

Yesterday's Court Decision Regarding the CFJC Levy

Dively, Dwight <Dwight.Dively@kingcounty.gov>

Wed 9/27/2017 7:42 AM

To: Swift, Jonathan <Jonathan.Swift@kingcounty.gov>; Ellickson, Helene <Helene.Ellickson@kingcounty.gov>; Bauck, Andrew <Andrew.Bauck@kingcounty.gov>; Slakie, Elly <Elly.Slakie@kingcounty.gov>; Pflum, Kapena <Kapena.Pflum@kingcounty.gov>; Bender, Sid <Sid.Bender@kingcounty.gov>; Rubardt, Aaron <Aaron.Rubardt@kingcounty.gov>; Davis, Tricia <Tricia.Davis@kingcounty.gov>; Kurihara, Gary <Gary.Kurihara@kingcounty.gov>; Fong, Michael-EXEC <MFong@kingcounty.gov>; Abrams, Whitney <Whitney.Abrams@kingcounty.gov>; Smith, Rachel <Rachel.Smith@kingcounty.gov>; Smith, Lauren <Lauren.Smith@kingcounty.gov>; Jacobson, Michael <Michael.Jacobson@kingcounty.gov>; Stubblefield, Marcus <Marcus.Stubblefield@kingcounty.gov>; Haumann Ford, Elizabeth <Elizabeth.Haumann@kingcounty.gov>; Stone, Gail <Gail.Stone@kingcounty.gov>; Noble-Desy, Patty <Patty.Noble-Desy@kingcounty.gov>; Berry, Rhonda <Rhonda.Berry@kingcounty.gov>; Putney, April <April.Putney@kingcounty.gov>; Braddock, Shannon <Shannon.Braddock@kingcounty.gov>; Carlson, Diane <Diane.Carlson@kingcounty.gov>; Fryer, Alex <Alex.Fryer@kingcounty.gov>; Lewis, Chad <Chad.Lewis@kingcounty.gov>; Guy, Ken <Ken.Guy@kingcounty.gov>; Whalen, Caroline <Caroline.Whalen@kingcounty.gov>; Burt, Jim <Jim.Burt@kingcounty.gov>; Wright, Anthony <Anthony.Wright@kingcounty.gov>; Reich, David <David.Reich@kingcounty.gov>;

As many of you know, the Court of Appeals issued its ruling in the EPIC v. King County case yesterday. I want to provide a quick summary of what I understand at this point. More detailed legal analysis will need to come from the PAO. I'm distributing this broadly so we all have similar information.

This case concerns the property tax levy lid lift approved by the voters to fund the new Children and Family Justice Center (CFJC). The Court supported the County's position that the ballot title accurately described the project but found that the language related to the levy lid lift was defective.

The County believes that the ballot language described a nine-year levy starting at \$21.9 million and increasing annually by the limit factor described in State law (this is the 1% revenue growth limit, plus new construction). The Court rejected the County's argument but did not clearly state what it thought the ballot measure authorized. There are at least two possible interpretations. The first interpretation is that the dollar amount is fixed for the nine years and does not grow. Using OEFA forecasts, this would result in about \$22 million less revenue than has been assumed. The second interpretation is that no revenue can be collected after the first year, resulting in a loss of about \$197 million. This interpretation yields the absurd result that the voters approved a nine-year levy (the nine years is explicitly in the ballot title), with the last eight years being for zero dollars, but this is a plausible way to read the Court's decision, and is the argument made by the plaintiffs. The PAO is continuing to review the decision and will provide additional guidance in the next few days.

The County will file an appeal with the State Supreme Court as soon as possible. We will also seek a stay of the Court of Appeals decision until the case can be heard by the Supreme Court. The Supreme Court's review is discretionary (they don't have to hear the case), but given the importance of the issue I expect they would take the case. If so, a final decision is likely to take about a year.

The decision creates two issues, one about revenue and one about the project. The PAO will provide guidance about whether to continue to collect the CFJC levy in 2018. This will likely depend on whether we can get a stay from the Supreme Court (a "stay" means that the Court of Appeals' decision is not implemented until the Supreme Court decides the case). The PAO will also provide guidance on whether levy collections after the first year will have to be refunded if the Supreme Court either doesn't accept the appeal or ultimately agrees with the Court of Appeals.

Regardless of the outcome of the case, a separate decision will need to be made about the project. Construction is currently underway and the design-build contractor has a contract for the entire project. FMD is analyzing options but it may actually be more expensive to stop the

6/21/2018

Yesterday's Court Decision Regarding the CFJC Levy - knowled

project than to complete it. Stopping the project also leaves the County with facilities in need of at least tens of millions of dollars of maintenance that are inefficient to operate and don't provide the quality of services that the new CFJC would offer.

If the worst case scenario with the levy is the final result and the project is completed, the County will need to finance about \$197 million, presumably with Councilmanic debt. If we issued 30-year bonds at an assumed 4% interest rate, the annual debt service would be about \$11.4 million. This would have to be paid from the General Fund, resulting in even more financial pressure on other services.

Please let me know if you have questions. Any legal questions should be directed to the PAO in order to preserve attorney-client privilege.
Thanks.

RE: PLEASE REVIEW: Draft Slide Template for distressed funds

Dively, Dwight <Dwight.Dively@kingcounty.gov>

Tue 12/26/2017 11:42 AM

To: Swift, Jonathan <Jonathan.Swift@kingcounty.gov>; Pflum, Kapena <Kapena.Pflum@kingcounty.gov>; Rubardt, Aaron <Aaron.Rubardt@kingcounty.gov>;

Cc: Pounds, Drew <Drew.Pounds@kingcounty.gov>;

This template looks fine to me. In the General Fund risks, we need to include the Dolan and EPIC (CFJC) litigation. If we lose either of them, there could be \$50-200 million of costs added to the General Fund. Even if we financed these, the effect is potentially catastrophic. Thanks.

From: Swift, Jonathan
Sent: Thursday, December 21, 2017 1:02 PM
To: Pflum, Kapena; Rubardt, Aaron
Cc: Dively, Dwight; Pounds, Drew
Subject: PLEASE REVIEW: Draft Slide Template for distressed funds

Hi All

Here's a [draft set of slide templates for GF, BH, and PH](#). Basically the set of questions for the General Fund would repeat with BH and PH.

Please take a look and make modifications as you see fit. Please send back comments by Friday. I was going to send out tomorrow but fine with you sending out to PH and DCHS as well.

Thanks

Jonathan

jonathan swift | deputy director | king county office of performance, strategy & budget | 206.263.9699

RE: Presentation for Superior Court

Rubardt, Aaron

Wed 3/28/2018 8:02 AM

To: Dively, Dwight <Dwight.Dively@kingcounty.gov>; Swift, Jonathan <Jonathan.Swift@kingcounty.gov>; Pflum, Kapena <Kapena.Pflum@kingcounty.gov>;

 1 attachments (82 KB)

General Fund for superior court.pptx;

This looks good to me. Here is what we gave them, which appears consistent.

Is it worth adding into our slide deck somewhere that we have made (in conjunction with the labor) the policy decision to grow labor costs at a rate that is fair, equitable and allows our employees to live in King County? This is the biggest driver of our costs and it might be helpful to say in the affirmative why we have made the decision.

From: Dively, Dwight

Sent: Wednesday, March 28, 2018 7:32 AM

To: Swift, Jonathan <Jonathan.Swift@kingcounty.gov>; Rubardt, Aaron <Aaron.Rubardt@kingcounty.gov>; Pflum, Kapena <Kapena.Pflum@kingcounty.gov>

Subject: Presentation for Superior Court

Importance: High

Here's my planned presentation for the Superior Court judges tomorrow. I tried to reflect the comments you sent me after your meeting with Paul last week. Suggestions are welcome. I need them by noon to make any changes. Thanks.