

**Solid Waste Interjurisdictional Technical Staff Work Group
Governance Discussion Summary
October 31, 2006
Mercer Island Community Center**

Meeting Attendees:

City Staff:

Sharon Hlavka – City of Auburn
Alison Bennett – City of Bellevue
Debbie Anspaugh – City of Bothell
Rob Van Orsow – City of Federal Way
Elaine Borjeson – City of Kirkland
Nina Rivkin – City of Redmond
Linda Knight – City of Renton

County Staff:

Mike Huddleston – Council Staff
Mike Reed – Council Staff
Nori Catabay – Executive’s Office
Gemma Alexander – SWD
Theresa Jennings – SWD
Kevin Kiernan – SWD
Diane Yates - SWD

I. Presentation of City Caucus’ Work

Overview

Nina Rivkin of Redmond began with a review of the history of the governance issues under discussion and reviewed the agenda. She acknowledged that the division had not been given sufficient time to review the document and emphasized that the report due December 15 is intended to be conceptual and that it marks the beginning of a process rather than the end.

ITSG reviewed the chart on page 3 of the handout, noting that many of the cities’ issues have changed or been addressed since they were first identified in 2004. The division agreed that the chart is useful.

City members said they hope to reach consensus on the approach to addressing governance issues in the December report. Council approval of that report will give ITSG the direction to proceed with the process described in the report.

Solid Waste Interlocal Forum (SWIF)

Rob Van Orsow of Federal Way presented the cities’ work on the SWIF. The caucus identified four options, which were briefly discussed. The preferred option is to replace the Regional Policy Committee with MSWMAC as the SWIF. ITSG recognized that the relationship between RPC and MSWMAC (as the SWIF) would have to be clearly delineated. The intent would not be to remove authority from RPC or to diminish it in any way, but to enhance the RPC’s ability to act as the policy authority on solid waste issues by clearing more in depth issues from their agenda. The point was made that MSWMAC has more comprehensive representation of the cities in King County.

The division agreed that MSMWAC has been a very productive vehicle for city input, but commented that the question of representation for unincorporated areas would have to be addressed.

The division also commented that the report should include a description and clarification of the role of SWAC, which is mandated by state law. The relative roles of SWAC and MSWMAC should be defined. The division suggested that SWAC might want a briefing from ITSG about the governance issues.

Dispute Resolution

Alison Bennett of Bellevue introduced the topic of dispute resolution, stating that it is not covered in the existing ILA's. The five elements of the process were described:

1. The process that the Cities' Caucus developed is in no way intended to limit any party's right to seek legal remedy in court.
2. Most simple technical or operational disputes would be resolved directly between the parties.
3. In cases where direct resolution is impossible, a third party would be brought in for resolution. MSWMAC would be notified, but not involved in developing the resolution.
4. For cases where the dispute involves multiple parties or policy issues, the dispute would be brought before MSMWAC. If MSMWAC feels it is necessary, MSWMAC can call for third party review. Once MSMWAC debates the policy and determines a recommendation, it would be forwarded to RPC for review.
5. The cities recognize and accept the existing siting process, which is controlled through the normal city permitting process.

The division asked that process number two be clarified by stating "disputes over operational impacts" rather than "operational disputes."

In response to questions, city members confirmed that issues could move from process two to process three, and that there is some connection between process five and the discussion of mitigation.

The division noted several points that would require further discussion at a later date:

- What is the process for selecting a mediator?
- What is the payment process, and who manages the contract for mediation and third party review?

ITSG agreed by consensus that these questions would have to be answered prior to the development of any situation requiring mediation.

Financial Policies

Van Orsow presented the cities' work on financial policies. The handout began with a list of current policies, followed by a list of adopted Wastewater Division policies. He said that some of those policies may already be in use by the Solid Waste Division informally, and that the Cities' Caucus has not reviewed each one. Wastewater's policies are included as a placeholder and as an example of the types of policies that a similar agency has adopted. The policies are categorized as Forecast/Budgeting, Debt, Rates and Grants. The cities' recommendation is to discuss and develop financial policies over the coming year.

The division suggested that the word "wastewater" remain in the policies, rather than substituting "solid waste" in order to be clear that the policies are presented as examples

rather than recommendations. City members agreed. The division was pleased that current policies are included in the document. The division commented that many of Wastewater's policies refer to revenue bonds, but the Solid Waste Division does not issue those. The Solid Waste Division has historically issued General Obligation Bonds.

ITSG discussed the challenge of fitting the governance work into the schedule for 2007, which is already quite full. Rivkin suggested that since this work has already been postponed from 2004, subcommittees may be necessary to ensure that it gets done now.

The division suggested that much of the governance work can be folded into Comp Plan chapters.

Host City Mitigation

Bennett introduced the alternative policy options developed by the Cities' Caucus:

1. Develop policies to support the proposed host city mitigation payment of approximately 75¢ per ton in the 2008-2010 Solid Waste Rate Proposal.
2. Adopt the general model of Wastewater's policies.
3. Develop a host city fee. This option would require a change in state law.

The Cities' Caucus recommends pursuing both options two and three, generally. The recommendation does not imply that the cities advocate or have decisively defined the details of either of these options.

Council staff Mike Huddleston commented that there are three levels of mitigation.

1. Fixing problems
2. Knitting a facility into the fabric of a community.
3. Replacing lost tax base.

As an example of the second one, he described how Brightwater assisted cities in acquiring lands adjacent to the buffer, and helped develop parks and trails in those undeveloped lands to create community assets.

The division commented that it has routinely performed this type of mitigation, for example, developing trails at Enumclaw and limited the developed area at First NE to allow for an environmental education area.

The division commented that the sample policy in the previous section requiring "exclusive benefit" could conflict with mitigation efforts.

Bennett said the cities want to provide some incentive to cities to host a facility.

Linda Knight of Renton commented that the facility itself is a benefit to the host city, because it provides a service and draws customers from a wider area than the city itself, who may then spend money in the city after visiting the facility. Additionally, collection rates may be lower for host city residents because of reduced travel time for haulers.

ITSG agreed that mitigation policies need to strike a balance between benefit to the region and system as a whole with the mitigation needs of the host city.

Wrap Up

Rivkin said the cities would like to use the handout as the basis for the report, and intend to make a similar presentation to MSWMAC on November 3.

Rivkin identified additional issues for further discussion:

1. What is the best approach to effect changes to the SWIF?

Three possible approaches were identified, including changing the ILA's, county ordinance, and updates to the Comp Plan.

2. What is the best approach to establish a process for dispute resolution?

Three possible approaches were identified, including changing the ILA's, county ordinance, and updates to the Comp Plan.

3. Should a mechanism be established so that cities are able to require Comp Plan amendments?

Rivkin said that this issue was originally raised in 2004 when the Comp Plan was the only avenue for input available to the cities. She said that it is less significant now, but the underlying question remains; should such a process exist?

The division commented that this discussion will need to include the state law guiding approval of the Comp Plan.

4. The issue of a contract re-opener clause.

Questions associated with this issue include: Is a re-opener clause needed and would the county agree to it? What are appropriate triggers?

The division asked how this is different from the five-year opener clause in the current ILA's. The cities said this is intended to be much broader in terms of the issues that could be addressed during the open period.

5. Extension of the current ILA Contract Term.

The cities have not made a recommendation on this issue. Analysis of the financial impacts of longer-term bonds issued to finance system infrastructure is required.

II. Next Steps

Huddleston will make changes to the handout based on the comments received today. The cities will review those changes by email tomorrow. Intergovernmental Staff Liaison Diane Yates will forward the handout to MSWMAC when she hears from Van Orsow and Bennett.

The cities will present to MSWMAC on November 3, and at that meeting will ask the SWAC Chair if SWAC would also like a briefing.

Huddleston suggested that a debt threshold for an ILA opener could serve as a reminder that while it is a good idea to study Waste to Energy, it is a very expensive option that does not eliminate the need for a transfer system.

The next ITSG governance meeting will be on November 8 from 10-12 at King Street Center to continue governance discussions with county staff. The division will have its official comments in time for that meeting, after which the report will bear the name “ITSG” rather than “City ITSG.”

The cities commented that it would be useful for the division’s technical writer to work on the final report before it goes to council on December 15th.

Council staff Mike Reed responded to questions about the third party review. He said that the original RFP did not get any response, except for two letters that said the price was insufficient for the work involved. The RFP has been re-released with a budget of \$130,000.

Legislation approving the Transfer and Waste Export System Plan with next steps will not be adopted until after the New Year. It is expected to go before RPC in January.