



King County

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KING COUNTY COUNCIL

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King County DNRP
Wastewater Treatment Division

April 23, 2008

The Honorable Julia Patterson
Chair, King County Council
Room 1200
COURTHOUSE

Dear Councilmember Patterson:

Ordinance 15805 adopted May 29, 2007, requires that I update the King County Council semi annually on the progress of King County's efforts to amend and extend the term of the sewage disposal agreements that it has with local sewer service providers. With this letter I am pleased to provide the second report, which follows the same format as the first one.

The entries regarding the cities of Auburn, Black Diamond, Bothell, Kent, Lake Forest Park and Seattle have been updated to reflect activities since the first report. The status of efforts with agencies other than those mentioned above has not changed so the portions of the report addressing them have not changed. The background information under "Purpose and History" is also the same.

The specific requirements of Ordinance 15805 are restated below for your convenience.

The Reporting Requirement

Section 4.

A. The county executive shall semiannually update the council on the progress of contract negotiations with the sewer service providers. The update shall be accomplished through a status report that shall, at a minimum, include the following:

- 1. An update of the status of negotiations with each component agency;*
- 2. An identification of issues in contention with each component agency;*
- 3. An identification of agencies with which the executive branch feels the county is at an impasse; and*
- 4. For those agencies at an impasse, a detailed summary of the issue causing the impasse.*

- B. The report shall be filed in the form of thirteen copies with the clerk of the council who will keep a copy and forward a copy to each councilmember as well as the lead staff to the operating budget, fiscal management and mental health committee, or its successor, the lead staff to the growth management and natural resources committee, or its successor, and the lead staff to the regional water quality committee, or its successor.*
- C. The report shall be transmitted by March 31 and September 30 of each year until such time as all the component agency contracts have been extended. The executive shall notify the council when all the component agency contracts have been extended by filing thirteen copies of the notice with the clerk of the council who will keep a copy and forward a copy to each councilmember as well as the lead staff to the operating budget, fiscal management and mental health committee, or its successor, the lead staff to the growth management and natural resources committee, or its successor, and the lead staff to the regional water quality committee, or its successor.*

To provide context for this report, I will briefly summarize the purpose and history of the agreement amendment/extension effort.

Purpose and History

Several circumstances precipitated the effort to amend and extend the sewage disposal agreements. The agreements had been historically cited by King County as the security for the wastewater program's bonded debt. Long term bonds (35 to 40 years) have been the primary means of financing improvements and expansions of the county's regional wastewater system. Most of the agreements terminate in 2036. By 2001, only 35 years remained in the agreement term, meaning that the county would not thereafter be able to cite the agreements as security for any debt extending beyond 35 years. The debt term that could be secured by agreements would then continue to shorten for every subsequent year unless the agreements were extended. Shorter term debt means that repayment of the principal is compressed into a shorter time frame which then requires higher sewer rates and capacity charges. (The actual dollar impact of various debt scenarios has been repeatedly publicized in other communications to the council and to the public.)

In addition to a 20-year extension of the term, two substantive changes to the agreements have been proposed. The first would allow out-of-cycle sewer rate increases in emergency situations, and the second would change the feature of the agreements that requires unanimous concurrence of all served agencies for agreement changes that relate to terms for sewage disposal and payment therefor. The energy crisis early in this decade demonstrated the need for the former. The latter simply continued an effort that began the last time the agreements were amended in the late 1980s and early 1990s. This latter change was one of four agreement changes recommended by a stakeholder advisory committee that examined the sewage disposal agreements during the 1980s. The committee was concerned that the structure of the agreements would allow one small local agency with less than one percent of the ratepayer base to veto changes desired by all other agencies.

In late 2001, the county began a two-pronged effort to amend and extend the agreements. The county's proposal was presented to the Metropolitan Water Pollution Abatement Advisory Committee (MWPAAC) for the purpose of gaining its endorsement of the proposed agreement changes. At the same time, direct negotiations were initiated with the City of Seattle. The proposed changes regarding out of cycle sewer rate increases and future agreement changes were modified in response to input from both MWPAAC and Seattle. MWPAAC ultimately declined to endorse the county's proposal, however, because it wanted additional agreement changes addressing other issues. Those issues included "Culver" expenditures, reclaimed water and wastewater program decision making. Negotiations with Seattle, which will be discussed later in this report, have been progressing but have not yet resulted in an agreement.

In July 2006 the Suburban Cities Association (SCA) formally adopted positions generally supportive of the county's efforts to amend and extend the agreements. This has significantly influenced several suburban cities.

Ordinance 14913 adopted May 24, 2004, provided the initial council authorization and approval for the proposed agreement changes. Updated language was approved by Ordinance 15666 adopted December 11, 2006. The updated language was provided to local agencies in November 2006. Some agencies had signed the proposed amendment prior to 2006 but the later language is compatible with the earlier language.

By Ordinance 15757, adopted May 7, 2007, the council activated "flow control" and rate imposition powers granted to the county by state law. Citing this newly activated authority and its "competitive position" as the regional wastewater treatment service provider as security for future bond issues, the county has been able to return to its traditional 35 to 40 year debt terms. King County has nevertheless expressed a clear preference for agreements as the means of providing wastewater treatment service. I communicated this to the local agencies by letter dated May 29, 2007. On that same day the council adopted the requirement that I periodically provide reports on the progress of our efforts to amend and extend the agreements. As this report substantiates, those efforts continue.

Status of Negotiations

The percentage of the customer base represented by each agency is parenthetically noted.

1. The following local agencies have executed amendments to their sewage disposal agreements, or executed new agreements, that include the extension of the term to 2056 as proposed by the county.

- City of Renton (4.15 percent)—2004
- City of Tukwila (1.17 percent)—2007
- City of Issaquah (1.18 percent)—2007
- City of Pacific (0.39 percent)—2007
- Vashon Sewer District (0.12 percent)—2004

- City of Carnation (no service until new county plant completed in 2008)—2003
- Muckleshoot Indian Tribe (direct service has not yet begun; currently served via Auburn)—2004

2. The following agencies have been considering action on the county's proposal.

- City of Bothell (1.12 percent)—The county's proposal was discussed by the city council's utilities committee on September 27, 2007. The committee expressed a willingness to move it to the city council for action but it has not yet been placed on a specific city council agenda. County staff believes the city does not regard this as urgent given the council's enactment of Ordinance 15757 and the fact that Seattle and most other agencies have not yet signed amendments/extensions. Efforts to move this forward continue.
- City of Lake Forest Park (0.59 percent)—Following discussion with county staff last year the mayor expressed an intention to place this item on a council agenda for discussion. County staff continues to press for such a discussion but believes the city's view is similar to Bothell's.
- Skyway Water and Sewer District (0.67 percent)—County staff met twice with Skyway's Board of Commissioners in 2007. Concerns were expressed about rising costs and sewer rates. The board indicated they would consider some kind of future action on the county's proposal.

3. The status of negotiations with remaining agencies is described below. The agencies are addressed in order of size. The portion of the ratepayer base that each agency represents is parenthetically noted. It is very important to note that this report, by its nature, requires that I make representations as to the positions and views of the individual local agencies as they relate to the county's proposed agreement changes. It is possible that one or more agencies might contend that my representations have not been accurate. In that event, I welcome any corrections. The reader must also consider that some agencies may simply not reveal all of their views related to the county's proposed agreement changes.

One general observation is that the sewer districts, which collectively constitute about 24 percent of the county's ratepayer base, have tended to act somewhat as a group typically using MWPAAC as a forum for coordinating their views. The cities, which constitute 76 percent of the ratepayer base, have been inclined to act more independently although the suburban cities have used SCA for coordinating a position on the county's proposal.

- City of Seattle (41.73 percent)—Negotiations with Seattle, which had been "on and off" since late 2001, resumed with a meeting of high level managers from the city and county September 20, 2007. Negotiations involving managers and key staff have continued.

From the outset Seattle has wanted absolute assurance that “growth will pay for growth” for the life of any extended agreement and has focused on King County’s sewage treatment capacity charge for new customers. The policies and method for formulating the charge are contained in Ordinance 14219 adopted October 1, 2001, upon recommendation from the Regional Water Quality Committee (RWQC). Over most of the past six years Seattle has insisted that their agreement include a more elaborate and detailed method of formulating the charge, and that the method be “locked in” for the life of the agreement. Any future changes to the method would then require concurrence of the Seattle City Council. County proposals during the course of the negotiations have attempted to provide some limited “lock in” of the county’s adopted method while maintaining the legislative prerogatives of both the council and RWQC to make changes should circumstances warrant.

Since negotiations resumed in September 2007 Seattle has undertaken a more comprehensive review of the county’s methodology for formulating the charge and Seattle staff is discussing the results of this review with city policymakers. Seattle staff then plans to convey to county staff whatever concerns remain. While it is not yet clear whether or not the current negotiations will result in an extended agreement, positive discussions and negotiations continue.

- City of Bellevue (8.78 percent)—Bellevue has not taken a formal position on the county’s proposed changes. Its primary spokesperson has been Councilmember Don Davidson who represents Bellevue at MWPAAC and is also a suburban cities representative on the RWQC. In recent months Dr. Davidson has been advocating a review of agreement issues by a yet to be formulated group of elected officials. He has in various forums expressed concerns about wastewater program capital costs and the county’s engagement in reclaimed water.
- City of Kent (5.15 percent)—Kent is waiting to consider extension of its agreement until it updates its wastewater comprehensive plan. That work is currently underway. As part of its planning process Kent is investigating options for local sewage treatment, offloading some wastewater flows to Lakehaven Water and Sewer District’s treatment plant and generation of reclaimed water. Kent understands the county’s role as the regional wastewater service provider but wants to be able to discuss with the county the findings of its planning process before committing to an extension of the current agreement. Completion of Kent’s wastewater plan update is scheduled for late 2008. County staff met with Kent staff February 5 and was invited to participate in the planning effort.
- Alderwood Water and Sewer District (4.66 percent)—Alderwood, one of four agencies served in Snohomish County, has not communicated to the county any position on the county’s proposed changes. It has not shown an inclination to move ahead of other sewer districts in responding to the county’s proposal but has indicated an interest in

discussing some agreement issues specific to Alderwood. Near-term discussions are planned.

- Soos Creek Water & Sewer District (4.63 percent)—Soos Creek advocates an alternative sewage disposal agreement whereby the local agencies would exercise decision making authority over the county's wastewater capital program through an "operating board" composed of both county and local agency representatives. The structure would be similar to the operating board created by the water supply agreements Seattle has with its water purveyors although the powers would be far more extensive. This alternative agreement would also allow local agencies to leave the regional wastewater system. County staff believes that Soos Creek is one of two districts that has sought specialized legal assistance to examine and potentially contest the validity of Ordinance 15757. I believe an impasse exists between the county and Soos Creek based on the foregoing coupled with the fundamental impossibility that the county could, or would, delegate any of its budget approval authority to an appointed third body.
- Northshore Utility District (4.02 percent)—Northshore has not communicated a position to the county. District staff has expressed a view that the county's ability to resolve differences with Seattle would significantly influence the actions of other agencies.
- City of Redmond (3.95 percent)—Redmond, through its staff, has expressed reluctance to move forward on the county's proposal until the form of the amendment appears more certain. Until Seattle and some other agencies sign, Redmond believes the proposed amendment is subject to change. In addition, Redmond believes that the adoption of Ordinance 15757 makes immediate action on the county's proposal unnecessary. Although Redmond staff actively participated in MWPAAC's review of the county's proposal, it does not profess alignment with other agencies or groups of agencies.
- City of Auburn (3.82 percent)—Auburn has not taken a formal position on the county's proposed agreement changes. It has expressed interest in options for generating reclaimed water. Mayor Pete Lewis played a role in development of the SCA position mentioned above. Councilmember Bill Pelozza, who represents Auburn at MWPAAC and is also a suburban cities representative at RWQC, has repeatedly expressed a view that individual agencies need to work directly with the county regarding agreement issues and has spoken against any form of group negotiation.

By letter to me dated December 18, 2007, Mayor Lewis criticized the adoption of Ordinance 15757 and contended that Auburn had a right to consider alternative means of sewage treatment after the current agreement expires in 2036. He also asked for negotiations to resume. I reaffirmed in my response dated February 11 that the county remains committed to continued discussions. County staff is following up with Auburn staff.

- Ronald Wastewater Management District (2.78 percent)—Ronald has not taken a formal position on the county's proposal. It participated in MWPAAC's review and appears to prefer that forum for addressing agreement issues. There is some indication it is aligned with the Soos Creek position.
- City of Kirkland (2.05 percent)—Kirkland staff actively participated in MWPAAC's review of the county's proposal. The city has expressed a desire to continue working with other agencies on agreement issues.
- City of Mercer Island (1.22 percent)—Mercer Island is conversant with the county's proposal and has not voiced any objections. City staff is aware, however, that the proposal has not yet been accepted by a number of larger agencies and has sparked controversy with some. Mercer Island officials and staff are not therefore ready to seek city council approval for the agreement changes.
- Cedar River Water and Sewer District (0.74 percent)—Cedar River's position is identical to Soos Creek's position. Cedar River and Soos Creek have collaborated closely on responding to the county's proposal and generating the alternative sewage disposal agreement mentioned earlier in this report. Cedar River is one of two sewer districts that has sought specialized legal assistance to examine and potentially challenge the validity of Ordinance 15757. Walt Canter, a commissioner for Cedar River, is one of the sewer district representatives on the RWQC. I believe an impasse exists based on the foregoing coupled with the fundamental impossibility that the county could, or would, delegate any of its budget approval authority to an appointed third body.
- City of Brier (0.30 percent)—Brier, one of four agencies served in Snohomish County, has not expressed any objection to the county's proposal. The Mayor is discussing it with the other Snohomish County agencies.
- City of Algona (0.19 percent)—Algona staff has submitted the proposal to the city attorney for review and has not so far expressed any objections.
- City of Black Diamond (0.15 percent)—Black Diamond has not expressed any objection to the county's proposal. It is very much interested in the county providing its service by building a satellite treatment plant in Black Diamond versus sending all flows to South Plant and views examination of this option in Black Diamond as an integral part of discussions about the county's proposed agreement changes. County staff and Black Diamond representatives have been meeting frequently in attempts to address the interests of both parties.

The Honorable Julia Patterson

April 23, 2008

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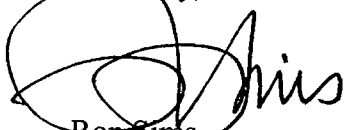
4. The following sewer districts have not taken, or expressed any position on the county's proposal, nor have they responded in any substantive way to the county's repeated communications. Most are very small. They are very likely waiting for outstanding issues to be resolved through the county's negotiation with larger agencies, through MWPAAC or through some other forum.

- Valley View Sewer District (1.91 percent)
- Sammamish Plateau Water and Sewer District (1.86 percent)
- NE Sammamish Sewer and Water District (0.77 percent)
- Woodinville Water District (0.68 percent)
- Coal Creek Utility District (0.46 percent)
- Lakehaven Utility District (0.13 percent)
- Cross Valley Water District (0.06 percent)—Snohomish County
- Olympic View Water and Sewer District (0.03 percent)—Snohomish County
- Highlands Sewer District (0.02 percent)

Amending and extending the term of the sewage disposal agreements is a very high priority for King County and I look forward to providing the next report due September 30, 2008. If you have any questions about this report, please feel free to contact Bob Hirsch, Government Relations Administrator in the Wastewater Treatment Division of the Department of Natural Resources and Parks, at 206-684-1266, or bob.hirsch@kingcounty.gov.

I appreciate the opportunity to provide periodic updates on this very important matter.

Sincerely,



Ron Sims

King County Executive

cc: King County Councilmembers

ATTN: Ross Baker, Chief of Staff

Saroja Reddy, Policy Staff Director

Anne Noris, Clerk of the Council

Frank Abe, Communications Director

Bob Cowan, Director, Office of Management and Budget

Theresa Jennings, Director, Department of Natural Resources and Parks (DNRP)

Christie True, Division Director, Wastewater Treatment Division (WTD), DNRP

Bob Hirsch, Government Relations Administrator, WTD, DNRP