

RESOLUTION NO. 601

A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF BIRCH BAY WATER & SEWER DISTRICT, WHATCOM COUNTY,  
WASHINGTON, REGARDING PRELIMINARY EVALUATION OF A DISTRICT  
WASTEWATER TREATMENT PROGRAM AND ASSOCIATED POLICIES FOR  
TREATING AND DISPOSING OF WASTEWATER FROM THE CITY OF BLAINE.

WHEREAS, Birch Bay Water and Sewer District ("District") is a municipal corporation that provides wastewater collection, transmission, treatment and disposal services to the Birch Bay area; and

WHEREAS, the District is aware that the City of Blaine ("City") has been forced to halt its planned wastewater treatment plant expansion on Semiahmoo spit because of the discovery of significant archaeological resources, including human remains, at the proposed construction site; and

WHEREAS, the District's wastewater treatment plant is located on a 60 acre site near Point Whitehorn and appears to have adequate space and outfall capacity to accommodate wastewater flows for both the City and Birch Bay; and

WHEREAS, the District has received formal recognition from the State of Washington for its commitment to protecting and maintaining good water quality in the Birch Bay area; and

WHEREAS, the District has previously communicated its willingness to work with the City in exploring the possibility of expanding the District's wastewater treatment facilities to meet both City and District needs and has already hired a consultant for this purpose; and

WHEREAS, in June, 2000, the City Council passed a resolution under which the City Manager was directed to work with the District's staff in developing and evaluating wastewater program alternatives that would meet the needs of the District and the City; and,

WHEREAS, the Board of Commissioners believes that it will be appropriate and beneficial to provide policy statements to direct District staff and communicate the District's views to the City;

Now, therefore, let it be resolved that:

The Board of Commissioners hereby directs the District's General Manager to work with the City Manager of Blaine in preliminary evaluation of a wastewater program, for the Board's review, in which the District would provide transmission, treatment, disposal and/or recycling of the City's wastewater. The Board of Commissioners further directs that the General Manager heed the following policy statements in performing said evaluation:

1. Said preliminary evaluation shall be carried out under the terms of a Letter of Agreement with the City, which letter shall specify the scope of work and funding sources for the preliminary evaluation. The General Manager is directed to bring the draft Letter of Agreement to the Board for approval before execution.



2. The District's financial interests and operational integrity must be protected fully. The Board believes this will be best accomplished through an enforceable wholesale contract in which the District designs, constructs, owns and operates all wholesale facilities. The District shall have sole authority for comprehensive planning and in establishing standards for design, construction and maintenance of the wholesale system. The City shall design, construct, maintain and operate City-owned facilities in a manner consistent with effective and efficient operation of the wholesale system. The agreement shall be a bilateral agreement between the District and the City.
3. The Board recognizes that the Lummi and Nooksack tribes ("Tribes") are deeply affected by the problems that have arisen in conjunction with the City's WWTP expansion project, and that their understanding and support are essential to any attempt to obtain federal grant assistance for implementing solutions. The City, as the party responsible for the Semiahmoo WWTP, must continue to have lead responsibility for communicating and negotiating with the Tribes on matters pertaining to abandoning the Semiahmoo WWTP, restoration and subsequent use of the site.
4. The Board recognizes that District ratepayers may benefit from certain improvements likely to be constructed in the course of serving the City. The District is willing to pay its fair share of the cost of such improvements. The District believes, however, that the great majority of the benefit of the overall program will accrue to the City, rather than the District, and that that disparity must generally be reflected in the allocation of costs. In addition, the Board recognizes that future development may benefit from such improvements and directs that the General Manager shall continue current District policies for financing growth, in which new development pays the full cost of such development.
5. Lacking detailed information on which to base cost allocation for the preliminary evaluation, the Board determines that the District may pay up to one-third of the cost of such initial work. However, this funding share is not based on detailed analysis and is likely to exceed the District's share of the total project.
6. The scope of work for construction of an expanded sewer system to meet the needs of the District and the City should provide for the current needs of both parties plus an allowance for the rate of growth reflected in the two parties' comprehensive sewer plans. The planning and construction of an expanded sewer system must also be consistent with the Growth Management Act.
7. Any growth beyond said rate desired by any private party must be handled through separate agreements in which the private party addresses GMA concurrency requirements.
8. Planning for future growth requires providing for adequate water supply, to the same extent as sewer services. The District cannot responsibly plan for growth in sewer services without also planning for a commensurate increase in the quantity of water available. Therefore, wastewater growth planning must be consistent with water availability.

9. Planning for future services requires consideration of the current definition of service areas and adjustments to such service areas, where appropriate and mutually agreed between the District and the City.

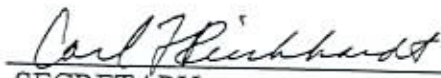
ADOPTED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington, at a regular meeting held the 23 day of August, 2000.

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 641 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on August 23, 2000.

  
SECRETARY




Memorandum of Understanding  
Between  
Birch Bay Water & Sewer District  
&  
City of Blaine

This memorandum of understanding (MOU) is entered into by the Birch Bay Water and Sewer District and the City of Blaine. The purpose of the MOU is to set forth the conditions and understandings agreed to by both parties in order for them to jointly pursue funding for a regional wastewater project.

The parties agree to the following conditions and understandings:

1. Both parties agree that the project described in the Northwest Whatcom County Regional Wastewater Management Program draft feasibility study will be the basis upon which funding is sought. Discussions to date have been preliminary and designed to determine if it is in the parties' best interests to cooperate in using the regional consolidation concept in seeking federal funding.
2. Both parties understand that entering into this MOU does not eliminate any responsibility under SEPA that the City may have to evaluate wastewater options in addition to the regional alternative. Likewise, the City may in fact select an alternative that does not involve Birch Bay Water & Sewer District's system.
3. The project described in the draft feasibility study may be modified significantly as a result of additional analysis, public input and environmental review.
4. The City of Blaine and the District agree that any grant funding given for the purpose of improving the District's facilities and operations will be awarded directly to the District and that project will be managed and accounted for by the District including compliance with all terms, conditions and regulations that might be required as a condition of the grant.
5. The City and District agree with the terms and conditions as set for in the August 23, 2000 Resolution 601 adopted by the Birch Bay Water District. Resolution 601 generally sets forth the roles of the cooperating entities. The City of Blaine understands that it will be a wholesale customer to Birch Bay Water & Sewer District who shall act as the provider of wastewater treatment services to the City. The terms and conditions which outline the treatment capacity in the Birch Bay System reserved for Blaine; the rate setting methodology; the performance standards and other general contract items shall be negotiable between the parties.
6. The parties agree to conduct an extensive public involvement program.
7. To the extent that they desire to participate, the District and the City encourage the involvement of the Lummi Nation in the effort to secure funding for the regional wastewater treatment project and the restoration and preservation of the Si'ke burial site.
8. The City agrees to pay the direct costs incurred in lobbying for federal funds for the regional wastewater program. The District agrees to contribute staff support in developing a lobby strategy; preparing materials and participating in meetings. The City's direct expenses will be credited to its share of the total project costs should the project move forward to completion.

Entered into this 14 day of May, 2001

  
City of Blaine

  
Birch Bay Water & Sewer District