

The division convened a mattress recycling summit on December 7, 2011. The purpose of the summit was to share information with the mattress supply chain and foster discussion of ways to increase mattress recycling availability and convenience. Three mattress recyclers, five mattress retail and manufacturing businesses, four nonprofit organizations, Allied Waste and Waste Management, staff from a number of agencies and recycling coordinators from several suburban cities attended. More information about the summit is available at [LinkUp's mattress page](#).

BioEnergy Washington (BEW) is working diligently to get the landfill gas to energy plant back online. BEW is required to pay the division for the amount of gas provided whether or not they are able to process it. In response to a question Kiernan said that the division billed BEW for approximately \$70k last month. Gas not processed by BEW is flared in accordance with regulations.

Kiernan thanked outgoing MSWMAC Chair Jessica Greenway for her work on the committee and presented her with a cake and a plaque. Other MSWMAC members thanked her for her work and steadfastness. Stieger said that in the City of Kirkland, Greenway is the acknowledged "Queen of Garbage." Greenway thanked them for their comments, said she has learned a great deal while working with the committee. Contact information for Greenway is available from Yates.

Greenway also noted that she had found a place to recycle corrugated plastic campaign signs and stakes. United Recycling Co, 425-485-0355 at 18827 Yew Way, Snohomish, WA 98296 charges a \$15.00 fee for recycling the signs. There is no fee for recycling the stakes.

MSWMAC's 2012 Work Plan

A copy of the proposed 2012 work plan was distributed for MSWMAC consideration and is available [here](#).

The division suggested MSWMAC discuss the Transfer Station Usage Analysis at their January meeting instead of February as originally planned. This change provides the group with an opportunity to provide input on the analysis before the work has been completed. The division will work with the Vice Chair to write the agenda for the January meeting.

Kiernan said that the division is negotiating the contract with the consultants about the siting process for the Northeast and South County transfer stations. MSWMAC members will be asked for their help to identify members of citizen advisory committees (CACs) to help with the siting process. The process will begin in 2012.

SWAC

SWAC is following MSWMAC's discussions of ILA issues with interest. Other topics included the changes in recyclables collection at transfer stations, the unsecured load fee increase, and emergency debris planning.

ILA Discussion:

ILA Drafting Committee member Nichols thanked MSWMAC members for their attendance and attention. The ILA Drafting Committee continued its work in the past month and reached agreement on some important additional topics which will be presented for MSWMAC's consideration today. In January, MSWMAC members will be asked to vote regarding their support of the draft ILA as members of the group without committing their cities to supporting the ILA.

Karen Reed, ILA Drafting Committee facilitator, provided a brief overview of the consensus recommendations of the committee. She provided background information and reviewed what was presented at the November MSWMAC meeting. More detail about those topics and an overview of the new material discussed at the December MSWMAC meeting is available [here](#).

Review of information presented at the November MSWMAC meeting:

Disposal at Cedar Hills is the least expensive disposal option available. Based on current planned capacity and tonnage estimates, Cedar Hills is estimated to reach its capacity and close in 2025. The most competitive post-Cedar Hills disposal solution will require a long-term commitment, probably at least twenty years.

If only a few years remain on the ILA after Cedar Hills closes, disposal costs for the short term will likely be very expensive. The County estimates it will be five years from the time the region makes a decision on a disposal solution to when that solution can be implemented.

The Solid Waste Transfer System and Waste Management Plan (plan) must be implemented regardless of which disposal option is chosen. Transfer system facilities have reached the end of their useful life and pose significant operating risks and limitations.

The County historically issues twenty years bonds to finance capital improvements. The County anticipates issuing a series of twenty year bonds between 2012 and 2018 to finance the plan. In 2018 there will be ten years remaining on the current ILA which does not provide enough time to use twenty year bonds. Financing the system improvements and paying off the debt by 2028 would greatly impact tipping fees.

Reed noted that the ILA Drafting Committee recommends amending and restating the Solid Waste ILA of 1988 rather than writing a completely new agreement. The amended agreement would meet the principles of accountability, transparency, simplicity and durability to address long-term needs identified by MSWMAC.

The committee recommends amending the current ILA and extending the term for twelve years through June 2040. This option allows the county to issue twenty year bonds which matches past practice.

Other key components recommended by the ILA Drafting Committee include:

- The agreement would include language describing the parties' intent to enter into negotiations about an additional ILA extension before a decision is made on a cost-effective long-term disposal solution post Cedar Hills.

- The ILA will not include an early termination option because the cost of prepaying debt service for a city's share of the transfer station system improvements is likely to be so expensive that no city would choose to exercise this option.
- Language memorializing current governance and increased city role in system oversight would be included in the contract. MSWMAC would retain its existing responsibilities and assume the responsibilities of the Solid Waste Interlocal Forum currently performed by the Regional Policy Committee. MSWMAC would be staffed by the County.

The twelve year extension would allow a significantly lesser impact on disposal fees per ton than the “no extension” option but a higher impact than a longer extension. Contract language for this “middle path” option also describes the parties’ intent to enter into negotiations about disposal post-Cedar Hills.

If a city chooses not to extend the ILA, that city would be in a different customer class. Those non-extending cities would be charged higher rates to ensure their portion of transfer station debt is fully repaid by 2028.

ILA Drafting Committee recommends that an amended ILA include language that confirms the current practice for comp plan adoption whereby the county council acts to approve the comp plan subject to ratification by cities. The county will act after seeking input from MSWMAC and others. The cities would have 120 days to ratify the plan.

The ILA Drafting Committee recommends that the ILA be amended to change the ratification requirements for the comp plan. The new requirements would provide for a two pronged test.

1. Jurisdictions representing 60percent of the population of both the contracting cities and the County unincorporated area must approve the comp plan.
2. Forty percent of the jurisdictions that are party to the ILA must approve the comp plan and the County is considered a jurisdiction.

For both prongs of the test, silence is deemed consent. This changed method of ratification means that a small group of large cities cannot by themselves block approval of the plan. It also means that smaller jurisdictions are more likely to be necessary to securing approval.

Reed said the ILA Drafting Committee is working on ILA language that will memorialize the collaborative relationships between the county and the cities and support the idea of ongoing two way communication. The committee has also recommended language be added which says that the parties will collaborate on emergency plans and that grants to cities are a permissible use of system revenues.

Comments included:

A member said “silence is deemed consent” may be somewhat controversial. Cities choosing to leave the system after 2028 could say they are being charged without their consent if their rates are increased higher than the rates of cities choosing to extend their ILAs; even with good reason. Others said “silence is deemed consent” has been in place since 1993 on countywide planning. Cities that don’t have an opinion on the issue can choose not to act. Pelosa noted that the concept is not new or unusual.

New recommended ILA content presented at the December MSWMAC meeting:

The ILA Drafting Committee recommends that the amended ILA acknowledge three types of mitigation for the impact of division facilities on host cities.

1. When new facilities are sited, mitigation will be determined with input from host communities and per state law.
2. The County will continue the full range of operational mitigation activities currently deployed. This refers to landscaping, maintenance, litter cleanup, etc.)
3. The ILA will recognize the rights of cities to charge the county for direct impacts from operations consistent with state law.

The ILA Drafting Committee made recommendations about how the rent paid by the division to the general fund be addressed in the amended ILA. Kiernan provided the following historical information about the rent. Further detail on that topic is available [here](#).

The Solid Waste Division currently operates as an enterprise fund which means it is supported by revenues collected and uses those revenues for solid waste purposes. That has not always been the case.

From its inception in the 1950s until the early 1980's the division was at least partially supported by the general fund. In fact, the King County Solid Waste Utility Plan written in 1975 says that there was a "General Fund Subsidy Problem" and nearly 45% of the division's expenses were subsidized.

During that period before the enterprise model was established, many of the system's major assets - principally the transfer stations - were acquired. For example, Bow Lake which is the most recent transfer station of that era was completed in 1977.

In 1980 the County determined it would move solid waste services to an enterprise fund model. A series of ordinances were enacted in the early 1980's to establish the required fund structure.

In 2003, the county re-evaluated the solid waste enterprise and its assets. It was determined that the general fund owned the transfer stations and the landfill and that rent would be assessed for the use of the landfill. This rent was based on an independent valuation done by an appraiser from Cushman & Wakefield. The valuation was set at \$60M for the period of 2004-2012.

A payment schedule was established to pay rent to the general fund. Based on the income from rates at that time, the division was unable to pay the full \$60M by 2012. As a result, the rent schedule was spread out until 2014, two years after the period covered by the rent. Consequently, during 2013 and 2014 the division will be paying for the remainder of the old rent for the use of the landfill through 2012 and whatever new rent is assessed for the period of 2013 through 2025.

The new valuation for use of the Cedar Hills landfill from 2013 – 2025 is approximately \$21M. If the value is recovered over that twelve year period the first year's rent will be less than \$2.5M.

MSWMAC members and others interested in hearing a presentation from the appraiser about the rent are invited to attend meetings for that purpose on December 21, 2011 and January 9, 2012. Space is limited. Please contact Yates so the division can ensure the room is set up to accommodate those attending.

Reed said the ILA Drafting Committee recommends that the ILA acknowledge that rent is charged to the division for use of the Cedar Hills landfill. The County will continue to charge rent for that asset. The County will commit to not charge General Fund rent for any transfer station property now in use, and will not charge rent for assets acquired in the future solely from system revenues. Per state law, the division's use of assets owned by other County funds will be subject to rent and vice versa.

The ILA will clarify how the rent will be determined ensuring that it will be based on third party professional valuations using accepted MAI principles. A new appraisal will be released later this month. It will be used to determine the rent for 2013 through 2025 when the landfill is expected to reach the end of its useful life. The ILA will define a clear process by which the value of Cedar Hills to the division and the associated rent may be revalued during the agreement and will ensure engagement of MSWMAC in that process.

Rent is an operating cost that will be incorporated into solid waste rates. MSWMAC will have input on all rate proposals as well as the rent payment schedule derived from the new appraisal.

In response to a comment Kiernan said one reason the State of Washington transferred the Cedar Hills property to King County instead of Solid Waste was because they wanted the entire county instead of only Solid Waste to bear the State's potential liability for the asset.

Kiernan said Cedar Hills' rent is tied to the value of the property as a landfill. Under this analysis, when the capacity has been filled there will no longer be rent charged for use of the capacity. King County will continue to own and retain the State's liability for the landfill.

In response to a question Kiernan said that the purpose of the Landfill Reserve Fund is to ensure the division can continue to operate and maintain the landfill for thirty years after closure. It is not related to liability.

In response to a question Kiernan noted that the tipping fee could theoretically decrease when the landfill rent decreases. However, at that same time debt service for transfer station improvements will increase. Instead of a decrease, the lower rent may provide the ability to smooth the rate to cover debt service for the capital improvements

In response to a question, Kiernan said that because the division is an enterprise fund operations are paid for by fees collected by the division. A decrease in general fund income would not impact transfer station operating hours.

The ILA Drafting Committee recommends the financial policies addressing debt issuance, cost containment, reserves, asset ownership and use and other financial issues be developed by the County to guide the division's operations and investments. The policies will be developed through discussion with MSWMAC, the Regional Policy Committee, the Executive and the

Council and will be periodically ratified as part of the comp plan updates. Financial policies may also be adopted outside the comp plan approval cycle as appropriate.

The ILA dispute resolution process will be revised and will be similar to those used in other multi-party County ILAs. First, staff from the parties will meet. If the dispute is not resolved, then the City Manager/Administrator and the County Executive or his designee will meet. If the issue is not resolved, non-binding mediation may be pursued prior to formal legal action. All cities will be notified of disputes at each step and may join the dispute if they choose. Cost of mediation will be split with half paid by the participating cities and half paid by the County.

The ILA Drafting Committee recommends that cross-border annexation issues not be mentioned in the ILA. Those issues will be addressed on a case by case basis as has occurred on three prior occasions. The committee further recommends that the ILA not address direct billing. That issue can be addressed through separate contracts with interested cities. Both of these issues impact only some of the cities in the system and should not be included in a system-wide agreement.

Comments included:

There is strong interest from Kirkland in having direct billing addressed in the ILA. The ILA Drafting Committee is asked to address the issue. Though recent efforts related to direct billing have made progress, there is nothing to stop the County from declining to participate after the ILA has been approved. Though only a few cities may be interested in the topic that should not preclude its inclusion. Mitigation, which affects only a few host cities, is included.

A member of the ILA Drafting Committee responded that the use of facilities located in host cities impacts all members of the system and the mitigation offered to those cities impacts rates which impacts the system as a whole. Additionally, the direct billing contracts are between three parties; the interested city, the hauler and King County. The ILA is only between two parties.

A MSWMAC member commented that concerns that the County could choose not to consider direct billing could be addressed by a written commitment done separately from the ILA.

Knight said that Renton is supportive of Kirkland's request and wants the ILA to memorialize the commitment of the County to direct billing. She noted that the proposed dispute resolution process would not address that type of issue.

Kiernan noted that degree of specificity is important when writing a contract of this type. Including specific information about some issues could preclude the parties from doing other things in the future that are not specifically mentioned.

Consider something that captures the spirit of collaborative intent rather than the specifics of direct billing. Make the language broad. Build in flexibility to address issues of this type and require MSWMAC involvement.

The fundamental issue is to maintain a collaborative relationship between parties. By adding MSWMAC to the ILA, a foundation for cooperation has been laid.

Federal Way agrees with Kirkland and Renton and would like something general about direct billing in the ILA.

The ILA Drafting Committee will revisit the direct billing issue.

Hill from Algona disagreed with how mitigation was presented as part of the draft ILA saying that it covers new transfer stations but does not address concerns from existing stations. He said that charging a different rate to cities that choose not to extend the ILA would be creating a separate class which may be illegal. Hill said the division has been using city owned property without contract, permit or remuneration since 2002.

Algona is asking for a user fee or impact fee for the West Valley Highway which is in disrepair. He said that fees of that type are paid to the City of Arlington by Snohomish County. Hill said the division transports 528 million pounds of waste across the road annually not including the weight of the trucks. In the current ILA mitigation can only be addressed every five years and the process is expensive.

Hill noted that the ILA states that the County will follow state law. That's nothing new. Transfer trucks are not the only impact to a facility. Also consider the trips of customers to the facility.

Cihak noted that the ILA Drafting Committee has been very attentive to host city issues. The ILA Drafting Committee recommends that the agreement include three types of mitigation. One of those recognizes the rights of cities to charge the county for direct impacts from operations consistent with state law. She said both the County Executive and Deputy Executive have communicated their commitment to Algona. The next step is for Mayor Hill to sit down with King County and the division with a specific schedule.

A MSWMAC member said that the group should hear updates on what progress has been made regarding the concerns expressed by Hill.

The text of the ILA needs to include a way to incorporate new ideas. Ensure that "it's not in the ILA" won't be a barrier to future cooperation. The ILA Drafting Committee will consider concerns about mitigation. Cities are invited to provide draft language.

Huddleston said Council is monitoring the ILA process closely stating that it is not to anyone's interest to have a disgruntled host city. However, King County has been sued in the recent past because it was too generous with mitigation. As a result, it is necessary to put language in the ILA that legitimizes the expenditure of funds on mitigation. This is a significant policy change. Words are important because it gives permission for the County to respond.

Though they would prefer a longer extension, Kirkland City Council members have reluctantly agreed to the extension as recommended by the ILA Drafting Committee.

Reed said the terms discussed are being drafted into an agreement. ILA Drafting Committee members are asking the attorneys from their cities to review ILA language. The idea is that the work of those attorneys will surface concerns and limit the expense to other cities.

Rate setting needs to occur in the second quarter of 2012 in order to have a new rate approved and communicated before January 1, 2013. Capital financing and other ILA related issues will have a significant impact on that rate. For that reason, it is necessary to conclude the ILA work in early 2012.

At the January MSWMAC meeting members will be asked if they are comfortable taking the ILA forward to their Councils. MSWMAC members are asked to share any additional questions or concerns with the ILA Drafting Committee soon.

Public Comment

There was no public comment.