

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 912 - Authorizing Assumption of the Ronald Wastewater District and Authorizing the City Manager to Execute and File the Joint Petition of Dissolution of the Ronald Wastewater District
DEPARTMENT:	City Manager's Office
PRESENTED BY:	John Norris, Assistant City Manager
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The Ronald Wastewater District (RWD) and the City entered into an Interlocal Operating Agreement (IOA) in 2002 to unify sewer services with the City. To implement the assumption as called for the 2002 IOA, on December 9, 2013, the City Council adopted Ordinance No. 681, which set the assumption date of RWD for October 23, 2017. As the City and RWD approached October 2017, continued litigation related to the District's historical service in the southwestern corner of Snohomish County (Point Wells area) impacted the timing of the assumption as contemplated by the 2002 IOA, requiring an extension of the final assumption date so as to assure that the transition of RWD to the City occurred in an orderly fashion. On June 12, 2017, the City Council adopted the First Amendment to the 2002 IOA, which extended the term of the IOA for two years with an additional two-year extension, if needed.

On October 15, 2020, the City and RWD finally learned that the litigation regarding Ronald's service area had been resolved. The Washington State Supreme Court found that the 1985 Annexation Order that added the Point Wells area to RWD was not valid and, therefore, RWD did not have a service area in Snohomish County. Given this ruling, staff is now proposing to move forward with the full assumption of RWD in King County, as initially contemplated almost 20 years ago.

The City is now in a position to move forward with the full assumption of RWD. While the Council already adopted an assumption ordinance as required by state law at the end of 2013 with adoption of Ordinance No. 681, because the date of the assumption in that ordinance has now long passed, the Council must adopt a new assumption ordinance identifying the date of the final assumption of RWD along with authorizing the filing of the Joint Petition for Dissolution. Proposed Ordinance No. 912 provides for this formal assumption ordinance, setting the date of full assumption on April 30, 2021, and authorizes the City Manager to execute and file the joint petition of dissolution of RWD.

Council discussed proposed Ordinance No. 912 on November 23rd and directed staff to bring back this proposed Ordinance for adoption. Tonight, proposed Ordinance No. 912 is scheduled for potential adoption.

RESOURCE/FINANCIAL IMPACT:

Adoption of proposed Ordinance No. 912 creates no financial impact to the City, as there will be no cost to the City when the full assumption of RWD is completed at the end of April 2021. Wastewater utility operations, which are already performed by the City on behalf of RWD under a service contract with RWD, are funded by utility rates. RWD's Capital Improvement Program is also rate funded. All assets of RWD, including the utility system itself, will be transferred to the City on the final assumption date and RWD will cease to exist as a separate governmental entity.

RECOMMENDATION

Staff recommends that the City Council adopt Ordinance No. 912 authorizing the assumption of the Ronald Wastewater District and authorizing the City Manager to execute and file the joint petition of dissolution of RWD when this ordinance is brought back to Council on December 7, 2020 for potential adoption.

Approved By: City Manager **DT** City Attorney **JA**

BACKGROUND

When Shoreline incorporated in 1995, it was in large part to receive better, more efficient services for their tax dollars. One way for the City to provide more efficient services includes unifying the sewer utility with City operations, which the City has been planning for nearly two decades. To further the goal of consolidating utility services under City management and operation, the City and the Ronald Wastewater District (RWD) entered into an Interlocal Operating Agreement (IOA) in 2002 to unify sewer services with City operations. Procedures for an orderly and predictable transition of the sewer utility from RWD to City ownership are outlined in the IOA. In order to facilitate a smooth consolidation, the City and District agreed to a 15-year timeframe for the transition.

To implement the assumption as called for the 2002 IOA, on December 9, 2013, the City Council adopted Ordinance No. 681, which set the assumption date of RWD for October 23, 2017. Staff also conducted the Assumption Transition Planning Process in the years following the adoption of Ordinance No. 681. This began with the forming of the 'Committee of Elected Officials' (CEO), a joint committee of two City Councilmembers and two RWD Commissioners, whose purpose was to develop an Assumption Transition Plan. Councilmembers McConnell and Roberts served as the City's representatives on the CEO, which met 18 times between June 2014 and February 2016. Following the work of the CEO, the City Council adopted the Assumption Transition Plan on February 29, 2016.

As the City and RWD approached October 2017, continued litigation related to RWD's historical service in the southwestern corner of Snohomish County (Point Wells area) impacted the timing of the assumption as contemplated by the 2002 IOA, requiring an extension of the final assumption date so as to assure that the transition of RWD to the City occurred in an orderly fashion. On June 12, 2017, the City Council adopted the First Amendment to the 2002 IOA, which extended the term of the IOA for two years with an additional two-year extension, if needed.

The First Amendment to the IOA also stated that the City would operate the wastewater utility on behalf of RWD starting on the "target date," which was the former assumption date of October 23, 2017. The First Amendment to the 2002 IOA also provided for District employees becoming City employees on the target date, a Wastewater Utility Operating Services Agreement (WUOSA) being developed, and the RWD Board of Commissioners continuing to exercise their duties, including oversight of the utility, budgeting and rate setting, and responsibility for the utility's Capital Improvement Plan and Sewer Comprehensive Plan, among other considerations.

On October 15, 2020, the City and RWD finally learned that the litigation regarding Ronald's service area had been resolved. The Washington State Supreme Court found that the 1985 Annexation Order that added the Point Wells area to RWD was not valid and, therefore, RWD did not have a service area in Snohomish County. Given this ruling, staff is now proposing to move forward with the full assumption of RWD in King County, as initially contemplated almost 20 years ago.

While the Council already adopted an assumption ordinance as required by state law at the end of 2013 with adoption of Ordinance No. 681, because the date of the assumption in that ordinance has now long passed, the Council must adopt a new assumption ordinance identifying the date of the final assumption of RWD along with authorizing the filing of the Joint Petition for Dissolution. Proposed Ordinance No. 912 (Attachment A) provides for this formal assumption ordinance, setting the date of full assumption on April 30, 2021, and authorizes the City Manager to execute and file the joint petition of dissolution of RWD.

The City Council discussed proposed Ordinance No. 912 on November 23, 2020. The staff report for this Council discussion can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport112320-9b.pdf>.

DISCUSSION

In addition to setting a formal assumption date of April 30, 2021, proposed Ordinance No. 912 also authorizes the City Manager to sign the joint petition of dissolution of RWD as identified in the 2002 IOA. In order for RWD to cease being a special purpose district upon the assumption date, RWD must formally be dissolved by petition of Superior Court. This is outlined in state law ([RCW 35.13A.080](#)), which states that the petition must be signed by the chief administrative officer of the City (which would be the City Manager) and RWD upon authorization of the legislative body of the City and the governing body of RWD. While section 4.8 of the 2002 IOA grants the City a limited power of attorney to execute a joint petition to Superior Court to dissolve RWD on behalf of RWD Board of Commissioners, the City Attorney's Office has recommended that the City still obtain both the City Manager's signature and the Ronald Board President's signature on a joint petition for dissolution. Staff is coordinating with the RWD Board and RWD staff on this task and RWD is willing to provide their signature on the joint petition. Providing authorization for the City Manager to sign the joint petition on behalf of the City is the initial step however, which would be granted in proposed Ordinance No. 912.

The City's SEPA (State Environmental Policy Act) Responsible Official, Planning and Community Development Director Rachael Markle, has determined that the assumption of the Ronald Wastewater District is categorically exempt from SEPA review under Washington Administrative Code (WAC) 197-11-800(14)(h). This determination is provided in a memo dated November 17, 2020 (Attachment B). This categorical exemption is also noted as a recital in proposed Ordinance No. 912.

As is noted above, the City Council discussed proposed Ordinance No. 912 on November 23rd. The Council had no concerns with the Ordinance as proposed and directed staff to bring back proposed Ordinance No. 912 for adoption. Tonight, Council is scheduled to adopt proposed Ordinance No. 912, authorizing the assumption of RWD and authorizing the City Manager to sign the joint petition of dissolution of RWD.

Next Steps

If Council adopts proposed Ordinance No. 912 tonight, staff has outlined the following next steps in the assumption process:

- Continue to coordinate with the RWD Board of Commissioners Transition Committee and RWD contracted staff.
- Obtain the RWD Board President's signature on the joint petition for dissolution of RWD.
- File the joint petition for dissolution with King County Superior Court.
- Obtain petition for dissolution from the Court.
- Continue to implement the remaining Assumption Transition Plan work plan items to ensure a smooth final assumption of RWD.
- Formally assume and dissolve RWD on April 30, 2021.

COUNCIL GOAL ADDRESSED

This action supports Council Goal No. 2, "Continue to deliver highly-valued public services through management of the City's infrastructure and stewardship of the natural environment," and specifically, Action Step 14, which is to "Complete the assumption of the Ronald Wastewater District in collaboration with the District".

RESOURCE/FINANCIAL IMPACT

Adoption of proposed Ordinance No. 912 creates no financial impact to the City, as there will be no cost to the City when the full assumption of RWD is completed at the end of April 2021. Wastewater utility operations, which are already performed by the City on behalf of RWD under a service contract with RWD, are funded by utility rates. RWD's Capital Improvement Program is also rate funded. All assets of RWD, including the utility system itself, will be transferred to the City on the final assumption date and RWD will cease to exist as a separate governmental entity.

RECOMMENDATION

Staff recommends that the City Council adopt Ordinance No. 912 authorizing the assumption of the Ronald Wastewater District and authorizing the City Manager to execute and file the joint petition of dissolution of RWD when this ordinance is brought back to Council on December 7, 2020 for potential adoption.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 912

Attachment B – November 17, 2020 Memo Outlining Assumption of the Ronald Wastewater District is Categorically Exempt from SEPA Review

ORDINANCE NO. 912

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
AUTHORIZING THE ASSUMPTION OF THE RONALD WASTEWATER
DISTRICT AS AUTHORIZED BY RCW 35.13A.030 AND PURSUANT TO
THE 2002 INTERLOCAL OPERATING AGREEMENT RELATING TO
THE PROVISION OF SANITARY SEWER SERVICES.**

WHEREAS, RCW 35.13A.030 authorizes a city to assume the full and complete management and control of a sewer district whenever a portion of that district, equal to at least sixty percent of the area or sixty percent of the assessed valuation of the real property lying within that district, is included within the corporate boundaries of the City; and

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70C RCW (hereinafter referred to as “City”); and

WHEREAS, the Ronald Wastewater District is a special purpose sewer district formed and organized pursuant to Title 57 RCW and other laws of the state of Washington (hereinafter referred to as “District”) and, the District’s total geographic service area is located within the corporate boundaries of the City; and

WHEREAS, on October 22, 2002, the City and the District entered into an Interlocal Operating Agreement (“IOA”) approved by resolutions of the governing bodies of both parties related to the provision of sanitary sewer services which at Section 3.2, allows the City to assume jurisdiction of the District and any District responsibilities, property, facilities, or equipment within the City’s corporate limits, including future annexation areas; this IOA was subsequently amended in June 2017; and

WHEREAS, on December 9, 2013, the City Council adopted Ordinance No. 681, authorizing the filing of a Notice of Intent to Assume with the Boundary Review Board and setting October 23, 2017, as the date for assumption; and

WHEREAS, on September 18, 2014, the Boundary Review Board for King County approved the Notice of Intent to assume the District in relationship to King County; due to an error in the legal description of the District, the Boundary Review Board issued a subsequent approval on June 7, 2019; and

WHEREAS, the City has already commenced steps to ensure an orderly transition of governance, including creation of a City-District Assumption Transition Plan; transfer of District employees; execution of a Wastewater Utility Operating Services Agreement on October 23, 2017; and a Second Wastewater Utility Operating Services Agreement on March 17, 2020; and

WHEREAS, a portion of the southwest corner of Snohomish County, referred to as Point Wells, was considered part of the District’s service area; however, this was disputed and resulted

in two (2) denials for assumption by the Boundary Review Board of Snohomish County, in 2014 and again in 2017; and

WHEREAS, this dispute over the District's service area ultimately reached the Washington State Supreme Court which, on October 15, 2020, issued a ruling finding that the District's geographic boundary did not include Point Wells and does not extend into Snohomish County; and

WHEREAS, given that the original assumption date has passed, the City Council must establish a new assumption date and authorize the filing of a Petition for Dissolution with the King County Superior Court as required by RCW 35.13A.080; and

WHEREAS, the SEPA Responsible Official for the City of Shoreline has determined that the assumption of the Ronald Wastewater District is categorically exempt from SEPA review under WAC 197-11-800(14)(h); and

WHEREAS, the City Council in 2002, 2013, and by the actions the Council has previously authorized to be taken, and again with this Ordinance, has determined that it is in the best interests of the citizens of Shoreline to assume the District's sewer facilities, within and without of the City's boundaries, for the purpose of guaranteeing the City and its citizens with efficient, high quality sanitary sewer services for all purposes, public and private;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Assumption. As provided in chapter 35.13A RCW, effective at 12:01 a.m. April 30, 2021, or on an earlier date if mutually agreed upon by the City of Shoreline and the Ronald Wastewater District, the City of Shoreline hereby assumes jurisdiction and ownership of the Ronald Wastewater District's service area, assets, facilities, responsibilities, property, and equipment.

Section 2. City Manager Authorization.

A. Petition for Dissolution. The City Council hereby confers upon the City Manager or designee the authority to jointly file with the Ronald Wastewater District a Petition for Dissolution with the court as provided for in RCW 35.13A.080 seeking dissolution by no later than April 30, 2021. And, upon dissolution by the court, file a certified copy of the court order with the King County Auditor.

B. Orderly Transition of Governance. The City Council confers upon the City Manager or designee the authority to continue to negotiate, in good faith, with the District the terms of a final transition plan so as to ensure a smooth transition from District to City operations. The transition plan shall include operational issues, financial issues, and facility issues.

Section 3. Directions to the City Clerk. Upon approval of the City Attorney, the City Clerk is authorized to make necessary corrections to this Ordinance, including the correction of

scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 4. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

ADOPTED BY THE CITY COUNCIL ON DECEMBER 7, 2020.

Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith, City Clerk

Julie Ainsworth-Taylor
Assistant City Attorney on behalf of
Margaret King, City Attorney

Date of Publication: _____, 2020
Effective Date: _____, 2020



MEMORANDUM

DATE: November 17, 2020
TO: John Norris, Assistant City Manager
FROM: Rachael Markle, SEPA Official *Rm*
RE: Assumption of Ronald Wastewater District and SEPA Review

The adoption of Ordinance No. 912 by the City Council that would authorize the City to assume the Ronald Wastewater District as permitted by RCW 35.13A.030 and in accordance with the 2002 joint Interlocal Operating Agreement is categorical exempt from SEPA review. This action is exempt from SEPA review under WAC 197-11-800(14)(h) as an organization and internal operational planning and coordination effort.

WAC 197-11-800

Categorical exemptions.

(14) Activities of agencies. The following administrative, fiscal and personnel activities of agencies shall be exempt:

- (a) The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs.
- (b) The assessment and collection of taxes.
- (c) The adoption of all budgets and agency requests for appropriation: Provided, That if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.
- (d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.
- (e) The review and payment of vouchers and claims.
- (f) The establishment and collection of liens and service billings.
- (g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.
- (h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.
- (i) Adoptions or approvals of utility, transportation and solid waste disposal rates.
- (j) The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection.
- (k) Classification of land for current use taxation under chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW.