



Legislation Text

File #: 2004-0388, **Version:** 2

AN ORDINANCE approving and adopting the settlement agreement negotiated among King County, the city of Bellevue and the plaintiffs in Newport Shores Yacht Club et al. v. City of Bellevue et al., authorizing the executive to implement the terms of the agreement through an interlocal agreement with the city of Bellevue and other appropriate measures.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. William and Leanne Weinstein, together with the Newport Yacht Club, which represents the homeowners of Newport Shores, filed a federal lawsuit against King County (“the county”) and the city of Bellevue (“the city”), captioned *Newport Yacht Club v. City of Bellevue*, No. 03 2534 Z, in which the Weinsteins and the Yacht Club alleged that sediment and storm water from the county’s Coal Creek Park (“the park”) and storm water from the city of Bellevue storm water system interfere with property in Newport Shores and violate state and federal environmental laws. The City and the County have answered and denied all liability alleged in the operative complaint.

B. The parties to the suit have negotiated a settlement agreement, subject to approval by the King County council and the Bellevue city council.

C. King County executive Ron Sims and representatives of the other parties signed the negotiated settlement agreement in counterpart documents between August 4 and August 6, 2004.

D. On August 2, 2004, the Bellevue city council approved execution of the settlement agreement.

E. The negotiated settlement agreement provides that by November 15, 2004 the county will transfer

title to two properties to the city: the park, and a separate multi-use parcel known as Surrey Downs.

F. The negotiated settlement agreement provides that the county will also provide: \$2.5 million for capital improvements; \$75,000 for attorney's fees; and \$30,000 for maintenance dredging, resulting in a total cash contribution of \$2.605 million dollars. The city of Bellevue will contribute a total of \$2.63 million for capital improvements, attorney's fees and dredging under the terms of the negotiated settlement agreement. The city of Bellevue will permit and implement a Coal Creek Stabilization capital project.

G. The negotiated settlement agreement provides that the Weinsteins and the Newport Yacht Club will dismiss their claims against the county and the city and that the plaintiffs will covenant not to sue for future claims.

H. The negotiated settlement agreement provides that the city will defend, hold harmless and indemnify the county against any claims that arise from Coal Creek Park subsequent to the date of transfer, and provides that the county will defend, hold harmless and indemnify the city for any claims that arise from Coal Creek Park prior to the date of transfer.

I. The settlement agreement obligates the city and the plaintiffs to undertake a suite of storm water and sediment-related capital projects and maintenance work throughout Coal Creek basin.

J. The settlement agreement provides that the King County district court can use the Surrey Downs building rent-free through December 31, 2006, when the existing interlocal agreement for district court services will expire. The County shall retain the operations and maintenance obligations of any district court facilities at Surrey Downs through that date.

K. The King County executive has certified that funds in the FY 2004 budget for the department of natural resources and parks are available to provide the county's \$2.605 million cash contribution to the settlement, including \$2.5 million dollars in fund 3490 (Parks Facilities Rehabilitation) and \$105,000 dollars in fund 3292 (SWM CIP Nonbond subfund).

L. After the negotiation of the settlement agreement, a release of polychlorinated biphenyls ("PCBs")

occurred in a portion of the building located on the Surrey Downs property. This release may necessitate a delay in transfer in order for the County to implement a remediation consistent with Federal Environmental Protection Agency (“EPA”) regulatory standards.

SECTION 2. The settlement agreement negotiated between the parties in Newport Yacht Club et al. v. City of Bellevue et al., No. 03 2534 Z, and signed by King County executive Ron Sims, the city manager of the city of Bellevue, plaintiffs William and Leanne Weinstein, and the agent for the Newport Yacht Club, which agreement is attached to this ordinance as Attachment A and by this reference made a part of this ordinance, is hereby approved and adopted.

SECTION 3. The Executive is authorized to negotiate an amendment to the settlement agreement to provide for dates of transfer of the properties later than November 15, 2004. Should the federal court approve amendment of the settlement agreement to provide for dates of transfer of the properties later than November 15, 2004, the County Council hereby approves and adopts any such amendments. No amendments to the settlement agreement that allow for property transfers to occur at a date later than November 15, 2004 shall alter any other terms of the settlement agreement.

SECTION 4. Upon final approval by the federal district court for the western district of Washington, the Executive is authorized to implement the terms of the settlement agreement through execution of a property transfer agreement with the city and through other measures necessary to implement the terms of the settlement agreement. Any property transfer or other agreement with the city of Bellevue shall meet the following requirements.

A. The future use of the properties being transferred shall remain consistent with the uses designated by bond issuances or other covenants on the properties.

B. Transfer of the Surrey Downs and Coal Creek Park properties shall occur upon the County’s receipt of written documentation that EPA has accepted or concurred that the cleanup and removal of the PCBs released in the Surrey Downs building meets the applicable regulatory requirements, or upon an earlier date

specified in the settlement agreement as approved by the federal court.

C. The property transfer agreement will reserve to the county the rights or property interests needed to maintain and operate certain existing utility facilities.

D. No property transfer or other agreement that would require the King County District Court to cease operations within the City of Bellevue shall be executed without the prior approval of the Presiding Judge of the District Court.

E. No property transfer or other agreement shall require the King County District Court to relocate any of its operations currently provided at Surrey Downs between January 3, 2005 and May 31, 2005. Unless otherwise expressly agreed to by the Presiding Judge of the District Court, the property transfer agreement shall allow for, and the executive will provide, at least two months written notice to the Presiding Judge of the District Court prior to the date by which District Court operations would need to be relocated in order to fulfill any provision of any agreement.

F. No property transfer or other agreement shall require the King County District Court to cease operations within the City of Bellevue without providing sufficient time and resources for the Court to meet the requirements of District Court collective bargaining agreements, RCW 3.38, Ordinance 14374, Motion 11519, and KCC 2.68.070 or other state and county laws and contracts that may be applicable.

G. No property transfer agreement shall require the county or District Court to incur unreimbursed expenditures above those provided for in the settlement agreement in order to provide the city with municipal district court services.

H. No property transfer agreement shall contain any provisions that are in conflict with the terms of the settlement agreement attached hereto without the parties receiving approval of the federal court and without documenting the benefit to the county of such provisions to the county.

I. The Executive shall fully involve the District Court in any planning or negotiations the result of which might impact District Court operations, facilities planning, or master planning.

J. Except for provisions relating to the County's rent-free lease for the continued operation of the District Court facility on the Surrey Downs property, the transfer agreement shall not in any manner affect ongoing District Court operations. No property transfer agreement shall be effective until after the executive and the Presiding Judge of the District Court certify by letter to the Council that such agreements meet the provisions contained in this section and have been approved by the District Court.

SECTION 5. Should the District Court or the executive recommend that the District Court terminate provision of all services at Surrey Downs, the Court shall submit to the Council by letter a plan, budget, and timeline for the relocation and that demonstrates how the Court's relocation be consistent with the District Court operational master planning process and will meet the provisions of applicable district court collective bargaining agreements, contracts with cities for provision of municipal court services, RCW 3.38, Ordinance 14374, Motion 11519, and KCC 2.68.070, and other

applicable requirements. Such plans and timelines should address, at a minimum, the requirements for city and community input and necessary legislative actions.