Department of Health
DOT	(Washington State) Department of Transportation
Du/ac	Dwelling Units Per Acre
ECY	(Washington State) Department of Ecology (a.k.a. DOE)
EPA	US Environmental Protection Agency
EPP	Environmental Protection Agency
ERU	Equivalent Residential Unit
ESA	Endangered Species Act
FAZ	Forecast Analysis Zones
FC	Fecal Coliform
FIU	Field Interface Unit
FM	Force Main
FPS	Feet Per Second
FT	Feet
FT2	Square Feet
FT3	Cubic Feet
FTE	Full Time Equivalent

GFC	General Facilities Charge
GIS	Geographic Information System
GMA	Growth Management Act
GP	Grinder Pump
gpad	Gallons Per Acre Per Day
gpcd	Gallons Per Capita Per Day
gpd	Gallons Per Day
gpm	Gallons Per Minute
HDPE	High-Density Polyethylene (pipe)
HP	Horsepower
I/I	Infiltration and Inflow
IE	Invert Elevation
IN	Inches
KC	King County
KCAS	King County Aerial Survey
KCCP	King County Comprehensive Plan
KCWTD	King County Department of Natural Resources and Parks Wastewater Treatment Division
KW	Kilowatt
LID	Local Improvement District
LF	Linear Feet
LS	Lift Station
M&O	Maintenance and Operations
Metro	King County Department of Natural Resources and Parks Wastewater Treatment Division (formerly the Municipality of Metropolitan Seattle)
MG	Million Gallons
MGD	Million Gallons Per Day
NE	Northeast
NW	Northwest
NUD	Northshore Utility District
NSF	Non-sufficient Funds
O&M	Operations and Maintenance (same as M&O)
OFM	Office of Financial Management (Washington)
PAA	Potential Annexation Area
PS	Pump Station
PSRC	Puget Sound Regional Council
PVC	Polyvinyl Chloride
PWTF	Public Works Trust Fund
R/W	Right-of-Way

RCP	Reinforced Concrete Pipe
RCW	Revised Code of Washington
RPM	Revolutions Per Minute
RTU	Remote Terminal Unit
RWSP	(King County) Regional Wastewater Services Plan
SDG	Small Diameter Gravity (pipe)
SDR	Standard Dimension Ratio
SE	Southeast
SEPA	State Environmental Policy Act
SF	Square Feet
SFR	Single-Family Residential
STEP	Septic Tank Effluent Pump
SW	Southwest
TAZ	Transportation Analysis Zone
TBD	To Be Determined
TDH	Total Dynamic Head
TV	Television
UGA	Urban Growth Area
UGB	Urban Growth Boundary
UL	Underwriters Laboratory
ULID	Utility Local Improvement District
UTRC	(King County) Utilities Technical Review Committee
V	Voltage
WASWD	Washington Association of Sewer and Water Districts
WAC	Washington Administrative Code

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CHAPTER 2**BACKGROUND****INTRODUCTION**

This chapter summarizes the City's history, service area topography, sewer service area (existing and projected), and service area agreements. It also includes a brief summary of the sewer system basins and facilities and the City's relationship with adjacent jurisdictions and other related plans.

HISTORY

The City of Kirkland first constructed sanitary sewer facilities in the downtown area in the early 1940s as part of the federal government war housing projects. Before then, the common practice was to dispose of wastewater on-site or to discharge it directly into Lake Washington. As part of the war housing projects, a primary treatment plant was constructed with an outfall to Lake Washington. By 1950, approximately 30% of the existing system was constructed.

In 1958, the Municipality of Metropolitan Seattle (METRO), now known as the King County Department of Natural Resources and Parks, Wastewater Treatment Division (KCWTD), was formed to solve the growing problem of pollution in Puget Sound, Lake Washington, and surrounding waters. METRO developed a regional plan for wastewater collection and treatment facilities in 1959 and assumed operating responsibilities for the regional interceptors and wastewater treatment systems in 1962, including Kirkland's primary treatment plant, which was located at the old City Hall site (near the intersection of 3rd Street and Central Way). The Kirkland treatment plant was eventually abandoned and a KCWTD-owned and operated lift station was constructed to convey flows to the new interceptor. Today, all of the City's wastewater discharges to these KCWTD facilities.

The City's facilities have gradually extended to meet growth demands. In 1989, the City of Kirkland assumed the operation and maintenance of the sewer system of the Rose Hill Water and Sewer District. After the assumption, the City constructed improvements in this area to integrate the Rose Hill system into the City's system.

Presently, the City serves approximately 56,986 persons within 8.24 square miles. Under the Growth Management Act (GMA), future sewer service, with few exceptions, will only be allowed in designated Urban Growth Areas (UGA).

Previous Sewer Comprehensive System Plan

The City's most recent Sewer Comprehensive System Plan was adopted in 1993. No amendments have been prepared since then.

SEWER SERVICE AREA

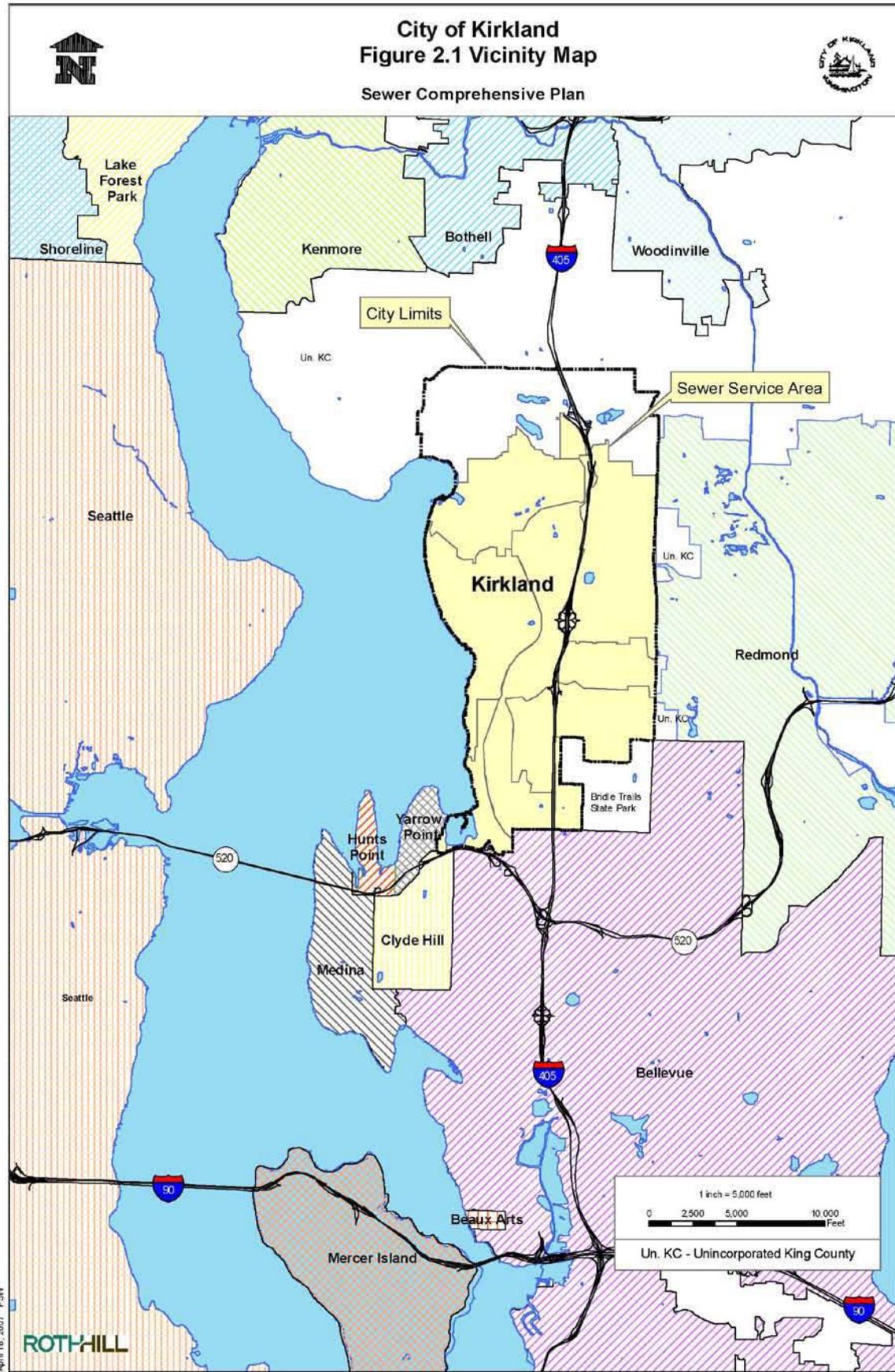
The City lies generally in King County directly east of and adjacent to Lake Washington and north of and adjacent to the City of Bellevue. It is bordered to the east by the City of Redmond and unincorporated King County, and to the north by unincorporated King County. The location of the City is shown on the Vicinity Map, **Figure 2.1**. Adjacent sewer purveyors include: the cities of Bellevue and Redmond, and Northshore Utility District.

The corporate boundary is the legal boundary of the City as a municipal corporation. Those areas outside the corporate boundary and inside the planning area and Urban Growth Area have the option to annex to the City and receive sewer service.

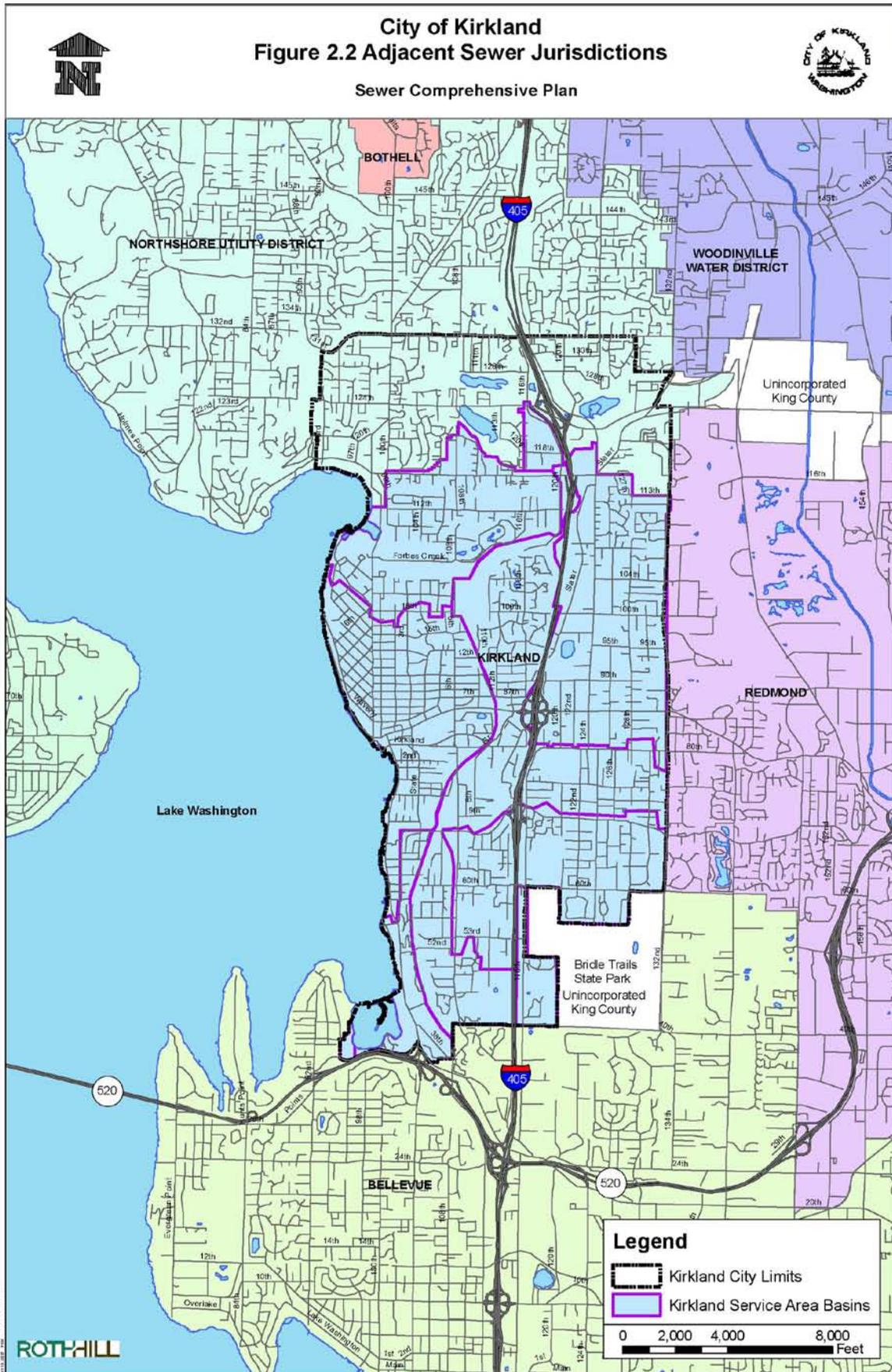
The City's sewer service area is based on boundaries and criteria established by King County, existing agreements with neighboring municipalities and adjacent purveyors, topographical limitations, existing utility boundaries, and practical limitations of service. The location of the sewer planning area (service area) is shown on **Figure 2.2**. The existing sewer service area is within the City limits. The service area is not anticipated to increase as all adjacent areas already have sewer service provided through other purveyors. Properties currently served by on-site septic systems may connect to the City's sewer system if they are within the City's existing or future service area. The City does not allow on-site septic systems within its service area. However, some areas are served by on-site septic systems that were previously allowed under King County prior to annexation into the City's service area. These systems are regulated by the Public Health - Seattle & King County. The City will confirm that Public Health-Seattle & King County will notify the City of any septic system failures and new system proposals that occur within the City limits. The City may provide sewer service to residents who may not be able to repair their systems or would prefer to be on the City's system rather than a private system, through the bi-annual CIP Emergency Sewer Program. The conditions for sewer service provided by the City will be reviewed on a case by case basis."

GEOLOGY, SOILS, AND TOPOGRAPHY

The geology of the City is largely the result of prehistoric glacial activity and subsequent ice retreats. The United States Department of Agriculture has mapped and analyzed the soils in the area in the Soil Survey of King County. The most common soil type in the area is known as the Alderwood series, which includes moderately well-drained gravelly sandy loams 24 to 40-inches deep over consolidated glacial till. The next most common type, but much less prevalent than the Alderwood series, is the Everett series. Everett soils are gravelly and are underlain by sand and gravel. In certain areas, principally basins and lowlands, organic materials such as peat and muck occur in depths up to 10 feet.



F:\0014\GIS\00032\Vicinity Map.mxd
April 18, 2007 P.S.W.



Soil properties and characteristics are important factors in determining the continued utilization of septic tanks in the Urban Growth Area. Some soil types are more suitable for septic tanks and drain fields than others. Soil suitability varies within the City. In recent years, concerns about soils that are too gravelly and percolate too rapidly have grown. The concern is the underlying groundwater aquifer may risk contamination, particularly with denser development, especially after years of septic tank use.

Soil properties may also impact the design and location of sewer facilities. Detailed soil testing is often performed early in the design of proposed facilities to identify design parameters and to minimize construction costs. Soil evaluations of this type are beyond the scope of this Plan. Prior to the implementation of any elements of the Plan, appropriate soils testing may be required on a project-by-project basis.

Topography of an area is one of the principal factors in the design of sewage facilities. Every effort should be made to utilize the natural drainage basins in the design to take maximum advantage of gravity flow and minimize the need for constructing additional lift stations. The Drainage Basins Map, **Figure 2.3**, shows overall topography of the study area and the breakdown into drainage patterns. As part of the Plan preparation, detailed topographic maps were updated from aerial photographs. The topography of the area served by the City varies greatly in elevation. The east side of the service area is the highest with the land generally sloping downward from 132nd Avenue NE to Lake Washington. The ground elevations vary from approximately 500 feet above mean sea level in the Bridle Trails area to approximately 20 feet along Lake Washington. Valleys and lowlands have been carved into the terrain by several watercourses, including Juanita Creek, Forbes Creek, and Cochran Springs. Glacially created basins and depressions are occupied by lakes such as Lake Washington, Forbes Lake, and Totem Lake, as well as their associated wetlands. The varied terrain has required a combination of gravity sewers and pump stations to serve the area.

WATER QUALITY

The City of Kirkland's sewer services lies within the Cedar River - Lake Washington Watershed (Water Resources Inventory Area 8 (WRIA 8)) is the land area in which rainwater drains to Lake Washington and out through the Hiram Chittenden Locks. WRIA 8 includes the Cedar River and its tributaries, May Creek, Coal Creek, Mercer Island, Mercer Slough, Kelsey Creek, Fairweather Creek, Yarrow Creek, Juanita Creek, Forbes Creek, Lyon Creek, McAleer Creek, Thornton Creek, and Ravenna Creek. The Sammamish River drainage is also part of the greater watershed.

Lake Washington is the largest of the three major lakes in King County, and the second largest natural lake in the State of Washington. Lake

Washington's two major influent streams are the Cedar River at the southern end. The majority of the immediate watershed is highly developed and urban in nature with 63% fully developed. The upper portion of the watershed is the headwaters of the Cedar River that lie in the closed watershed governed by Seattle Public Utilities. Lake Washington is perhaps the best example in the world of successful lake restoration by the diversion of sewage, and has been extensively studied and researched. Lake Washington remains on the Washington Department of Ecology's (Ecology) 303(d) list for various pollutants including ammonia, fecal coliform (FC), total polychlorinated biphenyl (PCB).

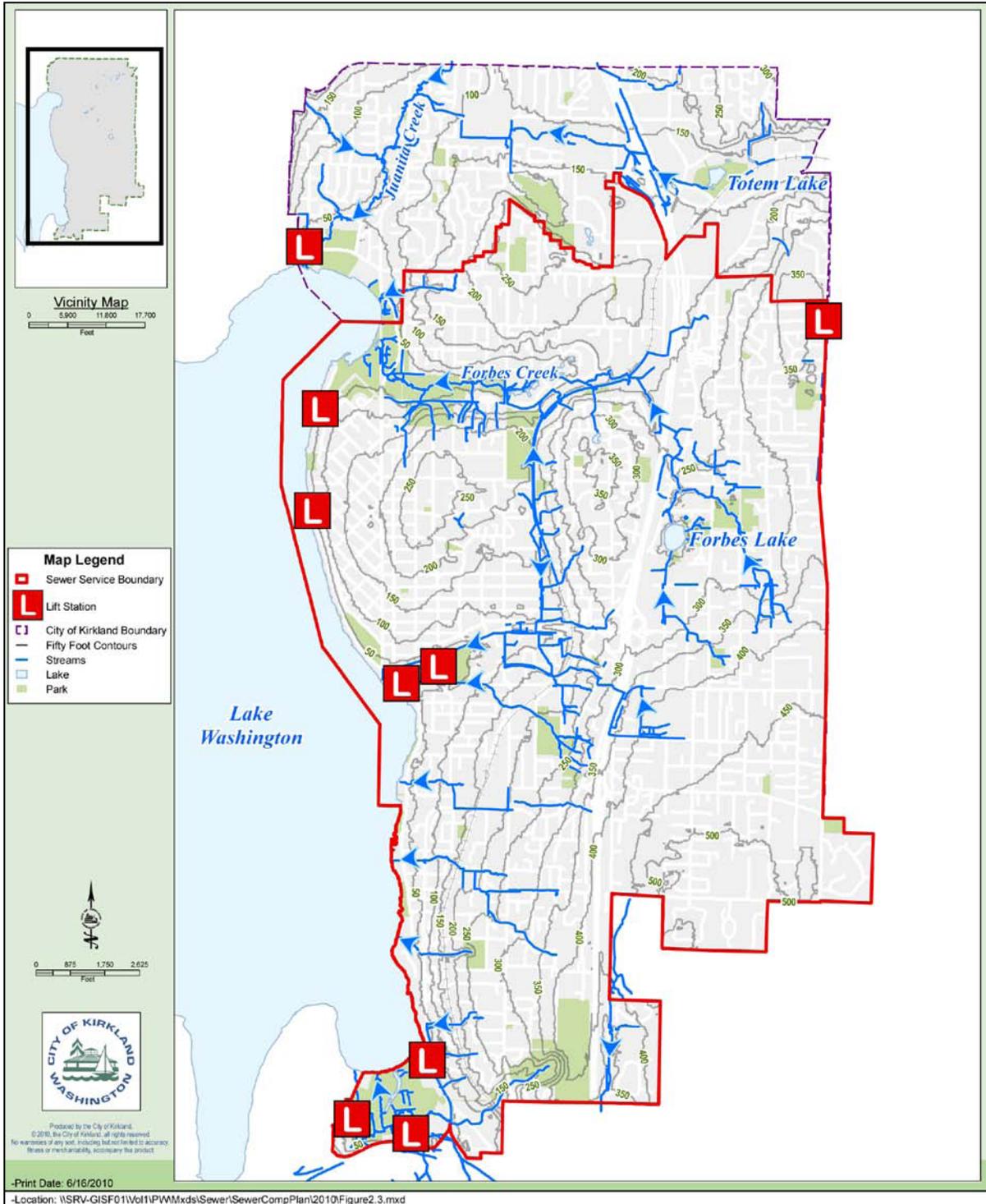
The main stem of Juanita Creek originates east of Interstate 405, and flows approximately five miles west and south entering Lake Washington on the west side of Juanita Beach Park. Juanita Creek drainage basin is roughly 4,000 acres with three main tributaries flowing into Juanita Creek, an upper West (Simonds Tributary), a lower West, and a lower East (Totem Lake Tributary). Juanita Creek is considered a Class AA water body. Juanita Creek is listed on Ecology's 303(d) list for violation of dissolved oxygen (DO), temperature, and fecal coliform (FC).

The Forbes Creek basin comprises approximately 1,000 acres. Forbes Creek originates at an elevation of 240 feet above sea level and flows roughly 1.8 miles through the City of Kirkland and a wetland area before entering the north east corner of Lake Washington. As a tributary to Lake Washington, Forbes Creek is considered a Class AA water body. It is also listed on Ecology's 303(d) list for violation of DO, temperature, and FC.

(Source: <http://dnr.metrokc.gov/wlr/watersheds/cedar-lkwa.htm>)

Figure 2.4, Streams and Lakes, shows the locations of streams, lakes and other water bodies within the City's sewer service area.

Figure 2.4
 Streams and Lakes





CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager
From: Marilynne Beard, Assistant City Manager
Date: October 7, 2010
Subject: 2010 ANNEXATION THIRD QUARTER UPDATE

RECOMMENDATION

It is recommended that the City Council receives an update on the annexation-related activities and provide direction as needed.

BACKGROUND

This is the third quarterly report about the variety of activities underway in advance of the annexation effective date. Specifically, this report focuses on activities since the July study session.

QUARTERLY MEETING WITH KING COUNTY EXECUTIVE DOW CONSTANTINE (CONTACT: MARILYNNE BEARD, ASSISTANT CITY MANAGER)

On September 2, 2010, representatives from the Kirkland City Council and staff met with King County Executive Dow Constantine and senior County staff. The meeting was the second joint meeting to discuss progress on the implementation of the pending annexation. The meeting started with a summary of accomplishments to date including King County's approval of a fireworks ban, conceptual agreement and cooperation on a variety of development services transition issues, improvements made by King County to Edith Moulton Park and provision of financial data. City staff expressed their appreciation for the level of collaboration provided on these matters by King County.

Several outstanding issues were also discussed:

Big Finn Hill Park Property for Fire Station – King County agreed that this effort should go forward and directed their staff to work with the Fire District and the City on developing a critical path for completion.

Since then, staff from King County Fire District #41, the City and King County have continued to work toward the transfer of property from the County to the District for a new fire station. The fire station will consolidate two existing stations into one strategic location that will better serve residents of the District. King County has agreed to discuss the use of a portion of Big Finn Hill

Park for the fire station. A parcel would be identified and conveyed to the District and construction would proceed. In exchange for the conveyance of the property, the District will construct a twenty-stall parking lot adjacent to the fire station for park customers using the extensive bike trails in Big Finn Hill Park and in St. Edwards Park. A number of steps need to be taken including identification of the parcel to be conveyed. The parcel identification must take into account the area needed for the fire station, the parking lot and applicable zoning regulations.

At their September 28 meeting, Fire District #41's Board of Commissioners approved funding for an architectural plot plan drawing of the station and related parking area necessary in order to provide King County with a figure for the amount of land necessary for the transaction. County staff is also working with City staff working on the project to determine applicable zoning regulations and permitting requirements for the station based on whether the project will be permitted under the County or the City (the District may want to handle the project review in a similar fashion to the school district projects whereby the City conducts a preliminary review and issues the permit on June 1, 2011).

Once the parcel is identified, King County will order an appraisal of the property to determine its value compared to the value of the parking lot improvements and maintenance that are being provided to the County. Ultimately, an interlocal agreement between King County and the District will be developed that identifies the parcel and the conditions under which it is being conveyed to the District. The interlocal agreement is between King County and the Fire District and will require approval by the District commissioners and the King County Council. Although the City of Kirkland is not a party to the agreement at this point, the City will eventually own the property and the station after annexation. It is hoped that the property conveyance process can be completed as close to January 1, 2011 as possible so as to allow the District to proceed with development of detailed drawings.

Treasury Payment for 2011 Property Taxes – The City will not begin receiving regular property tax revenues from the annexation area until 2012. However, the 2011 County Road levy collected after the effective date of annexation and a share of the Fire District levies for 2011 will be available as one-time funds. The County Road Levy funds must be used for street purposes. To provide funding for General Fund activities in 2011, staff is recommending that the portion of the current property tax allocated to the Street fund be returned to the General Fund for 2011, with the Road Tax funds backfilling the Street fund needs.

In general practice, King County does not transfer these second half Road Tax funds until the beginning of the next fiscal year (2012); however, we are working with the County to receive the funds as collected in 2011 for cash flow purposes. The City received a commitment from the King County Executive that they will work with the City to provide a payment of the funds based on estimated collections before the close of 2011 to allow them to be recognized by the City as revenue in that year.

Surface Water Manhole Covers – In the course of evaluating the surface water system in the annexation area, City staff noted that some manhole covers had been paved over in the course of earlier street overlays. Generally, manhole covers are raised to the new pavement level to allow continued access after an overlay. King County agreed to address this issue prior to the effective date of annexation.

Since that time, the County began work on locating and raising manholes lids that have been paved over or buried. Early estimates indicated approximately 100 manhole lids that need to be located and raised. The City and County crews will continue to identify which manholes need to be raised and will work toward correcting the manhole lids before the effective date of annexation.

Annexation Census – Current state law requires that the City conduct a census of the annexation area immediately following the effective date of annexation. Because of the specialized and labor intensive nature of the work, it will be necessary to contract with a private firm to conduct the census. Based on the cost incurred by other cities, we estimated the Kirkland census will cost \$225,000. An annexation service package was submitted to provide these funds. By early November, the Planning Department will be preparing a request for proposals (RFP) to solicit bids for the census.

At the same time, the City has been exploring ways to reduce the cost of the census. In particular, we would like to be able to use the 2010 federal census to the extent possible. If this were to be allowed, we would have to account for changes between April 2010 and June 2011 and we may have to conduct a partial census of portions of the annexation area that are within census blocks that cross annexation boundary. To date, state officials have not been responsive to this idea and that it would require state legislation. We will continue to work with our contract lobbyists to pursue this issue at the agency level (Office of Financial Management) and with our legislators with the intent of having the legislature adopt a bill early in the 2011 session. Given the timing of the annexation and the length of the legislative session, we may not be able to obtain a legislative fix quickly enough.

The City asked for King County's support for legislation or a request for administrative action at the State to allow less onerous and costly census requirements for annexations. King County agreed to support the City in this effort.

Annexation of Wild Glen Condominiums – The City has continued to pursue options for annexing the Wild Glen condominiums located north of the approved Finn Hill, Kingsgate and North Juanita annexation. Unless annexation of the parcel occurs, the condominium complex will be the only remaining property within Fire District #41. The desire is to have the area annex on June 1, 2011, when the larger annexation takes effect. Wild Glen property owners are supportive and are ready to sign annexation petitions. However, the King County Boundary Review Board (BRB) has refused to accept the Notice of Intention to Annex for Wild Glen until after it is contiguous with the enlarged city limits. This would cause hardships for both the Fire District and City during the interim period while the annexation is being processed.

King County agreed to have their legal staff work with the Kirkland City Attorney to draft an interlocal agreement. The County and City are now exploring an alternative method of annexation that can be accomplished by interlocal agreement and will not require approval by the BRB. The agreement will need to be approved by the City, County and Fire District. We have discussed this with County and Fire District officials and have received positive feedback.

If details can be worked out, we will submit an agreement for approval by the City Council, County Council and Fire Commissions as soon as possible.

Interjurisdictional Staff Team Meetings – The City and County agreed to continue regular staff level meetings so as to ensure timely resolution of implementation issues.

The next quarterly meeting with the King County Executive will be scheduled for late in 2010 and will be held in Kirkland.

SALES TAX CREDIT CLARIFICATION (CONTACT: TRACEY DUNLAP, DIRECTOR OF FINANCE AND ADMINISTRATION)

The availability of the state sales tax credit revenue is key to the City's ability to fund annexation costs for the first ten years. As noted in the last report, the City has been seeking clarification on two aspects of the Annexation Sales Tax Credit: one related to the gambling tax provisions and the other specific to how costs prior to the effective date factor into the accumulated shortfall.

The legal opinion that has been provided by Foster Pepper, which also includes a detailed description of both issues, is included as Attachment A. In addition, staff met with Representative Ross Hunter (sponsor of the legislation) and he has provided a letter clarifying the legislative intent on both items that we believe supports the City's position (Attachment B). Staff believes that both of these items will help support our interpretation of the statute during future audits.

WOODINVILLE FIRE & RESCUE INTERLOCAL AGREEMENT (CONTACT: KEVIN NALDER, FIRE CHIEF)

An interlocal agreement between Woodinville Fire & Rescue and the City of Kirkland, which was drafted by the Kirkland City Attorney's Office, was presented and approved by the Woodinville Fire & Rescue Commissioners at their September meeting. The only modification to the document presented by the City of Kirkland was changing the names and number of Woodinville Fire Commissioners' signatures. The interlocal agreement prescribes that within 30 days of the execution date of this agreement, Woodinville Fire & Rescue will send a letter to the City indicating its plans regarding hires, separations, terminations and any other changes in employment that are a direct consequence of the annexation. This impact letter accompanied the signed interlocal agreement.

The City of Kirkland has 30 days to respond to the impacts once the interlocal agreement is executed by both parties. An analysis of the district's impact letter and the City's proposed response will be presented to the Kirkland City Council on the November 1 agenda. A resolution will also be presented for consideration authorizing the City Manager to execute the interlocal agreement.

**ANNEXATION AREA POLICE RECRUITMENT (CONTACT: CAPTAIN GENE MARKLE,
POLICE DEPARTMENT)**

As in past updates the Police Department's primary effort is focused on hiring police officers that need to attend the Basic Law Enforcement Academy, Criminal Justice Training Center (CJTC). The state has made several cuts to the academy's budget which has necessitated adjustments to the original hiring timeline. The Police internal annexation team with assistance from the Finance Department worked to revise the hiring plan with regard to the number of new officers versus lateral officers from other departments. Fewer new officers and more lateral officers may be hired over the next 4-6 months. By contract, lateral officers start at a higher salary. However, because their training period is shorter they can start a little later in the process and allow us to stay within budget.

One consideration of hiring more lateral officers is that officers may have been trained differently. With extensive backgrounds and testing we should be able to minimize this impact but it will be important to train all new personnel to Kirkland's standards.

Given current economic conditions and the impact on public safety budgets, Kirkland has a large pool of lateral candidates from other local departments. The annexation team is receiving calls from departments losing officers through budget cuts to see if Kirkland can pick up these officers for the annexation hiring. We currently have applications from Lynnwood, Federal Way and Monroe Police Departments, and our most recent addition is the King County Sheriff's Department.

There is currently a combination of fifteen new and lateral annexation officers hired. These officers are in various stages of training. The majority of these officers are currently attending the Basic Academy and are due to graduate the end of 2010 or early 2011. These officers will then enter the field training program which should put them onto the street as solo patrol just before the annexation.

The second of two Police Training Officers (PTO) classes is taking place in October. This will complete the training of Kirkland officers needed to train the new officers as they come out of the academy and the lateral officers as they are hired. As we reach the first quarter of 2011 virtually every patrol officer working the street will have a trainee assigned to them for several months.

One challenge for the police annexation team is that the 2011-2012 budget reductions haven't been presented to or considered by the City Council. Any reductions in current staffing levels will affect the number of annexation staff to be hired in 2011 and 2012. Reductions in existing police staff may translate to a current police FTE's becoming annexation positions. If positions are not cut and until December 2010, there could be a very short timeline to hire and train officers to meet the identified timelines in annexation.

The annexation team is still working through the timing of ordering of equipment, training and certifications while continuing to support the current police department staff. Another ongoing issue is the availability of a firing range for current police and corrections officers. This is becoming extremely challenging as we bring on more and more staff that requires weapons qualification twice a year. The department has been able to contract with Issaquah Police for the use of their range but this is becoming increasingly difficult to schedule due to other agencies competing for the same range time and our increasing staff. The proposed Public

Safety Building complex includes a potential firing range facility to possibly address this need in the long-term. More detailed cost/benefit analysis needs to be done before a final decision is made on whether to include the firing range with the project. Staff is exploring interim alternatives until a new facility is available.

ANNEXATION NEIGHBORHOOD BOUNDARIES (CONTACT: JEREMY MCMAHAN, PLANNING SUPERVISOR)

The City Council requested that the Annexation Area neighborhood boundaries be reviewed for purposes of neighborhood planning, neighborhood service program delivery, and community organizing. The Council approved the following general process for deciding neighborhood boundaries for the AA:

- Identify community leaders in each neighborhood and meet to discuss process and boundaries (spring, 2010)
- Go on a listening tour to review boundaries and gather input (summer, 2010)
- Review boundaries with Planning Commission (summer, 2010)
- Planning Commission recommends boundaries to City Council as part of 2010 Comprehensive Plan amendments (fall, 2010)
- City Council decides on boundaries (December, 2010)

Staff has now completed the community involvement process with the following series of meetings and workshops:

- March 25, 2010: Juanita Neighborhoods Association briefing & discussion
- April 13, 2010: Annexation Area leaders discussion
- April 21, 2010: Totem Lake Neighborhood Association briefing & discussion
- April 22, 2010: Denny Creek Neighborhood Alliance briefing
- May 12, 2010: Kirkland Alliance of Neighborhoods briefing
 - **May: Initial options mapped**
- May 13, 2010: Planning Commission study session
- May 18, 2010: City Council briefing
- June 29, 2010: Annexation Area leaders workshop
 - **August: Additional Workshop Options mapped**
- August 5, 2010: Finn Hill Park and Recreation District briefing
 - **August 20-September 30: Online survey of boundary preferences (336 responses)**
- September 16, 2010: Kingsgate Community workshop (hosted by Totem Lake Neighborhood Association)
- September 20, 2010: North Rose Hill Neighborhood briefing
- September 22, 2010: Finn Hill Community workshop (hosted by Denny Creek Neighborhood Alliance and Finn Hill Park and Recreation District)
- September 23, 2010: North Juanita Community workshop (hosted by Juanita Neighborhoods Neighborhood Association)
- October 4, 2010: Finn Hill Annexation Area leaders debriefing

Key General Issues

In addition to the neighborhood-specific issues discussed below, two general issues have been identified through the community process:

1. Should the Totem Lake Neighborhood continue to exist as a neighborhood or be divided between adjoining neighborhoods as a business district (similar to the 85th Street Corridor)?

Discussion: This concept emerged early in the communication process, with advocates noting that Totem Lake has a small residential base that makes it difficult to foster a neighborhood organization. Feedback in the online survey and from community meetings has been mixed, but a majority of participants identified preferences for those boundary options that did not divide Totem Lake. While a number of pros and cons to this approach have been identified, staff is recommending to the Planning Commission that the Totem Lake Neighborhood be left intact as an independent neighborhood. The Totem Lake neighborhood has a clear community vision and is a resource that belongs to the City as a whole. Dividing that resource into four or five subareas will not make that common purpose any stronger. At the same time, interest has been expressed to include multifamily residential complexes at the north edge of Totem Lake to the Kingsgate neighborhood. A similar shift could occur between Totem Lake and South Juanita with the multi family complexes along NE 124th St. west of I-405.

2. Size of existing and future neighborhoods. The particular areas of concern identified are:
 - The challenge of cycling through neighborhood plan amendments in a timely manner.

Discussion: While there are currently 13 neighborhoods in the City, the trend has been to combine neighborhoods for purposes of concurrently processing neighborhood plan amendments. The Market, Norkirk, and Highlands neighborhood plans were updated concurrently in 2007. The City is currently working on the updating the Lakeview and Houghton neighborhood plans. South Rose Hill and Bridle Trails are next on the cycle for neighborhood plans. Although processed concurrently, the process still works with each neighborhood to develop an independent neighborhood plan.

With annexation, at least two new neighborhoods will be added to the City (assuming the North Juanita annexation neighborhood is merged with Kirkland's North Juanita neighborhood). Depending on the outcome of the annexation neighborhood boundary process, those neighborhoods could be further divided. Given the impact of additional neighborhoods on the neighborhood plan amendment cycle, it may be prudent at a minimum to combine neighborhoods into "planning units". Attachment C illustrates one approach of identifying 10 planning units based on past practice and the geography of existing neighborhoods. Additional efficiencies in the neighborhood plan process may still be merited to deal with a larger City. It should be noted that consolidations to create greater equity in population would be

more challenging. However, in deciding consolidations, population is likely less of an important than the complexity of the issues facing each area.

- The inequity of neighborhood services resource allocation based on neighborhoods rather than population. For example, should a neighborhood with a population of 1,300 receive the same resources as a neighborhood of 15,300?

Discussion: The disparity in neighborhood size has become magnified with the annexation neighborhoods. Staff is working with KAN and neighborhood leaders to develop options for addressing this concern in the 2011/2012 biennial budget.

Key Neighborhood Issues

As residents of the annexation area began to identify options for mapping their neighborhood boundaries, the key decisions for each area came in to focus. These decisions points served as the basis for the September community meetings and will be the decision points to guide the Planning Commission and City Council process.

Kingsgate

1. Should the neighborhood be divided into two or kept as a single neighborhood?
2. If the neighborhood is divided, then where is the appropriate boundary?
3. Should the condominiums in the north of Evergreen Hospital in the Totem Lake neighborhood be merged into the Kingsgate neighborhood(s)?
4. Should the commercial and light industrial areas of Kingsgate be merged into the Totem Lake neighborhood?

North Juanita

1. Should the neighborhood be merged with Kirkland's North Juanita Neighborhood?
2. Should the Goat Hill area and the base of the slope along the west side of 100th be in Finn Hill or North Juanita?

Finn Hill

1. Should the neighborhood be divided or kept as a single neighborhood?
2. If the neighborhood is divided, then where is the appropriate boundary?
3. If the neighborhood is divided, then are two or three neighborhoods appropriate?
4. Should the Goat Hill area and the base of the slope along the west side of 100th be in Finn Hill or North Juanita?

The Planning Commission will be discussing this subject at its October 14 meeting. Key recommendations include:

- Consolidation of the annexation area North Juanita Neighborhood and Kirkland's North Juanita Neighborhood including the Wild Glen annexation parcel into one consolidated North Juanita Neighborhood.
- Shifting the light industrial and commercial areas at the southeast corner of the annexation area from the Kingsgate Neighborhood into the Totem Lake Neighborhood.
- Shifting of the apartments south of NE 124th St. at the southeast corner of the annexation area from the Kingsgate Neighborhood into the North Rose Hill Neighborhood.

- Shifting of the residential parcels northeast of Evergreen Hospital from the Totem Lake Neighborhood into the Kingsgate Neighborhood.

Given the number and complexity of the issues surrounding the annexation neighborhood boundaries, staff also recommending continuing the remainder of the decisions for approximately six months to allow additional community outreach by residents of the Finn Hill and Kingsgate neighborhoods. At the October 19 Council meeting, staff will be able to update the Council on the Planning Commission's discussion. A formal recommendation from the Planning Commission will be transmitted to the Council in November. No action by the Council is requested until then.

PROPOSED ORDINANCE RESTRICTING CELL TOWERS AND BILLBOARDS (CONTACT: ERIC SHIELDS, PLANNING DIRECTOR)

City staff assisted King County staff in preparation of an ordinance for consideration by the King County Council to place interim restrictions on the construction of large cell towers and billboards similar to Kirkland's regulations. The Proposed Ordinance was introduced by Councilmember Hague on September 30, 2010 (Proposed Ordinance No. 2010-0552). The first reading of the Ordinance was on October 4, 2010 and City staff anticipates final adoption by the King County Council later this month.

In August, the City received notice of an application with the County to erect a billboard along the south side of NE 124th St. just east of the current City limits. City staff has commented on the application, expressing concerns. A decision on the application has not yet been made. We will report on the outcome.

INTERLOCAL AGREEMENT ON PERMIT PROCESSING (CONTACT: ERIC SHIELDS, PLANNING DIRECTOR)

City and County staff are working on an interlocal agreement to specify numerous details in the processing of development permits started but not completed in the County on the effective date of annexation. The County originally submitted a draft agreement to the City based on agreements the County has had with other cities. Our staff reviewed the agreement, and suggested conceptual changes, which were agreed to by the County. County staff provided a draft agreement to the City on October 1. Highlights of the preliminary agreement summarized below:

- Building permits issued by the County prior to annexation shall be completed by the County under County codes.
- Building permit applications received by the County but not yet issued prior to annexation shall be forwarded to the City for issuance and completion under County codes.
- Proposed variances to County road or drainage standards will be decided by Kirkland.
- Land use permit applications submitted but not concluded prior to annexation shall continue to be processed by the County; however, after annexation, hearings will be conducted by Kirkland Hearing Examiner and decisions will be made by Kirkland officials under County codes. Some application fees will be provided to Kirkland to cover costs.
- King County will provide City with files and records for permits subject to the ILA.

- Kirkland will be the SEPA lead agency and will hear SEPA appeals; King County will provide technical assistance.
- Financial guarantees for issues reviewed by the City will be turned over to City;
- Many King County fees are based on hourly staff time. The County would like to be reimbursed for time spent over and above the fees collected directly by the County. City staff is reviewing authority needed for the City to recoup the added fees from the customers once the City has taken over the process.
- The City will adopt an ordinance allowing King County to charge fees for applications processed by County.
- King County agrees to provide the City with lists of active applications and code enforcement cases.
- Agreement valid until December 31, 2014.

The development services interlocal agreement will be part of the master agreement to be approved by the City Council prior to the effective date of annexation. As specific language is developed, it will be presented to City Council for review.

SOLID WASTE (CONTACT: RAY STEIGER, INTERIM PUBLIC WORKS DIRECTOR)

At the July 20, 2010 City Council study session, staff requested and received Council approval to enter into negotiations with Waste Management, Inc. (WMI) on a new long-term solid waste contract. The rates and services in any new contract will apply and be provided to post-annexation Kirkland residents and businesses upon the effective date of the 4-Way Agreement on July 1, 2011. A series of negotiation sessions with WMI have been scheduled over the course of the next three months and both parties have committed to substantially completing the expedited negotiation process by the end of 2010.

In 2011, City staff in cooperation with Waste Management will begin contacting residents in the annexation area that currently elect to self-haul their own garbage in lieu of subscribing to curbside garbage service through their current service provider, Allied Waste Services. Upon the effective date of annexation approximately 1,200 annexation area residents without curbside garbage service will be required to subscribe to service in accordance with Kirkland Municipal Code Section 16.08.030. Residents without curbside service will be encouraged to consider the convenience and financial incentives of curbside garbage and recycling service. The monthly cost of curbside garbage service is typically equal to or less than the cost of self-hauling garbage to King County transfer stations. Staff anticipates that many residents that currently do not subscribe to curbside service will voluntarily subscribe to a minimum service. Waste Management will also conduct a windshield survey of the area to determine where access issues can be addressed for residents needing assistance in using curbside services (e.g. long steep driveways). Compliance with mandatory curbside service will be achieved over time and take into consideration individual customer needs.

SURFACE WATER (CONTACT: RAY STEIGER, INTERIM PUBLIC WORKS DIRECTOR)

The Kirkland Surface Water Maintenance and Operations Division are working with the King County Surface Water Division to correct surface water maintenance issues in the annexation area. The following areas issues are currently being addressed:

Surface Water Detention Ponds: The County has been asked to clean the public detention ponds before they are transferred to the City of Kirkland. County crews have recently been cleaning and clearing brush from the ponds. The City's Surface Water Division will continue to work with the County Surface Water Division to make sure the detention ponds are fully maintained to the best of the existing resources before the effective date of annexation.

Aging Surface Water Infrastructure: During field mapping of the surface water system in the annexation area, some maintenance issues with the surface water system were noted. Most of the issues are primarily linked to the aging surface water infrastructure in this area; much of the storm system in annexation area was built in the 1960's and 1970's when large subdivisions were under construction. That same storm system is now 50-60 years old and the maintenance and replacement needs are apparent. The Surface Water Division will attempt to have known maintenance issues corrected by the County before the effective date of annexation. After annexation, maintenance issues will be identified and prioritized in the same manner that they are today with our existing surface water system.

COMMUNITY CELEBRATION (CONTACT: MARIE STAKE, COMMUNICATIONS PROGRAM MANAGER)

Following its March retreat, City Council members expressed interest in hosting an Annexation Celebration as a way to welcome new residents to the City. Staff seeks guidance from the Council on planning for a community celebration and offers the following as "food for thought"

- When to have the event
- Where to have the event
- What should happen at the event
- How to advertise the event

When to Hold an Event

The City Council may want to consider two or three separate events to mark the annexation.

The annexation takes effect at midnight on Wednesday, June 1, 2011. The City Council may want to consider a ceremonial "ribbon cutting" at multiple street entries from the annexation area to the City at midnight. One idea is to identify seven locations for a brief ribbon cutting.

The month of the event may dictate the appropriate place. Since it is often difficult to plan an outdoor event for early June due to the spring rains, the City Council may want to consider an additional celebration later in July or August such as hosting an event at the re-opening of Juanita Beach Park. Additionally, parks within the annexation area that make good candidates as venues include 132nd Square Park, O.O. Denny Park (owned by the City of Seattle and maintained by the Finn Hill Park & Recreation District), and Big Finn Hill Park (a regional park funded by King County).

If it is preferred to have an event in June, the City Council may wish to invite residents to an open house at City Hall in early June to meet city staff and familiarize themselves with city services. The City's community centers, City Hall and Maintenance Center are viable venues as they offer indoor and outdoor venues. If the event is to be held outside, then any one of the City's many flagship and waterfront parks would be excellent candidates.

Possible Event Activities

The celebration is intended to welcome Kirkland's new residents in a festive, yet informative way. It is hoped annexation residents will personally meet their elected and appointed officials, learn about their new government, meet other residents, and enjoy some food and activities.

Possible activities include:

- Welcome remarks from City Council members
- Informational booths about city services and programs (displays and handouts)
 - Welcome Kiosk
 - City Council
 - Public Safety
 - Crime Prevention
 - Emergency Preparedness
 - Fire Safety
 - Development Services, including Green Building Design & Construction
 - Volunteer Program
 - Neighborhood Services Program
- Interactive and educational activities
 - Police vehicle display
 - Police K-9 demonstration
 - Police SWAT demonstration
 - Fire Ready Trailer
 - Fire Truck and Aid Car display
 - Environmental education activity
 - Voter registration
 - Pet Licensing
 - E-gov services demo (allow for online registration to city information and services)
 - GIS maps
- Other
 - Local food vendors
 - Business vendors
 - Community organizations (e.g. Kirkland Heritage Society, Chamber of Commerce, Rotary Club)

Planning and coordinating the event

Staff from the Parks & Community Services Department and the City Manager's Office will work together to plan and coordinate the event. Annexation neighborhood leaders and Kirkland Alliance of Neighborhood (KAN) members will be involved as well.

Marketing and advertising the event

The City would use its usual means to advertise the event:

- City Update newsletter
- Webpage announcements
- List serv announcements
- News releases
- Currently Kirkland television show

If the annexation service package for communications is approved as part of the 2011-2012 Budget, funding would be available to print and mail an informational portfolio to annexation residents and to place paid advertising in local newspapers. These would be additional ways to promote the event.

SUMMARY

While this memo does not address all of the activities taking place, it highlights key accomplishments and challenges. At this time, Council direction is needed regarding the timing, location and format for a community celebration.



Memorandum

To: Tracey Dunlap, Director of Finance & Administration
Robin Jenkinson, City Attorney
City of Kirkland

From: Foster Pepper PLLC

Date: September 16, 2010

Subject: Annexation Taxes

I. INTRODUCTION

Background. Kirkland will be annexing three neighborhoods to its north, effective June 1, 2011. This will add approximately 32,000 residents and will increase the City's geographic area by about 50%. The City estimates that its costs to undertake these annexations, incurred prior to the annexation effective date during calendar years 2010 and 2011 (excluding accumulated costs before 2010) will equal about \$2.5 million in calendar year 2010 and \$3.5 million in calendar year 2011.

In this context, the City has asked for an analysis of certain tax incentives created by the Legislature in recent years, which encourage cities to annex areas within their urban growth boundaries by providing additional revenues to offset annexation-related costs.

As background, it is important to consider the legislative history and policy rationale behind these incentives. One of the major reasons that cities may be reluctant to annex unincorporated areas is that the cost to provide services at the level provided to the rest of the city outweighs the tax revenues that can be normally be generated within that area. In addition to normal operational costs, start-up or ramp-up costs are incurred to increase staffing and infrastructure so that services provided in the annexation area meet the City's desired levels of service. Unless otherwise provided for, these costs must be borne by the pre-annexation taxpayers, who do not benefit from the additional services to be provided to the annexation area. The goal of these tax incentives is to offset this burden with additional new revenues spread over a ten-year period.

Brief Summary. This memorandum examines two such incentives:

- (1) Sales and use tax credit (RCW 82.14.415). You have asked whether the annexation sales tax legislation permits the City, when calculating the *threshold amount*, to include annexation costs incurred prior to the annexation's effective date on a rolling basis, allowing the City to recover those costs over the ten-year period of the tax. Briefly, this approach to recovering those expenses is consistent with the plain language and legislative intent.
- (2) Gross receipts tax on house-banked social card games (RCW 9.46.110, .113 and .295). You have asked whether the City must demonstrate that the gambling tax receipts provide an annual offset to the annexation sales tax credit. The short answer is that the statute does not require annual matching of the offsets against the annexation sales tax credit reduction.

II. ANALYSIS

1. The Annexation Sales and Use Tax Credit

(a) *Legislative Framework and Intent*

The annexation sales tax credit under RCW 82.14.415 is a credit against the state sales and use taxes (generically, “sales tax”) collected within an annexing city.¹ The annexing city imposes an additional local sales tax, which is offset by a reduction in the State sales tax. The net result is a transfer of revenues from the State to the annexing city, with no increase to the taxpayer. The tax may only be imposed beginning on the first day of a State fiscal year (July 1) and revenues must be used “solely to provide, maintain and operate municipal services for the annexation area.”²

As with other “state-shared” sales taxes, the Legislature has imposed a limit on the maximum amount that a city may receive. Under the legislation, the City establishes a forward-looking *threshold amount* at the level “which the city deems necessary” to offset its annexation-related costs, based on those costs and the projected annexation area revenues for the year.³ Any amounts collected above the *threshold amount* during a State fiscal year belong to the State:

(7) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city’s cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city shall notify the department and the tax distributions authorized in this section shall be suspended for the remainder of the year.⁴

Thus, the *threshold amount* caps the amount the city may recover in a given year, regardless of how much revenue is generated by the tax. RCW 82.14.415(9) describes how this cap is implemented:

(9) The tax shall cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city shall provide the department with a certification of the city’s true and actual costs to provide municipal services to the annexed area, a new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section shall begin again on July 1st of the next fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount shall belong to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, shall not be carried forward to the next fiscal year.

Under the statutory framework, to begin receiving funds, the annexing city must (prior to March 1) calculate a forward-looking *threshold amount*, certify expenditures on a backward-looking basis, and set the tax rate for the local tax that is to be deducted from the State tax. The backward-looking

¹ Substitute Senate Bill 6686 (2006 Session) was amended in the 2009 Session by Engrossed Substitute Senate Bill 5321.

² RCW 82.14.415(5) and (6).

³ RCW 82.14.415(7) and (11).

⁴ RCW 82.14.415(7) (emphasis added).

certification is a simple reporting requirement, showing an accounting of “the city’s true and actual costs to provide municipal services to the annexed area” and establishing a running total of the annexation-related costs that have been incurred.

(b) Recovery of Pre-Effective Date Annexation Costs

The question that has arisen is whether, in calculating the *threshold amount* for any given year, the City may include a portion of annexation-related expenses incurred prior to the annexation’s effective date, on a rolling basis, effectively spreading recovery of the expenses over the ten-year period of the tax.

In interpreting a statute, the legislative intent should be considered and the statute should be read as a whole. Reading the statute as a whole reveals the following:

- First, under RCW 82.14.415(7), quoted above, the City is responsible for calculating the threshold amount at a level “which the city deems necessary” to recover “the city’s cost to provide, maintain and operate municipal services for the annexation area” over and above the projected revenues from the annexation area during a given year. Significantly, the phrase “during that year” modifies only the clause relating to the revenue projections; the Legislature did not similarly limit which costs the City may include in its calculation. It follows, therefore, that the City may claim proper annexation-related costs in any year in which the accumulated expenses exceed the revenues projected for that year from the annexation area.
- Second, the limitation in RCW 82.14.415(9) encourages the City to set relatively low *threshold amounts* and spread its cost recovery over time. The last sentence of RCW 82.14.415(9), quoted above, states that “[a]ny amount resulting from the threshold amount less the total [State] fiscal year distributions...shall not be carried forward to the next [State] fiscal year.” Under this limitation, if the actual distributions to the City during any State fiscal year do not reach the *threshold amount* set by the City (given the City’s chosen tax rate), the City may not recover the deficit as part of the next fiscal year’s distributions. This encourages the City to be conservative in its revenue projections but, by its plain language and context, does not restrict which costs the City may include in calculating the *threshold amount* in the first place. So long as a previously-incurred cost was not previously been included in calculating a *threshold amount*, the City should be able to include it in a future *threshold amount* calculation.
- Third, as discussed above, the evident legislative intent was to encourage annexations by offsetting the costs to the existing city taxpayers of taking on large annexations. It is consistent with this intent to allow a City to recover any cost incurred by the City in “providing, maintaining or operating” municipal services. Limiting the recoverable costs to expenses projected to be incurred in a particular year would undermine this legislative goal and could encourage a slow phase-in of municipal services to match with the ability to recover the costs. This absurd result is contrary to the statutory framework and legislative intent.

Given these observations, consistent with underlying intent and reading the statute’s plain language as a whole, the legislation should be interpreted to permit the City to include proper annexation-related expenses at any point over the ten-year life of the annexation sales tax, provided that no expense is included in more than one year’s *threshold amount* calculation.

2. Gross Receipts Tax on House-Banked Social Card Games

In order to provide an additional annexation incentive, the Legislature in 2009 amended RCW 9.46.295 to provide for the continuation of certain licenses for “house-banked social card

games” upon annexation into a city or town that otherwise prohibits such gambling activities.⁵ RCW 9.46.295 provides:

(2) A city or town with a prohibition on house-banked social card game licenses that annexes an area that is within a city, town, or county that permits house-banked social card games may allow a house-banked social card game business that was licensed by the commission as of July 26, 2009, to continue operating if the city or town is authorized to impose a tax under RCW 82.14.415 and can demonstrate that the continuation of the house-banked social card game business will reduce the credit against the state sales and use tax as provided in RCW 82.14.415(7). A city or town that allows a house-banked social card game business in an annexed area to continue operating is not required to allow additional house-banked social card game businesses.

Allowing the continuation of such card games in the annexation area creates an annexation incentive because it can be expected to provide additional revenues to the city or town from the gambling tax that may be imposed under RCW 9.46.110 and .113.⁶

RCW 9.46.110 permits a maximum local tax on house-banked social card games equal to 20% of the gross revenues from such games. RCW 9.46.113 states that “Any county, city or town which collects a tax on gambling activities authorized pursuant to RCW 9.46.110 must use the revenue from such tax primarily for the purpose of public safety.”⁷ The word “primarily” in this statute has been interpreted to mean that the city or town must apply the revenues first to the statutorily specified purpose, but may thereafter use the additional revenues for any general governmental purpose.⁸

The question that has arisen in this context is how the city or town can “demonstrate that the continuation” of the licensed gambling activities will “reduce the credit” provided under the annexation sales tax credit described earlier in this memo, and whether an annual matching of the reduction in the credit is required. One possible reading is that there must be city gambling tax revenues in each year sufficient to offset a portion of the annexation sales tax credit; another possible reading is that, over the life of the annexation sales tax credit, the total amount of the credit from the State would be reduced by some amount.

The statutory language quoted above does not provide specific direction about how or when to measure this reduction, and is therefore an area in which the agency applying the statute must develop guidance or rules for applying it. Requiring an exact match between the amount produced by the gambling tax and the amount by which the annexation sales tax credit would be reduced is impracticable and inconsistent with the overall statutory framework of the annexation sales tax. As discussed above, the annexation sales tax: (a) caps the distributions to the City based on the city-estimated *threshold amount*, and (b) does not require an annual matching between the City’s costs and the distributions to the City. Moreover, to read into the gambling tax provisions a requirement for an annual match is both impracticable and inconsistent with legislative intent behind the gambling tax provisions. In this case, the intent is to allow the continuation of a business activity that produces revenue for both the State and the city or town. It would be inconsistent with this goal

⁵ RCW 9.46.295 permits a city or town that otherwise prohibits gambling activities to allow certain “house-banked social card games” to continue to operate in an annexation area and permits the city to collect tax revenues and licensing fees from such operations.

⁶ We note that by allowing the gambling businesses to continue operations, this also preserves the gambling tax revenues that the State receives from these gambling operations.

⁷ As amended in 2010 by Engrossed Substitute House Bill 3179 (ch. 127, Laws of 2010).

⁸ *American Legion Post No.32 v. City of Walla Walla*, 116 Wn.2d 1 (1991).

to interpret and apply the statute in such a way that produces the opposite result: the shutting down of such businesses.

Because this statute does not contain the forward- and backward-looking reporting requirements of the annexation sales tax legislation, it appears that this provision requires only a forward-looking projection by the City demonstrating that it expects to receive an amount of revenue from the operation of such licensed gambling businesses over the life of the tax credit that will ultimately reduce the total amount of the annexation tax credit to be paid by the State to the City by some amount, which need not necessarily be commensurate with the gambling tax revenues.

III. CONCLUSION

The Legislature has provided several incentives for cities to annex the unincorporated areas within their urban growth boundaries. As with any tax legislation, the Department of Revenue will have to interpret and apply these statutes and should do so in a manner that is consistent with legislative intent.

In this case, it is consistent with legislative intent: (1) to apply the annexation sales tax statute to permit the City to include any previously-incurred annexation-related costs in its calculation of the *threshold amount* until all such costs have been included; and (2) to apply the gambling tax and related provisions in a manner that does not undermine the legislation's intent. As to the annexation sales tax provision, permitting the City to include previously incurred annexation costs in calculating a *threshold amount* is the only interpretation consistent with an intent to allow the City to recover those costs over the ten year period of the tax. As to the gambling tax provision, it would be both impracticable and inconsistent with the overall framework and legislative intent to require an annual matching between the amount of city gambling tax revenues and the amount by which the annexation sales tax credit is reduced.

We trust that this memo is helpful to you and look forward to assisting you further in this matter. If you have follow-up questions or would like additional clarification, please contact either Alice Ostdiek (ostda@foster.com, 206/447-4663).

September 14, 2010

The Honorable Joan McBride
Mayor, City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

Dear Mayor McBride,

I am writing you to clarify my intent as the state legislator who did most of the work on the annexation tax credit for cities in King County. In many cases, a situation turns out to be more complex than originally imagined and we try to write language that is flexible enough to resolve unforeseen situations. I believe the bill meets that criteria here. Specifically:

The intent of the credit is to allow a city to offset the costs incurred in the early years of doing an annexation where the tax revenue from the annexed region does not provide enough funds to cover the level of services that need to be provided. In large annexations where a substantial number of new police officers or firefighters have to be hired, cities will clearly need to be brought up to speed before the annexation revenue is realized. The training costs will be substantial and asynchronous with the revenue stream.

My intent was that those costs be covered, and allowing the costs to be carried forward until they are paid for is a reasonable implementation of this intent and I believe covered by the statute.

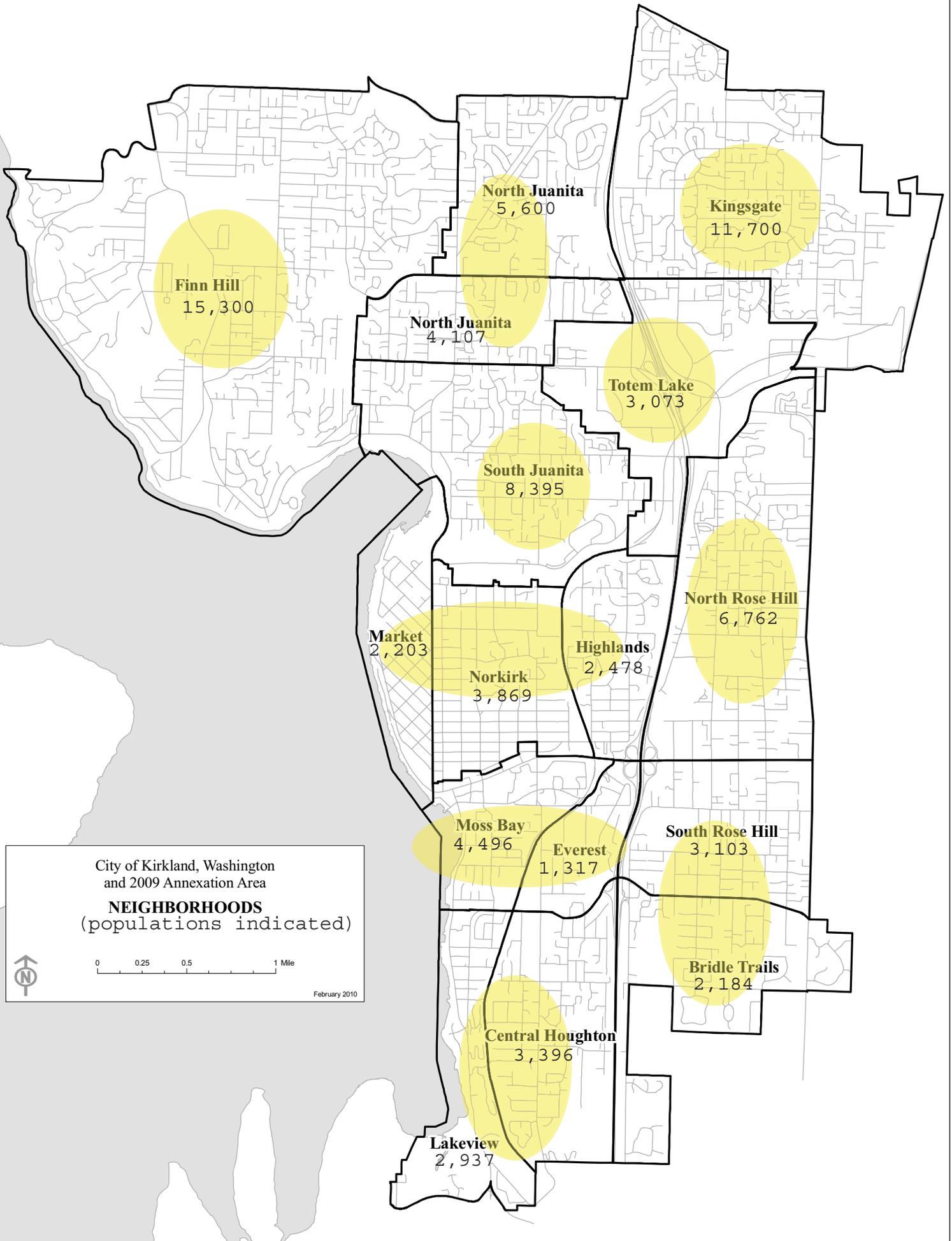
Similarly, in terms of the provision in the statute allowing the card room business to remain in operation post annexation, it seems that an annual certification of savings should not be required, given that no offset may occur in the early years and a dollar for dollar offset is not contemplated over the ten-year horizon for the credit.

Please let me know if there is further clarification I can offer.

Sincerely,

Ross Hunter
State Representative
48th Legislative District

Cc: Erin Leonhart
Majken Ryherd



City of Kirkland, Washington
and 2009 Annexation Area
NEIGHBORHOODS
(populations indicated)



0 0.25 0.5 1 Mile

February 2010