## STAFF REPORT

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| **Agenda Item:** |  | **Name:** | Terra RoseJenny Ngo |
| **Proposed No**.: | 2018-0375 | **Date:** | January 9, 2019 |

**SUBJECT**

Proposed Ordinance 2018-0375 would approve and adopt the 2019 Comprehensive Solid Waste Management Plan as a revision of the 2001 Comprehensive Solid Waste Management Plan. This staff report provides supplemental information related to questions raised by Regional Policy Committee members at the September meeting, as well as a summary of solid waste budget actions included in the adopted 2019-2020 Biennial Budget.[[1]](#footnote-1) The staff report for the proposed ordinance itself is provided as Attachment 6.

**SUMMARY**

Proposed Ordinance 2018-0375 would approve and adopt the 2019 Comprehensive Solid Waste Management Plan (CSWMP), which sets the strategies for managing solid waste in King County for the next six-year planning period, with consideration of the next 20 years.

***Committee History.***The transmitted CSWMP has been designated a mandatory dual referral and referred to both the Committee of the Whole and the Regional Policy Committee. The Regional Policy Committee (RPC) received an Executive staff briefing on August 22, 2018 on the CSWMP and a Council staff briefing on September 12, 2018. No action was taken at either meeting. RPC members raised several questions at the September meeting and supplemental information related to those questions is provided in the Analysis section of this staff report.

On November 5, 2018, the Council passed Motion 15244 (provided as Attachment 5), which allows the Regional Policy Committee until March 31, 2019 to review and act upon the Plan, thereby extending the 120-day timeframe for action outlined in the King County Code and Charter.[[2]](#footnote-2)

***Solid Waste Budget Actions.***The 2019-2020 biennial budget recently passed by the Council contained a number of solid waste budget actions, including requiring a consultant study on the feasibility of a waste to energy facility, as well as funding restrictions on certain solid waste capital projects.

**BACKGROUND:**

The Comprehensive Solid Waste Management Plan is a policy guidance document that sets the strategies for managing solid waste in King County for the next six-year planning period, with consideration of the next 20 years. Proposed Ordinance 2018-0375 would approve and adopt the 2019 Comprehensive Solid Waste Management Plan as a revision of the 2001 Comprehensive Solid Waste Management Plan. The Plan includes policies and recommended actions related to: broad solid waste system priorities, solid waste forecasting and data, waste prevention and recycling, solid waste transfer and processing, solid waste disposal, and system finance.

***Committee History.*** The transmitted CSWMP has been designated a mandatory dual referral and referred to both the Committee of the Whole and the Regional Policy Committee. The Regional Policy Committee (RPC) received an Executive staff briefing on the Plan on August 22, 2018 and a Council staff briefing on September 12, 2018. No action was taken at either meeting.

On November 5, 2018, the Council passed Motion 15244 (provided as Attachment 5), which allows the Regional Policy Committee until March 31, 2019 to review and act upon the Plan, thereby extending the 120-day timeframe for action outlined in the King County Code and Charter.[[3]](#footnote-3)

***CSWMP Adoption Process.*** Per the Amended and Restated Interlocal Agreements (ILAs) with the partner cities, the CSWMP is adopted when the Plan is approved by the King County Council[[4]](#footnote-4) and a proportion of the cities who have executed ILAs acting within a certain period of time. After the CSWMP is adopted by the County Council and requisite number of cities, the final Plan will be submitted to Ecology for formal approval.

The ILAs outline the process for city adoption, specifically stating that the CSWMP is adopted when it:

*…is approved by cities representing three-quarters of the population of the incorporated population of jurisdictions that are parties to the interlocal agreements. In calculating the three-quarters, the calculations shall consider only those incorporated jurisdictions taking formal action to approve or disapprove the Comprehensive Plan within 120 days of receipt of the Plan. The 120-day time period shall begin to run from receipt of an incorporated jurisdiction of the SWIF’s recommendation on the SW Comprehensive Plan, or, if the SWIF is unable to make a recommendation, upon receipt of the SW Comprehensive Plan from the SWIF without recommendation. (Section 11.6.b)*

The ILAs also provide for a process should the CSWMP be approved by the King County Council, but not receive approval of three-quarters of the cities acting on the Plan. If the parties are unable to resolve their disagreement, then the ILAs dictate that the CSWMP shall be referred to Ecology to resolve any disputes by approving or disapproving the Plan.

***Solid Waste Actions in the 2019-2020 Biennial Budget.*** The 2019-2020 biennial budget recently passed by the Council contained a number of solid waste budget actions.[[5]](#footnote-5) The full text of the proviso or expenditure restriction and a brief description are provided below.

*Waste to Energy Study*. The biennial budget included a linked proviso and expenditure restriction that requires that $500,000 from the Solid Waste Division budget be used for the Office of Performance, Strategy and Budget to manage a RFP process and consultant study concerning long-term disposal options. The scope of work described in the proviso is primarily focused on the feasibility of a waste to energy facility, but also requires the consultant to review the County’s most recent waste tonnage forecast and discuss the potential costs, constraints, and environmental impacts of waste export by rail. The waste to energy portion of the study shall contain an evaluation of the size of facility that would be needed, estimates of the costs and potential financing options, potential environmental impacts, estimates of potential revenues, and a reasonable timeline for implementation. The Executive should file the consultant study with the Council by October 4, 2019. The expenditure restriction and proviso state:

ER2 EXPENDITURE RESTRICTION:

 *Of this appropriation, $500,000 shall be expended or encumbered solely to issue a request for proposals, and to manage and pay a contractor to conduct the feasibility study for a waste to energy facility to manage the region's solid waste that provides a comparison to waste export by rail as described in Proviso P4 of this section.*

P4 PROVIDED FURTHER THAT:

 *Of this appropriation, $100,000 shall not be expended or encumbered until the executive transmits the feasibility study for a waste to energy facility to manage the region's solid waste that provides a comparison to waste export by rail and a motion that should acknowledge receipt of the feasibility study and reference the subject matter, the proviso's ordinance, ordinance section and proviso number in both the title and body of the motion and a motion acknowledging receipt of the feasibility study is passed by the council. The study should be performed by a contractor with significant experience in the field of waste management and recycling, demonstrated expertise with waste to energy technology and familiarity with the capital and operating needs of waste to energy facilities located around the world, and shall primarily consider a waste to energy facility that uses mass burn technology. The contractor may also identify other technologies that may be feasible to accommodate the current and future projections for the amount and composition of the county's waste stream. The solid waste division must provide the county's waste tonnage forecast model to the contractor upon request and explain any assumptions.*

 *The feasibility study shall include, but not be limited to:*

 *A. A review of factors that may affect the county's future waste tonnage forecast completed in 2018, and an analysis, with a range of estimates, of how different assumptions could affect the forecast;*

 *B. A discussion of the potential for exporting the county's waste by rail that includes an analysis of the future rail capacity forecast, the estimated capital and operating costs and the environmental impacts;*

 *C. An evaluation of the size of a waste to energy facility that would be needed to accommodate the county's solid waste over a twenty to fifty year time horizon, beginning in 2025, with any assumptions clearly articulated, and a description of any siting needs including the necessary parcel size;*

 *D. A discussion of the costs of a waste to energy facility and potential financing options that includes estimates for the capital costs, the annual operating and maintenance costs and the estimated impact on the county's tipping fee, with any assumptions clearly articulated;*

 *E. A discussion of any environmental impacts of a waste to energy facility;*

 *F. An assessment of regional electricity markets and the regulatory structure to produce an estimate of potential revenues from the sale of electricity by a waste to energy facility;*

 *G. An analysis of other potential revenue sources from the potential byproducts of a waste to energy facility that includes, but is not limited to, the sale of recovered metals and possible uses of bottom ash;*

 *H. A discussion of the state and federal regulatory environment related to waste to energy facilities; and*

 *I. A reasonable timeline for implementation of a waste to energy facility, and an analysis of the potential impact on the lifespan and capacity of the Cedar Hills regional landfill if a waste to energy facility was developed according to this timeline.*

 *The executive should file the feasibility study and a motion required by this proviso by October 4, 2019, in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff for the committee of the whole, or its successor.*

*Solid Waste Capital Projects.* The 2019-2020 biennial budget included funding for three projects that feature in the transmitted 2019 CSWMP related to expanding the Cedar Hills landfill and constructing a new recycling and transfer station in Northeast King County. During the budget deliberations, Councilmembers expressed interest in syncing up the solid waste budget with the consideration of the CSWMP such that budget decisions did not drive the capital project decisions in the Plan. The adopted 2019-2020 budget included linked expenditure restrictions and provisos on the three capital projects described below that restricted funding to specific stages of the project until the Council approves a CSWMP and that Plan contains direction to move forward on the capital project. Executive staff indicate that the money that is restricted to the early stages of each project is sufficient to continue work through 2019.

* Cedar Hills Facility Relocation. This project relocates facilities at Cedar Hills that stand on the footprint where further landfill development could occur. Of the $26.3 million appropriation included in the budget for this project, $6 million is restricted such that it may only be spent on planning and design phase activities. The remaining appropriation ($20.3 million) is withheld by proviso until the Council approves a CSWMP and the CSWMP contains direction to expand Cedar Hills. Otherwise, the money withheld by proviso would lapse.
* Development of Area 9. This project would develop a new disposal area at the Cedar Hills landfill, referred to as Area 9. Of the $10.1 million appropriation included in the budget for this project, $3.5 million is restricted such that it may only be spent on planning and design phase activities. The remaining appropriation ($6.6 million) is withheld by proviso until the Council approves a CSWMP and the CSWMP contains direction to expand Cedar Hills. Otherwise, the money withheld by proviso would lapse.
* Northeast Recycling and Transfer Station. This project would site and construct a new transfer station in Northeast King County. Of the $40.1 million appropriation included in the budget for this project, $1.9 million is restricted such that it may only be spent on planning, design, and acquisition phase activities. The remaining appropriation ($38.2 million) is withheld by proviso until the Council approves a CSWMP and the CSWMP contains direction to site and construct a new Northeast Recycling and Transfer Station. Otherwise, the money withheld by proviso would lapse.

*Compost Market Development.* The 2019-2020 adopted budget includes a linked proviso and expenditure restriction that requires $500,000 to be expended only to develop a plan for the County to expand and enhance the regional market for compost that is produced using the County’s organics stream and to pilot recommendations in the plan. The Executive should file the plan with the Council by August 16, 2019. The expenditure restriction and proviso state:

ER2 EXPENDITURE RESTRICTION:

 *Of this appropriation, $500,000 shall be expended or encumbered solely to develop and pilot the recommendations in the plan to expand and enhance the regional market for compost that is produced using the county's organics stream as described in Proviso P2 in this section. The pilot must include a program whereby the solid waste division purchases compost for county use.*

P2 PROVIDED FURTHER THAT:

 *Of this appropriation, $250,000 shall not be expended or encumbered until the executive transmits a plan identifying actions and recommendations that the county can take to expand and enhance the regional market for compost that is produced using the county's organics stream and a motion that should acknowledge receipt of the plan and reference the subject matter, the proviso's ordinance, ordinance section and proviso number in both the title and body of the motion, and a motion acknowledging receipt of the plan is passed by the council. The intent of the plan is to divert flows from the landfill through recycling and by developing new uses to increase local demand.*

 *In the development of the plan, the solid waste division shall consult with the following county divisions on potential options: road services; permitting; wastewater treatment; water and land resources; and parks and recreation.*

 *The plan shall include, but not be limited to:*

 *A. An evaluation of actions the county can take to expand and enhance the regional market for compost that is produced using the county's organics stream. The evaluation shall consider, but not be limited to:*

 *1. Best practices and actions taken by cities and counties across the nation;*

 *2. County procurement policies;*

 *3. Use in water quality, habitat and site rehabilitation projects;*

 *4. Use in county or private development projects; and*

 *5. Subsidies for agricultural or other uses.*

 *B. A set of recommendations that the county could pilot to use compost produced from the county's organics stream, cost estimates for those recommendations, any barriers to the use of the compost and options to overcome those barriers.*

 *The executive should file the plan and a motion required by this proviso by August 16, 2019, in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff for the committee of the whole, or its successor.*

*Every-Other-Week Garbage Service.* The 2019-2020 adopted budget includes a proviso that specifies that no funds shall be expended to implement a garbage service change where the frequency of garbage collection in the unincorporated area would be reduced from every week to every-other-week until the Executive transmits a plan for community outreach to affected residents. The proviso states:

P1 PROVIDED THAT:

 *Of this appropriation, no funds shall be expended or encumbered to: (1) implement a garbage service change, whereby the frequency of garbage collection in the unincorporated area of the county would be reduced from every week to every other week; or (2) seek from the health officer, under BOH 10.08.050, in the board of health's solid waste regulations, approval of a different frequency of garbage removal in the unincorporated area than the current once-per-week removal, until the executive transmits a plan for community outreach related to the reduction in garbage service and a motion that approves the plan, and a motion approving a community outreach plan is passed by the council. The motion should reference the subject matter, the proviso's ordinance, ordinance section and proviso number in both the title and body of the motion.*

 *The plan shall include, but not be limited to, a summary of how the solid waste division will communicate the proposed service reduction to affected residents and how public input will be collected, as well as the proposed number of public meetings to be held in each council district, the proposed dates and locations of the public meetings and how the meetings will be advertised.*

 *The executive must file the community outreach plan and the motion required by this proviso in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff for the committee of the whole, or its successor.*

**ANALYSIS**

As noted previously, the Regional Policy Committee received a Council staff briefing on the transmitted CSWMP at its September meeting. Committee members raised several questions regarding the Plan. Supplemental information related to those question is provided below.

**Financial Policies**

1. **The 2001 CSWMP financial policies use the term “garbage disposal fees,” whereas the 2019 CSWMP financial policy uses the term “tipping fees.” What is the difference?**

“Tipping fees” refer to the fees paid by customers who dispose of waste at solid waste facilities. Under the County’s fees, waste disposed may be garbage, which would be directed to the Cedar Hills landfill, or other materials (e.g., yard/wood waste, appliances) that are recycled or composted and have other final destinations. The term “tipping fees” is therefore a broader term than “garbage disposal fees.”

1. **How was the language for 2019 CSWMP Policy F-1 developed?**

Executive staff indicate that Policy F-1 was first discussed with advisory committees during the draft 2009 CSWMP update, carried forward in the draft 2013 CSWMP update, and finally included in the transmitted 2019 CSWMP. They further provide that the rationale for language changes from the 2001 CSWMP is to broaden the policy considerations beyond cost (e.g., environment and equity).

**Data Collection and Reporting**

1. **What data is reported to the city partners?**

Currently, the Solid Waste Division produces annual reports in response to King County Code (K.C.C.) 10.14.080, which requires the Solid Waste Division to file a report with the Council by April 1st of each year that includes: a description of progress toward the goal of zero waste of resources, annual projections of the amount diverted from landfills, progress toward objectives identified in the Comprehensive Solid Waste Management Plan, and progress implementing the provisions of the construction and demolition waste program outlined in K.C.C. 10.30. The annual reports are publicly available and can be accessed at: <https://kingcounty.gov/depts/dnrp/solid-waste/about/documents.aspx>.

**Disposal**

1. **Are offsets (such as through the sale of electricity) included in the estimated disposal cost per ton and the 2029 estimated tipping fee contained in the CSWMP for each of the three disposal options?**

Executive staff indicate that offsets are included in the provided figures for the three disposal options.

1. **The Normandeau consultant report on waste to energy that was commissioned by the Solid Waste Division included recommendations to maximize the value of waste to energy to the County. What recommendations are assumed in the cost analysis in the CSWMP?**

Executive staff indicate that only two of the recommendations in the Normandeau report to mitigate tipping fee increases are within the County’s control: selling the excess plant capacity in the early years of operation, and disposal of ash into a local ash monofill. Ultimately, the Solid Waste Division considered these two options to potentially mitigate the tipping fee for a waste to energy facility, but ultimately neither were included in the cost estimates provided in the CSWMP. The first recommendation was omitted out of a principle of conservatism; neither the Division nor Normandeau identified a likely buyer for this capacity. On the second strategy, the Division was unable to locate a local ash monfill to use for this purpose.

1. **Is the relative potency of methane compared to carbon dioxide captured in the modeling estimates in the CSWMP?**

Executive staff indicate that both the WARM and eGGRT tools used in the CSWMP use “CO2 equivalent” for the unit, and therefore convert the potency of methane to units of CO2. Therefore, the additional potency of methane is factored in both models.

1. **Why does the CSWMP assume that the countywide recycling rate will remain static at 52%?**

Executive staff indicate that the 52% rate was assumed for all three disposal options throughout the planning period (2018-2040) because it has been a sustainable rate and the region has not yet decided on new policy actions that would lead to a measurably higher rate.

**AMENDMENT:**

Striking Amendment S1 and Title Amendment T1 were briefed at September meeting, however no action was taken.

Striking Amendment S1 would remove the financial policies identified in Recommended Action 1-f in the CSWMP from the ordinance, as well as attach an updated Plan dated September 12, 2018 that would:

* Add references to the Settlement Agreement between the County and a class of plaintiffs reached in 2000;
* Use clarifying language to distinguish between financial policies and practices;
* Clarify that changes in rate structure can be made to maintain service levels, comply with regulations and permits ((~~and~~)) or to address low-income needs;
* Incorporate the following language into Recommended Action 1-f that had been inadvertently omitted: “Use solid waste fees to fund required mitigation for solid waste facilities, including mitigation mandated by federal, state, and local regulations and permits.”
* Correct mathematical errors in Figure 7-2 so that the chart adds up to 100%; and
* Add Appendix H, which includes additional information from the Solid Waste Division related to Plan content requirements in King County Code.

Title Amendment T1 would confirm the title to Striking Amendment S1.

**ATTACHMENTS:**

1. Proposed Ordinance/Motion 2018-0375 (Attachment A not included in packet due to size)
2. Striking Amendment S1 (and its attachment)
3. Title Amendment T1
4. Staff Report for 2018-0375 from September 12, 2018 Regional Policy Committee Meeting
5. Motion 15244, which extended the RPC review time to March 31, 2019

**INVITED:**

1. Pat McLaughlin, Director, Solid Waste Division
1. Ordinance 18835 [↑](#footnote-ref-1)
2. Charter 270.30 and K.C.C. 1.24.065.E [↑](#footnote-ref-2)
3. Charter 270.30 and K.C.C. 1.24.065.E [↑](#footnote-ref-3)
4. Note that state law provides for a seven-day waiting period after a final Environmental Impact Statement (EIS) is issued during which action on the CSWMP may not be taken. Executive staff indicate they plan to finalize the EIS in early 2019. [↑](#footnote-ref-4)
5. Ordinance 18835 [↑](#footnote-ref-5)