

recommendation is contained in Attachment C. The proposed funding sources for those service packages are presented in the 11/17/09 version of the Budget Balancing framework (Attachment D - purple shaded lines).

In brief, the funding sources include:

- The \$750,000 in state sales tax credit, assuming that annexation is approved and State agrees to our implementation of the sales tax credit early (in 2010). Initial indications from the Department of Revenue are that early implementation is not feasible, however, we are pursuing a legal interpretation of the specific language in the statute. The backup plan if we are not able to implement the credit in 2010 is to use the funds set aside toward the Police Facilities CIP. These funds have previously been proposed for use toward the City Hall/Public Safety Expansion, meaning that if they are needed for this purpose, we will have less cash for that project and will need to issue more debt.
- The \$177,000 in GIS Capital Improvement Program is a reprioritization of the work program to recognize that annexation will become one of the most critical GIS needs. Currently planned projects would be delayed to a later date in the CIP.
- The set-asides for interest backfill and unemployment/ restructuring costs from year-end 2008 cash were presented to the City Council at the retreat in March. The interest backfill was for use in the event that the City's interest earnings assumed in the budget fell short due to declining interest rates. The unemployment/restructuring costs set-aside was to recognize the possibility that there could be added costs associated with staff reductions and the impacts of the transfer of dispatch to NORCOM. As part of the mid-biennium budget analysis based on year-to-date results (completed in October), staff determined that a part of these set-asides, interest backfill (\$327,000) and unemployment/restructuring (\$200,000), do not appear to be needed. Use of these amounts leaves \$250,000 in the interest set-aside and \$100,000 in the unemployment/restructuring set-aside.
- The non-tax revenue estimates (\$700,000) were developed as part of the mid-biennium budget update. The impact of the ramped-up CIP on internal service charges (\$300,000) could not be accurately assessed until we were well into the construction season. The Council directed that the SST mitigation (\$227,000) be placed in the General Fund and we are recognizing the actual payments received in 2009, which have been unpredictable by quarter so the intent was to recognize them as part of the mid-bi review. The Fire District reconciliation (\$180,000) is always done in the subsequent year and recognized as a budget adjustment.

In essence, the budget process is an exercise in balancing financial resources and needs, resulting in very detailed and line-item oriented adjustments. The Budget Balancing framework is a communications tool and the process of matching up individual strategies with specific contributors to the shortfall, such as the annexation service packages, is intended to provide clarity to the discussion. In fact, with the exception of the annexation sales tax credit and reprioritizing of the GIS CIP which are dependent on annexation, the available strategies as a group are used to balance the budget as a whole. In other words, the individual strategies could be lined up in any number of ways, for example, a portion of the Rainy Day reserve use could be applied to annexation and the other sources could be applied to the existing budget

November 19, 2009

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shortfall. A version of the framework, without the color coding, is provided for reference as Attachment E.

On December 15, the City Council will be presented with the mid-biennial budget adjustments and final 2010 property tax for adoption. In addition to implementing the budget balancing strategies, the adjustments will include:

- *Development Services Reductions* – Given the continuing decline in development services permit revenues, additional reductions were made in late 2009 to better align resources with activity levels.
- *Annexation Service Package Requests* – With the possible approval of annexation of the PAA, a number of service packages were submitted to work toward an effective date in mid-2011. Depending on the annexation decision, the recommended service packages may be presented for approval with the mid-biennial adjustments or they may be brought forward for separate action early in 2010.
- *Council Directed/Other Requests and Previously Approved Adjustments* - Any additional changes identified by Council and formalizing previously approved actions (fiscal notes, etc).
- *CIP Adjustments* - Formalizing changes based on the 2009-2014 CIP update presented to the City Council in September.
- *Housekeeping Items* - Adjustments that may be needed to adjust budget accounts, fund balances, etc.

May 18. The deadlines for the City Council to submit resolutions to the County Auditor calling for the special elections are: December 23; March 12; and April 2, respectively. The election could also be held with the primary election on August 17 (resolution deadline: May 24) or the general election on November 2 (resolution deadline: August 9). Based on the most recent 2010 cost estimates from King County, the cost for the election could range from \$50,000 to \$85,000, depending on what other issues are on the ballot.

Is County funding available?

Kirkland has not received a response to the September letter requesting funding from King County for annexation purposes. A follow-up letter to the King County Executive and Council specifically requesting funding for 2010 Annexation Service Packages will be available for Council consideration for the December 15th meeting.

Has there ever been an annexation in Kirkland where they accepted the City's debt?

The majority of Kirkland annexations have been by petition method. The results of petition-method annexations are mixed in terms of accepting City debt. Of the election method annexations, most notably the Lower Juanita/Rose Hill votes of 1987, it does not appear that any have accepted City debt. With the 1968 consolidation of Houghton and Kirkland, it appears that each area retained its own debt after the consolidation.

How much is the bonded debt?

In 2009, the City has \$8.09 million in voted general obligation (G.O.) bonds outstanding. This translates into annual debt service in 2009 of \$1.46 million. At the end of 2009, one of the bond issues is retiring. The outstanding voted G.O. bonds in 2010 will be about \$7 million and the annual debt service will be \$922,000.

Another policy consideration regarding the assumption of debt is that the City Council had previously agreed in principle to assume the Fire District #41 debt associated with the consolidated fire station construction, if the voters in annexation area accepted the City's debt. The City Council has the option of continuing any property tax levy associated with outstanding bonds, after the Fire District has been dissolved. Note that, at this writing, the District has not yet issued the bonds to build that station.

If the City Council accepted the annexation without the assumption of debt, could the City issue new voted general obligation bonds which would be used to finance new projects, refinance the obligations for existing voted debt, and result in all property within current Kirkland and the annexation area paying for the newly issued debt?

Based on preliminary discussions with bond counsel, it would be possible for the City to place a ballot measure, on a City-wide ballot, which would provide for new money and the refunding of outstanding Unlimited Tax General Obligation (voted) bonds.

What if the final vote to approve annexation is by less than 60 percent of the voters and the Council takes no action?

Because the questions of annexation and assumption of debt were combined on the ballot, the annexation and assumption of debt are approved only if the proposition is approved by a 60 percent majority. If the Council takes no action, the proposition fails. [See the response to the last question below for further discussion of potential actions.]

Could the new City Council take action on the annexation election results if the current Council takes no action?

This is not an area of settled law, but since the relevant statutes, RCW 35A.14.085 and RCW 35A.14.090, do not specify any date by which the City Council must act to accept or refuse annexation, it would seem that this action could occur when the newly-elected City Council members take their seats.

What if the new Council does not agree with the current Council's action or inaction?

The answer to this question is not clearly addressed in statutory or case law and the answer would likely vary depending on the action taken or not taken by the current Council. Here are some potential scenarios:

Current Council takes no action (does not pass a resolution) to accept the annexation without the assumption of debt.

If the annexation is approved by less than 60 percent of the voters and the current Council took no action, it appears that the new Council could take action to accept the annexation as discussed above.

Current Council passes a resolution to accept the annexation without the assumption of debt, but does not pass an ordinance approving the annexation without the assumption of debt and setting and effective date.

Here it appears the new Council could decide not to pass the ordinance. RCW 35A.14.090 states, in part, as follows:

If both propositions were submitted and only the annexation and adoption of the proposed zoning regulation was approved, the legislative body *may* adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the proposed zoning regulation, as the case may be, or the legislative body *may* refuse to annex when a proposal for assumption of the portion of indebtedness has been disapproved by the voters.

(Emphasis added.) So, it would seem that, even if the current Council passed the resolution authorized by RCW 35A.14.085, the new Council could decide *not* to pass the annexation ordinance.

Current Council passes a resolution to accept the annexation without the assumption of debt and passes an annexation ordinance approving the annexation without the assumption of debt and setting an effective date for the annexation.

This is the most challenging scenario. The Washington Supreme Court has recognized that legislative bodies of municipal corporations can change votes, but with the following caveat about final action:

Unless restrained by charter or statute applicable, the legislative body of a municipal corporation, like all deliberative bodies, possesses the undoubted right to vote and reconsider its vote upon measures before it, at its own pleasure, and do and undo, consider and reconsider, as often as it may think proper, *until by final vote or act, accepted as such by the body, a conclusion is reached*. It is the result only which is important. . .

(Emphasis added.) *Cowlitz County v. Mary Johnson*, 2 Wn.2d 497, 503 (1940). Arguably, an annexation ordinance is final action that cannot be undone by a new Council. Again, this is not a settled area of law.

Please let us know if there are additional questions.

October 2009 Financial Dashboard Highlights

November 18, 2009

- The dashboard report reflects the budget adjustments adopted by the City Council in July. The statistics are calculated off the amended budget; the original budget is shown for reference. The actual revenues and expenditures summarized in the dashboard represent ten months of data, which is 83.3% of the year complete.
- Total General Fund revenues are below expectations due to the following:
 - October sales tax revenue posted the best results so far for 2009, down only 7.9 percent compared to October 2008. The primary driver for the improvement in monthly revenue is the automotive/gas retail sector, as a result of the “cash for clunkers” program. This sector was up 26 percent from last October (about \$69,000). Other retail and communications also experienced positive results for the month. Year-to-date revenue is down 19.3 percent compared to the same period last year. Actual 2009 revenue is behind the same period in 2008 by over \$2.4 million. Sales tax revenue received this month is for activity in August.
 - The decline in business license revenues continues, with October monthly revenues falling short of projections by over \$60,000; year-to-date, we have collected 66.7% of the budgeted amount. The shortfall is driven by the decline in employment due to the overall economic downturn, including relocation of a couple of businesses with over 100 employees each, and increased accuracy in FTE reporting.
 - Utility tax receipts continue to lag budget, at 76% year-to-date in 2009 versus 83% last year.
 - Development revenues continue to be down, however expenditure reductions have been implemented to offset the shortfall. Further discussion of October development activity follows the dashboard.
- Total General Fund expenditures are within expectations.
 - Overall, General Fund expenditures are trailing the budget, reflecting actions that have been taken to date to slow spending.
 - Fire Suppression overtime in October was \$49,795, taking the year-to-date actual over the annual budget. The Department’s estimate is that overtime will be over budget by approximately \$272,000, primarily driven by a higher than expected number of disabilities.
 - Jail Contract Costs are currently at 97% of budget, but the Police Department is planning to under-expend in other categories to help offset the overage. For 2010, the department is expecting jail costs to return closer to the budgeted level.
 - Fuel costs are still substantially below budgeted levels, but prices have risen over the past several months.

Attachments: October Dashboard
Development Services Highlights

Annual Budget Status as of 10/31/2009 (Note 1)
Percent of Year Complete 83.33%

	2009 Original Budget	2009 Amended Budget	Year-to-Date Actual	% Received/ % Expended	Status		Notes
					Current Month	Last Month	
General Fund							
		(Note 2)					
Total Revenues	59,821,768	58,393,326	47,186,614	80.8%			
Total Expenditures	61,552,551	60,323,757	48,735,343	80.8%			

Key Indicators (All Funds)

Revenues							
Sales Tax	14,700,801	12,020,059	10,203,793	84.9%			Prior YTD = \$12,637,337 Jan-Oct 2008 was 76.46% of budget
Utility Taxes	11,586,963	11,586,963	8,856,949	76.4%			
Business License Fees	3,077,720	3,077,720	2,052,155	66.7%			Significant decline from estimates
Development Fees	3,373,273	2,775,891	2,279,291	82.1%			
Gas Tax	1,133,278	1,133,278	872,945	77.0%			
Expenditures							
GF Salaries/Benefits	42,645,103	41,943,803	34,296,547	81.8%			Excludes Fire Suppression Overtime
Fire Suppression Overtime	719,190	719,190	756,956	105.3%			Disabilities continue to be high
Contract Jail Costs	899,680	899,680	872,095	96.9%			Underexpending in other categories to offset
Fuel Costs	558,310	367,242	281,283	76.6%			Cost/gallon will be below budgeted rate but rising

Status Key

Revenue is higher than expected or expenditure is lower than expected

Revenue/expenditure is within expected range

WATCH - Revenue/expenditure outside expected range



Note 1 - Report shows annual values during the first year of the biennium (2009).

2 - 2009 Budget was amended through mid-yr adjustments as of July 2009

Development Services Report – October 2009

A review of the October 2009 permit data allows us to offer the following:

- The October 2009 statistics continue to follow the trend that we witnessed in the second half of 2008. New single family residential permit applications had shown improvement in October (4 applications received compared to 1 in October of last year). In the past, when we have seen a downturn in new development permits, we have seen an increase in commercial tenant improvement permits and single-family remodel permits but that is not the case so far this year (255 applications year to date compared to 321 last year).
- The monthly average for 2009 (188) is lower than the monthly average for 2008 (222), the total number of permits received in October 2009 (201) is lower than October 2008 (241).
- Building Department revenue for October 2009 was \$100,816, below our revised projected monthly revenue average of \$181,125 for 2009. Year to date total revenue projected for the first 10 months falls short by \$187,746. We have been making on-going expenditure reductions commensurate with this shortfall in revenue.
- Along with various smaller projects, we expect Evergreen Hospital Medical Center to submit a \$5 million Pre-surgery remodel in November that will generate approximately \$17,000 at intake and \$26,000 at issuance.
- Public Works Department development revenue for October 2009 was \$78,775 which is above our monthly projected revenue average of \$43,285. This revenue brings the year-to-date total for Public Works to \$506,313 which is \$13,105 short of the \$519,418 budgeted revenue estimate. Public Works anticipates that this remaining shortfall will be generated by year-end.
- Planning Department revenue for October 2009 was \$18,919 which is above our projected adjusted monthly revenue average of \$15,950 for 2009. Year to date total revenue is 137% of budget.
- The redesigned McLeod project received DRB approval in October. We have entered into an agreement to be paid in advance for providing code compliance review services during the design process prior to receiving their building permit application. We expect them to apply for their permit in November.
- Touchstone is continuing the design review process for the redevelopment of Park Place. To date the DRB has held 9 project review meetings and has tentatively approved Building A at the gateway corner. Buildings B and C along 6th Street will undergo review in December and the remaining 4 buildings in early 2010 with a Project Decision anticipated in late winter/early spring.

Permits for buildings will be phased, probably beginning in 2010. Meanwhile Development Review Services is in preliminary discussions with the Park Place design team to provide review services during the design process. As with the McLeod Project, this approach has the potential of generating substantial fees prior to the actual submittal of their permit applications and a shorter review period once they submit.

**City of Kirkland
2009-2010 Mid-Biennial Budget Review
Annexation Service Package Requests -- 11-10-09**

Department	SP #	Service Package Title	FTE	Department Request	City Manager Recommendation	Notes
Finance & Admin.	010FA11	Budget Analyst	1.00	\$ 87,039	\$ 87,039	
Police	010PD06	Recruitment and Advertising		\$ 25,000	\$ 25,000	
Police	010PD07	Workplace Expansion		\$ 49,000	\$ 49,000	
Police	010PD08	Vehicles		\$ 162,400	\$ 162,400	Assumes June 1, 2011 effective date
Police	010PD09	Annexation Related Police Reorganization		\$ 66,141	\$ 66,141	
Police	010PD10	PTO Training Overtime		\$ 27,563	\$ 27,563	
Police	010PD11	Annexation Officers	26.00	\$ 1,319,219	\$ 1,319,219	Assumes June 1, 2011 effective date
Subtotal Police Department			26.00	\$ 1,649,323	\$ 1,649,323	
Information Technology	522IT09	GIS Professional Services		\$ 265,000	\$ 177,000	Total estimated cost of \$265,000 funded by re-purposing \$177,000 of existing GIS CIP funding; remainder will be brought forward for future consideration.
Human Resources	010HR02	HR Analyst (0.7 FTE)	0.70	\$ 70,955	\$106,833	1.12 FTE HR Analyst starting 2/1/2010 recommended
Human Resources	010HR03	HR Analyst (0.7 FTE)	0.70	\$ 49,108		
Human Resources	010HR04	HR Coordinator (0.5 FTE)	0.50	\$ 33,196		
Subtotal Human Resources Department			1.90	\$ 153,259	\$ 106,833	
Planning	010PL09	Planner	1.00	\$ 99,201	\$ 99,201	
City Manager	010CM12	Annexation General Support	0.40	\$ 35,084	\$ 35,084	
Total			30.30	\$ 2,288,906	\$ 2,154,480	

Budget Balancing Strategy - General Fund
Framework - 11/17/09 Mid-Bi Update without Utility Tax with Annexation
Dollars in thousands

Attachment D

	Potential Savings Available	One-Time		Ongoing		Total
		2009	2010	2009	2010	
Projected Near-Term Shortfall due to Sales Tax		(2,772)	(2,642)	-	-	(5,414)
Other Near-Term Shortfall due to Economy		(351)	(787)	-	-	(1,138)
Projected Ongoing Shortfall due to Utility Tax		-	-	-	(2,240)	(2,240)
Projected Shortfall in Baseline Utility Tax		(982)	(1,497)	-	-	(2,479)
Projected Shortfall in Business License Fees		(622)	(676)	-	-	(1,298)
Projected Overspending in Fire Overtime (with "Hard Cap")		(272)	(300)	-	-	(572)
Annexation Service Packages		-	(2,154)	-	-	(2,154)
Total (Shortfall)		(4,999)	(8,056)	-	(2,240)	(15,295)
Strategies						
1. Budget Reduction List/Services Matrix	1,615	-	348	-	1,267	1,615
2. Additional Reductions						
Line Item Budgets						
Dues & Memberships	47	-	31	-	-	31
Out-of-State Training/Travel & Subsistence	64	29	35	-	-	64
Fire Minimum Staffing/Other OT Reduction	369	-	300	-	-	300
3. Savings from M&O/Additional Revenues						
Internal Service Rates						
Fleet Rates (mostly due to fuel savings)	229	129	100	-	-	229
IT Operating Rates	201	70	131	-	-	201
IT Replacement Rates	228	76	152	-	-	228
Governor's Pension Rate Reductions	557	180	377	-	-	557
Facilities/Court Building Lease Savings	320	118	202	-	-	320
Revenue - Parking Fine Increase (\$10/ticket)	100	-	100	-	-	100
Estimated Under Expenditures in 2009	800	800	-	-	-	800
NORCOM - reduced 2010 budget	219	-	219	-	-	219
Estimated Year-End Non-Tax Revenues	700	-	700	-	-	700
4. Reserves/Year End Cash						
2008 Year-end Cash	1,500	1,500	-	-	-	1,500
Revenue Stabilization Reserve	1,082	1,000	82	-	-	1,082
Rainy Day Reserves	2,700	-	1,646	-	-	1,646
Contingency (for Fire OT)	2,325	272	-	-	-	272
Street Fund	200	-	200	-	-	200
COLA Reserve	500	-	500	-	-	500
LTGO Bond Fund	150	-	150	-	-	150
Non-Department Contingency	581	258	229	-	-	487
Interest Backfill Set-aside	577	-	327	-	-	327
Unemployment/Restructuring Set-aside	300	-	200	-	-	200
5. Capital Improvement Program						
Projects Funded not Started	477	279	-	-	-	279
Projects to be Closed/Funds Repurposed	453	288	-	-	-	288
Police CIP -or- State Sales Tax Credit	750	-	750	-	-	750
Repurposing GIS CIP	177	-	177	-	-	177
6. Compensation Savings						
AFSCME/Teamsters	344	-	-	-	344	344
MAC	270	-	-	-	270	270
IAFF	339	-	-	-	339	339
PSEU (Police Lts.)	20	-	-	-	20	20
Police Commissioned & Support Guild*	296	-	-	-	-	-
7. Work Schedule Reductions						
Furlough/Equivalent Reduction	1,100	-	1,100	-	-	1,100
Total Potential Savings		4,999	8,056	-	2,240	15,295
Net Surplus/(Shortfall) - Annual		-	-	-	-	-

NOTES

* Collective bargaining agreement is currently open, so savings are shown as potential pending negotiations.

Grey shaded items indicate approved Mid-Year Budget adjustments.

Yellow shaded items indicate changes since 8/4/09 presentation

Purple shaded items indicate annexation-related changes reflecting 11/17/09 funding recommendations.

Development Services-related shortfall/reductions are excluded (\$978,000)

Budget Balancing Strategy - General Fund
Framework - 11/17/09 Mid-Bi Update without Utility Tax with Annexation

Dollars in thousands

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		2009	2010	2009	2010	
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Projected Shortfall in Business License Fees		(622)	(676)	-	-	(1,298)
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Police Commissioned & Support Guild*	296	-	-	-	-	-
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