## STAFF REPORT

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| **Agenda Item:** | 11 | **Name:** | Mike Reed |
| **Proposed No**.: | 2013-0247 | **Date:** | December 3, 2013 |
| **Invited:** |  |

**SUBJECT**

Revising the Amended and Restated Solid Waste Interlocal Agreement with the City of Bothell to address waste disposal responsibilities for waste from newly-annexed Snohomish County areas.

**SUMMARY**

Ordinance 2013-0247 revises the Amended and Restated Solid Waste Interlocal Agreement with the City of Bothell to continue the policy of allowing waste from Snohomish County areas annexed to Bothell after January 2011, to be directed to the Snohomish County solid waste system for disposal. This policy was approved by the Council through Ordinance 17112 in 2011. The new Interlocal Agreement between the County and Bothell, recently approved by Council, supersedes the original ILA. This measure amends the new ILA for consistency with that policy action of the Council.

**BACKGROUND**

Most cities in King County, including the City of Bothell, have historically been party to interlocal agreements with the County defining the management and disposal of municipal solid waste. These agreements provide, in sum, that the County manages transfer stations and the Cedar Hills landfill, and cities collect the waste and send it to the county-run disposal system. Bothell is bisected by the King/Snohomish County border; it has identified potential annexation areas in King and Snohomish counties, and has, over the years, annexed certain such areas. These include areas in Snohomish County that have historically directed waste from unincorporated areas to the Snohomish County disposal system.

These annexations have raised the question of the appropriate waste system assignment. The original Solid Waste Interlocal Agreement assigned all waste generated by Bothell to the King County system, whether that waste originated in the King County or Snohomish County portion of the City. Bothell and Snohomish County have sought to have waste from newly-annexed areas of Snohomish County directed to the Snohomish County system.

In July 2011, the King County Council approved an amendment to the existing Solid Waste Interlocal Agreement, allowing waste generated from Snohomish County areas that are annexed to Bothell after January 2011, to be directed to the Snohomish County waste disposal system (Ordinance 17112). That amendment also extended the agreement expiration date to 2057, and included provision for indemnification of King County from actions of Bothell related to the disposal of waste in the Snohomish County system, and recovery of attorney’s fees by the County where there is successful court action against the city.

Meanwhile, many cities in King County concluded negotiations on a revised Solid Waste Interlocal Agreement, which was approved by cities over the first half of 2013. This “Amended and Restated Solid Waste Interlocal Agreement” extends the agreement term to December 31, 2040, and expands the agreement to address environmental liability, the use of system revenues, financial policies, Cedar Hills landfill management, dispute resolution, and similar matters. The County Council approved the agreement in October 2013 (Ordinance 17677).

Along with 31 other cities, Bothell has agreed to this “Amended and Restated” interlocal agreement; however, it has made its agreement contingent upon the approval of an amendment to the agreement which would, in effect, carry forward the 2011 changes—allowing the City to direct waste from Snohomish County areas annexed after 2011 to the Snohomish County waste disposal system. The Executive is amenable to this change, having recommended an earlier version as the substance of the 2011 revision.

Proposed Ordinance 2013-0247 would accomplish this change, through an amendment to the 2013 “Amended and Restated Interlocal Agreement”. The amendment would provide that Bothell may direct waste from Snohomish County areas that are annexed to the city after January 2011, to that county’s solid waste disposal system. Additionally, provision is made for indemnification of King County from actions of Bothell related to the disposal of waste in the Snohomish County system, and recovery of attorney’s fees by the County where there is successful court action by King County against the city related to the provisions of the agreement.

**ANALYSIS**

The change proposed by this measure would continue a policy that was brought about by the Council’s action in 2011, agreeing to allow waste from Snohomish County areas annexed to Bothell after 2011 to go the Snohomish County municipal solid waste system. That change was supported by the recognition that those areas historically, as Snohomish County unincorporated areas, sent their waste into the Snohomish County system, and that the act of annexation should have the effect of holding the respective parties harmless in terms of waste volume assignment.

The relationships that underlie that 2011 policy determination continue in effect. Bothell has continuing annexation plans, both for areas in King County and Snohomish County; it is reasonable that waste volumes from areas of unincorporated Snohomish County should continue to go to that county’s waste disposal system. There does not appear to be anything inherent to the act of annexing a land area that should automatically drive its waste to a different disposal system, particularly where there is an historic waste disposal relationship in place. The measure before the Council effectively continues the arrangement agreed to through Ordinance 17112 in 2011.

The key substantive change has to do with the reduction in the term of the agreement. As noted, the current Bothell Interlocal Agreement continues through 2057. The revised language would establish an expiration date of 2040, in common with the other Amended and Restated Interlocal Agreements with 31 other cities. This date was arrived at after extended negotiations with cities, where the parties attempted to balance the need to extend the term of the agreement to support certainty of the revenue stream, against the desire of some cities for a more time-limited agreement. The same balance can reasonably apply to the relationship with Bothell. Additionally, the financing arrangements for the updated transfer station network should be managed equitably for participating cities; contract expiration dates which are the same for such cities support such parallel financing relationships. Finally, at some future date approaching the agreement expiration, the parties may seek to extend or renegotiate terms; having the parties on equal footing as regards the date of expiration provides for greater equity, and supports a more effective and commonly-based premise of negotiations.

**AMENDMENT**

As transmitted, the proposed amendatory language includes provision for a 2040 expiration date for the Interlocal Agreement. However, this language is intended to amend the October 2013 “Amended and Restated Interlocal Agreement”, which provides specifically for a December 31, 2040 expiration date. The intent of the parties is accomplished by leaving the existing expiration date language in place. An amendment to the proposed amendatory language has been prepared by staff to correct this.

**REASONABLENESS**

The adoption of the referenced amendment, and the approval of this measure as amended, supports the effective management of the solid waste system and is consistent with the Council’s 2011 action on Ordinance 17112; as such, it appears to be a reasonable business decision.

**ATTACHMENTS**

1. Proposed Ordinance 2013-0247
2. Draft Amendment 1 with attachment 1