



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Erin J. Leonhart, Public Works Facilities & Administrative Manager
Daryl Grigsby, Public Works Director

Date: June 21, 2007

Subject: RESPONSE TO KING COUNTY EXECUTIVE SIMS REGARDING AMENDMENTS TO SEWAGE DISPOSAL AGREEMENTS

RECOMMENDATION

It is recommended that the Council authorize the Mayor to sign a letter to King County Executive Sims in response to his May 29, 2007 letter regarding amendments to sewage disposal agreements.

BACKGROUND

King County Executive Sims has requested that the City of Kirkland sign an amendment to our sewage disposal agreement (Attachment 1). The three issues King County wants to address in the amendment are:

1. Allowance for mid-year emergency rate increases;
2. Reduce the contract agency approval percentage for contract amendments from 100% to 90%; and
3. Extend the contract period to 2056 to allow for long-term debt.

The primary focus of the amendment was the contract term, since the agreements have historically been the County's primary security for long-term debt. In 2001, lower interest rates had resulted in the County issuing 35-year bonds instead of the 25-year bonds they previously issued.

This amendment was initially proposed in 2002 and Kirkland, as a member of MWPAAC (Metropolitan Water Pollution Abatement Advisory Committee) has been discussing the proposed amendments with King County staff since that time. A timeline and details of these discussions are in the attached memorandum dated April 10, 2007 (Attachment 2). Representatives from many contract agencies, including Kirkland staff, do not feel the amendments improve the existing agreements and are reluctant to extend them to 2056.

On May 7, 2007, King County adopted Ordinance 15757 compelling the local agencies it serves to deliver sewage to the County for treatment and continue to pay rates and charges beyond 2036 even in the absence of an agreement. MWPAAC expressed concern about the Ordinance, specifically its legal merit as well as what it means to contract agencies. With passage of Ordinance 15757, King County issued a \$250 million wastewater bond for a 40-year term.

Memorandum to David Ramsay

June 21, 2007

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Conclusion

As of this memorandum, eight organizations (Cities of Tukwila, Renton, Issaquah, Pacific and Carnation; the Vashon Sewer and NE Sammamish Sewer & Water Districts, and the Muckleshoot Indian Tribe) have signed amended sewage disposal agreements with King County. The Kirkland Public Works Department has concerns about the proposed amendments. With City Attorney's assistance, we are pursuing legal review of the King County Bond Ordinances from an outside attorney specializing in utility law. Daryl Grigsby and Erin Leonhart are scheduled to meet with Christie True, King County's new Wastewater Treatment Division Director, on July 17th to discuss a variety of issues, including the agreement. Staff recommends that Kirkland continue discussions with King County through MWPAAC instead of signing the amendment at this time.

Erin Leonhart will continue participating in the MWPAAC Committee and Subcommittee meetings and report any developments. Erin is also available to answer any questions related to this contract.

Attachment 1: May 29, 2007 Letter from King County Executive Sims

Attachment 2: April 10, 2007 Memorandum - King County Wastewater Contract – 2007 Update 1



King County

Ron Sims

King County Executive

701 Fifth Avenue, Suite 3210
Seattle, WA 98104

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ATTACHMENT 1

May 29, 2007

RECEIVED

JUN 08 2007

**CITY OF KIRKLAND
CITY MANAGER'S OFFICE**

The Honorable James L. Lauinger
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

Dear Mayor Lauinger:

I am writing to let you know that I believe it is very important that the sewage disposal agreement between the City of Kirkland and King County be amended and the term extended. I would also like to take this opportunity to further explain an action that King County has taken to avoid unnecessary increases in the county's monthly sewer rate and capacity charge as we continue in our efforts to amend and extend all sewage disposal agreements.

The county and its component agencies have worked for over five years to extend the term of the sewage disposal agreements beyond their 2036 termination date so that they could continue to constitute security for 35 to 40 year bonds. Unfortunately, most of the agreements have not yet been extended.

In an attempt to move this effort forward, I proposed an amendment to you by letter dated November 21, 2006 that included an extension of the term of the agreement from its current expiration date in 2036 to 2056. The proposed amendment would also enable out of cycle sewer rate increases in emergency situations and create a super-majority standard for future contract amendments. The same amendment provided to you was also provided to those other cities and special districts that had not previously executed similar amendments.

Since the agreements describe the manner in which cities and districts pay King County for sewage treatment service, they have provided important security for the long term debt that has financed the county's regional wastewater treatment system. The county has typically issued bonds with 35 to 40 year terms. Because most of the agreements expire in 2036, 2001 was the last year that the county issued 35 year bonds. The county's last wastewater bond issue was 29 years. When shorter term bonds are issued, the repayment of the principle is compressed into fewer years. This increases the county's monthly sewer rate and sewage treatment capacity charge. Compression of the repayment period also results in future rate payers escaping their costs of growth. It does not therefore comply with regionally promulgated policies directing that growth pay for growth.

The decreasing bond terms came at a time when the county needs to proceed with significant borrowing to implement the Regional Wastewater Services Plan (RWSP). The King County



The Honorable James L. Lauinger
May 29, 2007
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Council has therefore taken the action described below to protect current sewer customers from sewer rates and capacity charges while efforts to extend the term of the sewage disposal agreements continue. Without this action, the county's sewage treatment capacity charge would require an additional \$3.50/month more in 2008 and more than \$8/month higher by 2011. The monthly sewer rate would also increase by more than \$1.05 in 2009, \$1.30 in 2010 and \$1.50 in 2011.

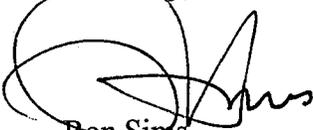
King County has considerable statutory authority to provide regional sewage treatment and disposal. On May 7, 2006, the county council adopted an ordinance that compels the local agencies it serves in King County to continue delivering their sewage to the county after the current agreements expire and to pay the county's sewer rates and charges even if no agreement is in place after 2036.

Activation of this statutory power, in combination with the county's "competitive position" as the regional wastewater services provider, will be suitable for securing the county's bond issues without impacting the county's high bond ratings. The council's adoption of the above mentioned ordinance allows the county to return to its traditional borrowing term as it proceeds with a \$250 million wastewater bond issue this month and subsequent bond issues. The sewer rate and capacity charge impacts described above will therefore be avoided.

This ordinance does not, however, supplant the need for agreements and its adoption will not diminish our efforts to amend and extend them. The agreements remain a desirable and necessary model for implementing wastewater treatment services. They provide important protections to the cities and districts served by ensuring a uniform sewer rate and agreed upon rate structure. For the county they provide various protections that would not be achievable through adoption of ordinances. I am confident that you will continue to treat the proposed amendment and extension with the utmost importance as we do.

If you have any questions or need duplicate copies of the amendments previously provided, please contact Bob Hirsch, Government Relations Administrator, Wastewater Treatment Division, Department of Natural Resources and Parks at 206-684-1266 or via e-mail at bob.hirsch@metrokc.gov.

Sincerely,



Ron Sims
King County Executive

cc: Daryl Grigsby, Public Works Director, City of Kirkland
MWPAAC Representative, City of Kirkland
Pam Bissonnette, Director, Department of Natural Resources and Parks (DNRP)
Christie True, Director, Wastewater Treatment Division (WTD), DNRP
Bob Hirsch, Government Relations Administrator, WTD, DNRP

**CITY OF KIRKLAND****Department of Public Works****123 Fifth Avenue, Kirkland, WA 98033 425.587.3800****www.ci.kirkland.wa.us**

MEMORANDUM

To: David Ramsay, City Manager

From: Erin J. Leonhart, Public Works Facilities & Administrative Manager
Daryl Grigsby, Public Works Director

Date: April 10, 2007

Subject: KING COUNTY WASTEWATER CONTRACT – 2007 UPDATE 1 **(READING FILE)**

In July 2006, the attached memorandum (Attachment 1) was submitted to Council regarding wastewater contract discussions with King County. This update summarizes activities since that time.

King County Wastewater Contract Amendment

King County provides sewage disposal service to 34 local governments in King and south Snohomish counties under long-term agreements. These agreements were initially due to terminate in 2016 but most were extended to 2036 in the late 1980's (this includes Kirkland). In November 2001, King County requested amendments to the existing contracts. The three issues King County wanted to address in the amendment were:

1. Allowance for mid-year emergency rate increases;
2. Reduce the contract agency approval percentage for contract amendments from 100% to 90%; and
3. Extend the contract period to 2056 to allow for long-term debt.

The primary focus of the amendment was the contract term, since the agreements are the primary security for long-term debt. In 2001, lower interest rates had resulted in the County issuing 35-year bonds instead of the 25-year bonds they previously issued. King County's next proposed bond issue is for 40-year bonds.

Contract Discussions

For the past five years, the MWPAAC (Metropolitan Water Pollution Abatement Advisory Committee) Contract Amendment Subcommittee evaluated the issues and held discussions with County staff. Working with all members of MWPAAC, the subcommittee identified a number of issues members felt needed to be reviewed as part of the contract amendment discussions. Although each agency has an individual contract for wastewater treatment services, the MWPAAC Subcommittee worked to ensure consistency across the contracts with member agencies.

Concurrently, King County was conducting contract discussions with the City of Seattle, as the largest contract agency. Neither of these efforts resulted in mutually accepted contract amendments. Both MWPAAC and Seattle recognized that this was an opportunity to revise contracts to more accurately reflect the current relationship between King County and contract agencies.

In a letter to King County Council Chair Phillips dated April 12, 2006, King County Executive Sims expressed concern about rate impacts related to the contracts. The Regional Water Quality Committee (RWQC) also discussed the contracts and the Suburban Cities Association, as an organization with members on the RWQC, adopted a public policy position in support of "...agency contracts that allow the County the full flexibility to finance the upcoming capital improvements at the County's standard bonding term, thus reducing future rate and capacity charge increases as needed."

In November 2006, King County Executive Sims sent letters to agencies that had not signed amended wastewater contracts (Attachment 2). Executive Sims acknowledged that King County's primary focus for the amendment effort was related to debt security.

In January 2007, Seattle and a few Special Districts submitted a revised contract option to King County for review. This contract was written to address agency concerns, including the difference in relationship that existed since the dissolution of METRO. King County did not accept this contract.

At the March 2007 MWPAAC meeting, King County announced they were proceeding with a 40-year bond issue of \$250 million. According to the County's legal counsel and financial advisors, their statutory power to provide wastewater treatment service under METRO's enabling legislation provides them with the security needed for long-term debt. The County expressed that they still feel contracts are important and will continue pursuing amendments.

In April 2007, King County distributed bond Ordinances for the next planned bond issue of \$575 million. MWPAAC has expressed concern about these Ordinances, specifically their legal merit as well as what they mean to contract agencies. MWPAAC is drafting a letter to King County Councilmember Chair Gossett requesting "...that no action be taken with regard to these ordinances until the interest and security aspects of the proposed Bond Ordinances have been fully explored..."

Conclusion

As of this memorandum, six organizations (Cities of Tukwila, Renton, Issaquah and Carnation; the Vashon Sewer District and the Muckleshoot Indian Tribe) have signed amended wastewater contracts with King County. Kirkland staff is pursuing legal review of the proposed King County Bond Ordinances. Erin Leonhart will continue participating in the MWPAAC Committee and Subcommittee meetings and report any developments. Erin is also available to answer any questions related to this contract.

Attachment 1: June 22, 2006 Memorandum w/Attached Letter to King County Councilmember Phillips

Attachment 2: November 21, 2006 Letter to Mayor Lauinger

July 5, 2007

Executive Ron Sims
King County
701 Fifth Ave, Suite 3210
Seattle, WA 98104

SUBJECT: SEWAGE DISPOSAL AGREEMENT

Dear Executive Sims:

Thank you for your May 29, 2007 letter regarding amendment and extension of our sewage disposal agreement. The City of Kirkland appreciates King County's efforts to avoid unnecessary increases in monthly sewer rates and capacity charges. Stable, cost-effective services as well as positive relationships are important to Kirkland so we would like to continue amendment discussions.

As a member of the Metropolitan Water Pollution Abatement Advisory Committee (MWPAAC), Kirkland has been an active participant in the discussions with King County staff about amending the agreements. Although this work has taken five years, we would rather continue conversations in hopes of reaching a long-term solution that is mutually beneficial. We also believe that regionalism and consistency across agreements are important; therefore, we would prefer continuing the conversation through MWPAAC instead of negotiating as an individual agency at this time.

Kirkland's Public Works Director, Daryl Grigsby, and his staff are scheduled to meet with Christie True in July and this will be a topic of conversation. Please contact Daryl at 425-587-3802 or DGrigsby@ci.kirkland.wa.us if you have any questions in the meantime.

Sincerely,

James L. Lauinger, Mayor
For the Kirkland City Council

cc: Pam Bissonnette, Director, Department of Natural Resources and Parks
Christie True, Director, Wastewater Treatment Division, DNRP
Bob Hirsch, Government Relations Administrator, WTD, DNRP
Daryl Grigsby, City of Kirkland Public Works Director
Erin Leonhart, City of Kirkland Public Works Facilities & Administrative Manager