


CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Motion to authorize a notice of intent to form a municipal court and temporarily waive arbitration rights for the purposes of entering discussions for district court services.
DEPARTMENT: City Manager's Office
PRESENTED BY: Eric C. Swansen, Senior Management Analyst 

PROBLEM/ISSUE STATEMENT:

As shared with Council previously, the King County Executive has terminated the current interlocal agreement for court services effective January 1, 2005. The consensus of Council and other cities is to develop a number of options to compare and review before making a selection on how court services will be provided in the future.

While the Executive has expressed interest in discussing options for a short-term agreement for court services, he has placed conditions on these discussions to avoid triggering any statutory requirements that could place the County into binding arbitration. The City is being asked to temporarily waive our rights to binding arbitration before these discussions take place.

Similarly, staff feels there may be an opportunity to compel the County to provide this service for up to five years to allow for the orderly and deliberate development of municipal court options. Under the terms of our existing contract, the City can act before June 30, 2003 to give notice of its intent to form a municipal court, which may obligate the County to provide this service. While this extension may face legal challenges, either by cities or the County, staff feels this option is worthwhile.

FINANCIAL IMPACT:

There is no immediate fiscal impact to this action. Ultimate costs for services depend on a meaningful dialogue between the cities and the County for the appropriate costs and terms for service.

RECOMMENDATION

Staff recommends that Council approve a motion authorizing the City Manager to temporarily waive arbitration provisions and notice the County of our intent to form a Municipal Court.

Approved By: City Manager  City Attorney 

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INTRODUCTION

As shared with Council previously, the King County Executive has terminated the current interlocal agreement for court services effective January 1, 2005. The consensus of Council and other cities is to develop a number of options to compare and review before making a selection on how court services will be provided in the future. In order to review all likely options, the City needs to agree to the conditions for discussing terms with the County. Similarly, the City needs to take action to provide for a reasonable period of time to start up a municipal court under the terms of our existing interlocal agreement.

BACKGROUND

The City was notified that the interlocal agreement for court services is being terminated by King County effective January 1st, 2005. The City is mandated by state law to provide for the timely adjudication of misdemeanor cases brought by the City prosecutor. These cases include traffic citations, juvenile traffic infractions and misdemeanor offenses, misdemeanor offenses, and gross misdemeanors. The County will continue to provide for felony, juvenile, family, civil, and small claims cases through District or Superior Court. Because probation is part of our Court Contract, it is likely we will need to provide a probation service as well.

The City has two basic options for how to provide this service. The City could establish a municipal court or the City could petition the County Council to establish a Municipal Department in District Court. The City could also work with other cities to either provide a combined municipal court, contract with a City currently operating a municipal court, or establish a court with shared common core services (case management, collections, records, probation, etc.).

Staff shared the guiding principles for court services on June 2. These included in priority order:

- Level of Service
- Location
- Cost
- Customization to meet community needs
- Shared Resources

The issue at hand at this time is two fold – to ensure that an option with the County as service provider is evaluated, and to preserve the City's options under our existing interlocal agreement for court services with King County.

ALTERNATIVES ANALYSIS

Having A County Service Option

Despite the termination notice, there is consensus among contract cities to work with King County to develop a viable County service option for court services. In order to have a full array of options, the City needs to take action to preserve the option relating to a contract with King County.

There has been considerable debate and mixed messages related to the County's future role in providing this service. The County remains a house largely divided on this issue, with the King County Executive at odds with the King County Council and the King County District Court Judges on this issue. The Executive has been, until recently, unwilling to talk about service options, while the County Council and District Court Judges are eager to discuss options for future service delivery.

Initially, the King County Executive wanted to terminate the current agreement and begin negotiations for a subsequent agreement as a way to better cover the Executive's belief that court services were providing an annual subsidy of \$3 million from the County to the cities, using a full cost recovery methodology. The cities negotiations team subsequently learned that the Executive did not want to negotiate a future contract, citing statutory provisions that could compel the County to binding arbitration for this contract. Since full cost recovery could not be the basis for fees for any subsequent agreement stemming from binding arbitration, the Executive expressed unwillingness to negotiate for fear that the outcome would put the County in a position no better than the current contract.

The Executive's staff suggested late last year that the Executive is willing to discuss formation of a municipal department, which under state law, provides for better cost recovery of the County's costs. However, the Executive's office was reluctant to discuss this option for fear it would constitute negotiations of our current agreement. Despite the attempts of the cities to bring the parties together to discuss this issue, the fact remains that the Executive is unwilling to provide this service, based on the argument that this service provides a considerable subsidy to the cities.

Most recently, the cities sent Executive Sims a letter asking a very broad question about "under what circumstances would the County consider providing this service". The response, received late last month, suggests that the County has eased its view of this contract somewhat and is willing to discuss options under limited and specific terms. This letter is attached as Attachment A: - May 27th Letter from Ron Sims Regarding Court Services.

This most recent development is likely to be based on the work that County Council staff and staff from District Court have put together to outline the costs and revenues for providing this service. While the subsidy, in the eyes of the King County Executive, was once thought to be as high as \$3.7 million dollars a year annually to the cities, is now thought to be less than a \$1 millions dollars a year annually.

The County Executive has expressed an interest in discussing a short-term agreement for court services with cities. While there is no understanding of what the Executive thinks a "short term" agreement is, cities are hopeful that the County and cities might be able to craft a short-term agreement that leads to a long-term agreement similar to the agreement we have for police services. In fact, we see considerable interest in developing a cost model similar to the one used for police services that provides great latitude to cities to customize service levels and programs to meet community needs.

In order for the Executive to discuss this option, he has asked that cities temporarily waive our rights to seek binding arbitration should these discussions not result in any meaningful options. The Executive is concerned that getting together with cities may result in binding arbitration on the basis of not coming to an agreement for services. The cities, it should be noted, can still seek binding arbitration on the basis of non-renewal of the contract should these discussions not result in any meaningful outcome.

Cities feel that under the current arrangement, the unilateral termination of court services with no interest to proceed with developing a new agreement, we have no options except creating a new municipal court for each city. By temporarily waiving our right to seeking binding arbitration stemming from the inability to obtain an agreement for service, cities will enable the County to develop a rational basis for providing this service. At the same time, it will afford cities with an opportunity to share with the Executive the overall public benefit of having a regional (instead of subregional or local court) system.

By temporarily agreeing to not seek binding arbitration on the basis of negotiations, the cities are not giving up anything. We don't currently have the ability to seek binding arbitration on the basis of failure to reach a negotiated agreement, as the Executive is not willing to negotiate for this service. We do have the ability to seek binding arbitration on the basis of non-renewal. Simply stated, we don't have the ability to request binding arbitration on the basis of negotiations now, so we are not giving anything up by doing so on a temporary and limited basis.

Staff recommends Council authorize the City Manager to temporarily agree not to seek binding arbitration to allow cities to work with the Executive's office to develop a County provided court service option.

The consensus of cities involved in developing court options is to temporarily agree to not seek binding arbitration on the basis of negotiations as a way to get the Executive to the table to discuss terms and conditions for any future court agreement(s), or extension(s).

Preserving our Options under the current agreement

Our current agreement with King County for court services includes a section relating to the time associated with cities seeking to leave the District Court system to pursue the formation of a municipal court. Under these terms, a City can provide notice of intent to form a municipal court, giving us up to five years to establish this court under the terms and service levels in effect at the time of the agreement's adoption. This provision was placed in the agreement for many reasons, including the time needed and complexity

for a City to provide court services, and the desire to have terms of judicial positions in District Court coincide with the formation of new courts. Since the County needs legislative approval to reduce the number of judicial positions commensurate to the change in cases filed in District Court, this notification provides for the efficient operation of court and associated staffing. It should be noted that the agreement does not provide a minimum time to transition services, just a maximum amount of time that the terms could be extended. The City has until June 30, to preserve this option under the terms of our existing interlocal agreement.

Staff recommends Council authorize notice of the City's intent to form a municipal court, should the County provide a mutually agreeable contract for services in the future. This resolution does show the intent of the City is to provide a municipal court. It is subject to being rescinded should the County provide a suitable service option. It should be noted that this is our only option if the County is unwilling to discuss terms for any future agreements, modifications or extensions. This intent can be rescinded at any time, for any reason mutually agreed upon by Council.

The consensus of other cities involved in pursuing options for court services is to adopt the "intent to form" as a precaution, as outlined above.

Other Options

Staff has outlined one path for providing the best, most well-rounded review of all the options before making a decision for how we provide court services. Given the position of the King County Executive, the City has only one other option on how to respond to the termination the court services agreement. The other option is to skip the analysis of options and pursue to development of a municipal court.

It is important to note that the City is in an awkward situation here. We are completely reliant for the County for providing this service at this time. As a result, we are not necessarily in a position to direct how to best provide this service. The best we can do is influence affected parties and seek a mutually agreeable "win-win" solution. The course of action outlined above suggests that cities remain committed to providing this service in a manner that is consistent with this philosophy.

In the end, the decision on how to provide this service will largely depend upon the actions of the County and the application of the guiding principles to each option to ensure the needs of our community for court services are being met.

RECOMMENDATION

Staff recommends that Council approve a motion authorizing the City Manager to temporarily waive arbitration provisions and notice the County of our intent to form a Municipal Court.

ATTACHMENTS

Attachment A: - May 27th Letter from Ron Sims Regarding Court Services.

Attachment A: - May 27th Letter from Ron Sims Regarding Court Services.



King County

Ron Sims
King County Executive
516 Third Avenue, Room 400
Seattle, WA 98104-3271
206-296-4040 206-296-0194 Fax
TTY Relay: 711
www.metrokc.gov

May 27, 2003

The Honorable Scott Jepsen
Mayor, City of Shoreline
17544 Midvale Avenue North
Shoreline, WA 98133-4921

Dear Mayor Jepsen:

Thank you for your letter of May 16, 2003, regarding future possibilities for court services. I made the difficult decision to terminate district court contract services to cities because of the on-going budget challenges King County is facing and will continue to face in the years to come. In addition, under the current contract King County was subsidizing court services. Service levels provided by virtually every Current Expense Fund agency in King County will continue to be reduced in order to balance the budget each year.

Over the past few weeks, we have continued to engage with King County Council staff in discussions regarding the subsidy of city court contracts and the county's capacity to continue providing contract services. As a result of those discussions and some changes made by the Administrative Office of the Courts to their previous methodology for determining the number of judges, the current subsidy is likely to be lower than we originally estimated.

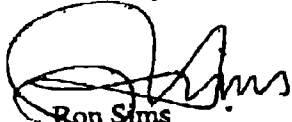
I continue to have questions about the long-term ability for the county to continue contractual court services, but plan to work together with the King County Council to resolve these questions. Given the interest on the part of cities to converse with my office on this matter, I am requesting contract cities to individually pass ordinances waiving their rights to arbitration based on such future conversations. This would be during a defined period in which the cities and county could discuss a potential new short-term agreement beyond the present contract. I would respectfully request that this action be taken on the part of the cities by July 15, 2003. We would also ask that the cities agree to an 8-week maximum timeframe for these discussions by which time we will have agreed to a conclusion. The 18-month termination notice in the old contract will remain in effect and not be impacted by any possible discussion regarding a new short-term agreement.

*King County is an Equal Opportunity/Affirmative Action Employer
and complies with the Americans with Disabilities Act*

The Honorable Scott Jepsen
May 27, 2003
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A sample ordinance is enclosed to more specifically define language we are asking for to initiate these talks. Under King County charter, the Executive is responsible for handling contractual matters and my office is ready to respond to any questions on this matter. I ask that you work directly with Jay Fossett who is my lead on this issue to address any immediate concerns. Mr. Fossett can be reached, at 206-296-3469.

Sincerely,



Ron Sims
King County Executive

Enclosure

cc: King County Councilmembers
The Honorable Wesley SaintClair, Presiding Judge, King County District Court
The Honorable Corinna Harn, Judge, King County District Court
Steve Call, Director, Office of Management and Budget

DRAFT

Introduced By: _____

Proposed No.: _____

City of _____, Washington

Ordinance No. _____

..title

AN ORDINANCE of the City Council of the City of _____, Washington directing the city manager/mayor and his/her designee(s) to participate with King County beginning on July 15, 2003, and ending on September 9, 2003, in the creation of a court service and cost agreement without pursuing binding arbitration as contemplated by RCW 3.62.070 and/or 39.34.180.

..body

BE IT ORDAINED BY THE COUNCIL OF _____:

SECTION 1. Findings:

A. The City of _____ (city) and King County (county) have worked cooperatively on court services in the past and wish to continue a discussion on costs, services, and locations.

B. The city wishes to provide for a contractual agreement with respect to provision of such district court services that provide certainty to both parties over time as to costs incurred and services provided and received.

C. It is in the interest of the city to ensure the continued responsive, effective, and efficient delivery of district court services by the county to the city.

D. The city has received proper notice of the county's termination of the current district court services interlocal agreement, but the city wishes to initiate a discussion with the county regarding a new agreement outside the scope of the current agreement.

SECTION 2. The City Council of the City of _____ hereby directs the City Manager/Mayor and his/her designee(s) to participate with King County, beginning July 15, 2003, and ending on September 9, 2003, in the creation of a court service and cost agreement. The City Manager/Mayor and his/her designee(s) are also hereby directed that beginning on July 15, 2003, and ending on September 9, 2003, neither the City Manager/Mayor or his/her designee(s) shall pursue binding arbitration pursuant to and contemplated by RCW 3.62.070 and/or RCW 39.34. 180, and that the City of _____ waives its right to pursue binding arbitration and/or a determination of additional marginal costs both during that time period and at any time subsequent if the right is based on actions of the County during that period; however, nothing in this ordinance is intended to waive or minimize any rights that the City had prior to or has subsequent to that time period pursuant to RCW 3.62.070 or any other existing contract except to the extent that rights are based on actions of the County during that period. The City Manager/Mayor and his/her designee(s) are directed to work in good faith with the County to create a mutually agreeable model and contract for providing court costs and

services through cooperation with the District Court. The City acknowledges that any actions by the County during the time period of July 15, 2003 to September 9, 2003 will not affect the proper notice of termination of the current interlocal agreement and/or the termination of the current interlocal agreement.

SECTION 3. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

SECTION 4. Publication - effective date. This ordinance shall be published in the official newspaper of the city, and shall take effect and be in full force five (5) days after the date of publication.

INTRODUCED AND READ for the first time this ____ day of _____ 2003.

PASSED by a vote of ____ to ____ this ____ day of _____ 2003.

CITY COUNCIL

CITY OF _____

CHAIR

ATTEST:

Clerk of the Council

APPROVED this _____ day of _____ 2003.

Attachments: None