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KING COUNTY COUNCIL

**Metropolitan King County Council
Management, Labor and Customer Services Committee
Staff Report**

***Revised based on Committee Direction, 10/17 and discussions with the Chair
(Revisions displayed in italics.)***

Agenda Item Nos.: 3 & 4

Name: Judy Chapman

Proposed No.: 95-620, 95-664

Date: November 28, 1995

Subjects: Proposed Ordinance 95-620, relating to the acquisition, management, sale, leasing and disposition of personal and real property; Proposed Ordinance 95-664, relating to procurement procedures for public contracts.

Summary:

Background. On November 2, 1992, King County voters approved amendments to the King County Charter providing for the assumption by the county of the rights, powers, functions, and obligations of the Municipality of Metropolitan Seattle (Metro), effective January 1, 1994. The charter amendment established a two-year transition period in which the organization, functions and responsibilities of Metro would essentially remain the same.

In 1993, the Council adopted Ordinance 11032 which established effective January 1, 1994 a new Department of Metropolitan Services (DMS). The ordinance also set forth interim administrative policies and procedures to apply to the operation of the department during the two-year transition period.

The Council has already adopted an ordinance reorganizing county agencies and a number of other ordinances establishing uniform policies and procedures to apply to the entire government on January 1, 1996. Proposed Ordinances 95-620 and 664 are also ordinances relating to the "consolidation" that need to be adopted by the Council.

Policy Ordinances.

Structure of Ordinances. Recognizing that they would involve extensive code revisions, early in the discussions of these ordinances relating to consolidation staffs from Executive's Consolidation Transition Office, Prosecuting Attorney's Office, Council Clerk and Committees considered how we could best meet the objectives of (1) assisting the Clerk in revising the code and, until the code was revised, (2) providing the public and county agents policy and rules with relatively "clean" text. The solution was that ordinances would be structured to repeal all sections that included any amendments and replace them with new sections.

Between the transmittal of Proposed Ordinance 95-620 and 95-664 we got better at how to accomplish these objectives most simply. Proposed Ordinance 95-620 will require a Substitute to achieve the "clean" text. Proposed Ordinance 95-664 was transmitted with repealers and new sections, with an associated briefing document that indicates in the standard strikeout/underline format the proposed amendments to current code. *Proposed Ordinance 95-664 will also require a Substitute to bring a clean document before the full Council. Briefing documents for both ordinances are provided with this staff report.*

Proposed Ordinance 95-620, relating to the acquisition, management, sale, leasing and disposition of personal and real property

With exception of certain acquisition functions, the Property Services Division has been the agency responsible for the administrative process of acquiring, disposing, inventorying, leasing and managing County real property and inventorying and disposing of County personal property. This proposed ordinance adds to the Division's responsibility property currently the responsibility of DMS which will be distributed to the various agencies assigned continuing functions from DMS in 1996

The ordinance primarily amends K.C.C. 4.56. A description of the amendments follows. *The Committee reviewed these amendments at its October 17th meeting and concurred, except where directions for changes are reported in italics.*

- Agencies name changes. The names of divisions and departments are changed to reflect the Council adopted organization of the Executive agencies (Ordinance 11955), particularly Real Property becomes Property Services and its location is in the Department of Construction and Facility Management.
- Acquisition of property needed for public transportation services and water pollution abatement would be a responsibility of the Transportation Department and the Natural Resources Department, respectively. Again, this reflects Ordinance 11955. *(Page 3, line 7)*
- Moves to this Chapter the content of K.C.C. 3.38.010 and .020 relating to employees responsibility for county personal property. *(Page 18, line 23)*
- Deletes past dates requiring certain actions now completed. *(Page 3, lines 15 - 17)*
- Adds steps to processes to make them clearer. *(Page 3, line 27)*
- Increases dollar amounts for certain actions. For personal property formal action to set price, etc. would apply to property with a depreciated value over \$5000 (now \$2500.) *(Page 1, line 38)* Council motion approving the sale of surplus real property would not be required for properties under \$10,000 (now \$1,000). *(Page 6, line 28)* Formal advertising would not be required unless a property's value was greater than \$1,000 (now \$500). *(Page 7, line 7)*
- Clarifies language to indicate that financial investment properties with values greater than \$500,000 will be revalued every three years. *(Page 5, line 18, line 25)*
- Allows for use of sealed bids or real estate listing service for sale of property. *(Page 8, line 3; page 8, line 14)*
- Committee amended language with respect to property acquired through grants. *Procedures of the code will be used unless the contract specifically requires different procedures. (Page 9, line 9)*

- Adds to the code a blend of the current procedures relating to easements from Metro and King County (Page 9, line 13) The Executive is authorized to execute easements to secure utilities for county properties. *The Committee questioned whether a dollar amount should be inserted over which Council review would be required. Staff's review indicates such an amendment is not needed since this section applies only to easements necessary, whatever their estimated value, to provide utilities to county property to allow the county to proceed with approved CIP projects or to improve services to existing county facilities.*
For purposes other than utility services to county properties, Council approval is required for utility easements valued over \$30,000 and for any non-utility permanent easement.
- Provides for return to a county or city real and personal property acquired from a county or city for a metropolitan function when the county no longer requires the property and the county or city does requires it. *Committee questioned the need for this provision. After discussions with the prosecutor's office, staff recommends the proposed provisions be deleted. State law applies and need not be restated in the ordinance. (Page 10, line 16 - 27)*
- Add to the code the reference to State law regarding relocation assistance to displacements by capital projects. *Committee amended this section to make clear that the policy is related to State law. That law would dictate that the county pay relocation costs on each project or program unless the council directs they not be paid. (Page 17, line 30)*
- Provides in this chapter language for leases paralleling and clarifying language relating to capital projects found in K.C.C. 4.04. The code lists conditions under which a lease extending beyond the end of a calendar year may to executed. *In considering the Executive's proposal for leasing of real property, the Committee asked if the language in K.C.C. 4.04 should be clarified for both real and personal property and relating to termination clauses. Staff recommends deleting the proposed clarification on page 18, lines 11 - 20, and inserting clarifying provisions in K.C.C. 4.04.040 as shown on page 24, lines 19 - 28.*
- Adds language regarding long-term master leases of county property. The Executive's transmittal letter indicates that this language could address circumstances such as developing the Kaplan/Tashiro Buidling. *(Page 17, line 14)*

Duty to dispose of personal property. *The Chair requested that staff investigate whether the duty to dispose of personal property should be transferred to a Procurement Division. Two points apply: the Council in the last few years transferred the responsibility for personal property from the Facilities Division to Property Services and confirmed this with the adoption of the reorganization ordinance that is effective January 1, 1996; there is an efficiency of scale generated by the Property Services Division dealing with personal and real property (see Attachment 4, memo requested from Executive staff).*

Proposed amendments to clarify assignments of responsibilities between the Department and Division. The ordinance was transmitted by the executive with minimal changes to current code. The code language, written over time from various ordinances is hard to follow when it mixes assignments of responsibilities between the Department and its Property Services

Division. Staff prepared amendments for Committee consideration which would make the code consistent with duties assigned in Ordinance 11955.

The Committee approved the proposed amendments.

Delete Section 3 and replace it with the following, renumber sections.

SECTION 2. There is added to K.C.C. 4.56 a new section to read as follows:

Director, department of construction and facility management; property services division - responsibilities and powers. Subject to the delegation of authority by the director, the property services division shall have the responsibilities and powers assigned to the division in K.C.C. 4.56, as amended.

Delete Section 5 and replace it with the following.

SECTION 5. Ordinance 2622, Section 8, as amended, and K.C.C. 4.56.070 are each hereby amended to read as follows:

~~((Director, department of executive administration)), ((real property))~~ **Property services division, county departments - Responsibilities and powers in declaring county real property surplus.** A. The ~~((real property))~~ property services division shall no later than the end of the first quarter of the calendar year, maintain and update a current inventory of all county titled real property with detailed information as to current departmental custodianship and as to the characteristics that determine its economic value and potential uses; provided, that all county roads shall be excluded from the provision of this section.

B. No later than June 30th of each calendar year, each department shall submit a report to the division, on the status of all real property for which the department is the custodian and include in the report any change in use or status since the previous year's report.

~~((B))~~C. County departments shall be required, no later than June 30th of ~~((each))~~ every third calendar year beginning with 1996, to justify departmental retention of all ~~((land holdings))~~ real property for which the department is the custodian to the ~~((director, department of executive administration))~~ property services division.

1. If in the judgment of the ~~((director, department of executive administration, based on the written recommendation of the real property))~~ property services division, a county department cannot justify the retention of ~~((a given parcel of land))~~ real property for which it is the custodian or if a department determines that real property is surplus to its needs, the ~~((director, department of executive administration shall direct the real property))~~ property services division ~~((to))~~ shall determine whether any other department has a need for the parcel.

2. If another department can demonstrate a need for said ~~((parcel))~~ real property, custodianship of ~~((that parcel))~~ such real property shall be transferred to that department without any financial transaction between present and future custodial organizations, except as required by RCW 43.09.210, as amended, or under grants.

3. If no other department can demonstrate a need for such ~~((a parcel))~~ real property, said ~~((parcel))~~ real property shall be declared surplus to the future foreseeable needs of the county and may be disposed of as set forth in this chapter.

~~((C))~~D. The ~~((director, department of executive administration))~~ property services division shall review and make recommendations to the executive for uses other than the sale of surplus real property prior to a decision by the executive to dispose of such properties through sale.

Other possible uses that shall be considered by the ((director, department of executive administration in his recommendations)) division in accordance with the provisions of this chapter, are:

1. Exchanges for other privately or publicly owned lands that meet the county's land needs; ((and))
2. Lease with necessary restrictive covenants;((and))
3. Use by other governmental agencies; ((and))
4. Retention by the county if the parcel is classified as floodplain or slide hazard property; and
5. Use by nonprofit organizations for public purposes.

Recommended technical amendments. Committee staff and the Clerk's Office recommend these technical amendments to the Committee. *The Committee approved the recommended amendments.*

- Page 7, line 15, insert after Section 1: and 2
- Page 9, line 23, delete subsection B and insert:

B. The executive is authorized to relinquish any easements granted to the county which are determined to be surplus to the county's foreseeable needs ~~or an easement is being traded~~ or to trade an easement for real property or easements of a similar nature and value, provided that relinquishments of easements where the county spent more than \$30,000 in their acquisition shall be subject to prior approval by the council.
- Page 10, line 28, delete subsection D and insert:

B. Prior to intergovernmental disposal of property with an estimated value greater than the amount set forth in RCW 39.33.020, as amended, public notice and hearing shall be provided in accordance with said statute.

Proposed Ordinance 95-664, relating to procurement procedures for public contracts.

This proposed ordinance blends the procedures that have applied to King County and to DMS. The objective of many of the changes is for the County to have the ability to procure better quality goods and services at a lower cost and with greater efficiency, while maintaining fair and open bid or proposal processes. A summary of amendments follows.

- Repeals the section that established the design commission. (See Attachment 3) Reportedly the current code is not achieving its original intent, i.e., having in architects helping to select contractors to design public facilities. Therefore, if the council chose to continue it, a design commission's authority and focus might be better directed. *Executive staff reported they had contacted current design commission members (see Attachment 5) and responses ranged from understanding the objective to support for repeal because the commission is not seen as contributing to the process.*
- Repeals requirement to report to the Council on consultant contracts. (See Attachment 3) The repeal was proposed because the Executive staff believed the reports have not generally been helpful to or used by Council. *The Committee requested an amendment be prepared to achieve accountability in a less onerous manner than current code. See Section 23, page 15.*

- Amends agency names to reflect Ordinance 11955. These technical amendments occur throughout the ordinance.
- Definitions. The changes here primarily technical, adding the definitions required by metropolitan functions (Section 6) and moving here definitions from other sections, e.g., Section 11. *The Chair requested that amendments be made to clarify the definitions of Professional and Technical Services. Staff recommends that because they are used together in the code there be one definition of "Professional/Technical Services" and a revised definition of "services". See Section 6, page 5, line 18 and line 29.*
- Raising of certain dollar limits, The limits were raised for a formal solicitation of proposal for professional or technical services from \$10,000 to \$25,000; petty cash purchases from \$25 to \$100; direct voucher limit from \$1,000 to \$2,500. (Sections 8, 10, and 12, respectively)
- Opening of sealed bids and proposals is lodged solely in the executive branch, rather than in a board that includes a council representative. (Deletes bid board, see Attachment 3.) (Section 7)
- Retains the County's standard process for awarding professional or technical service contracts, adding the authority to award more than one contract at a time. (Section 11)
- Department or agency seeking the goods or services, not the procurement agency, certifies that funds are available for contract or order. (Section 15)

(NOTE: The remainder of the provisions have not been reviewed by the Committee or the Chair.)

- Negotiated procurement applying to all contracts for services and professional or technical services for all departments and for tangible personal property for metropolitan functions only. (Section 19)
- Provides authority for the executive to use state or federal law for procurements, rather than the rules of K.C.C. 4.16. (Section 21) *Staff prepared an amendment that would require Council authorization for the Executive to use other than adopted County Code.*
- Adds to the code certain administrative procedures.
 - ⇒ Architect and Engineering contracts procured as directed by RCW 39.80 (Section 11).
 - ⇒ Director is authorized to establish procedures for preprocurement qualification of goods and services (Section 16).
 - ⇒ Executive to render final administrative determination on protests or appeals (Section 17), and to issue statements supporting debarment or suspension actions (Section 18).
 - ⇒ *Relating to Federal or state assistance. (Section 20) Staff recommends language be added to direct that this chapter applies unless the federal or state agency requires otherwise.*
 - ⇒ Director is authorized to establish rules (Section 22). *Staff recommends that this authority be conditioned by the applicable County Code.*

Recommended technical amendments Committee staff and the Clerk's Office recommend these technical amendments to the Committee.

⇒ *Section 1, Page 1, line 27, add: after "Sections": 2, as amended. Change will show in substitute ordinance.*

- ⇒ *Section 1*, Page 1, line 31 add after “and K.C.C. 4.16.010”: K.C.C. 4.16.020. *Change will show in substitute ordinance.*
- ⇒ *Section 11*, Page 7, line 29, end sentence after “contract”.
- ⇒ *Section 11*, Page 8, line 7, after “contract” delete “;”.
- ⇒ *Section 20*, Page 13, line 11, insert a section title as follows: **Federal and state assistance requirements.**

Attachments:

1. Proposed Ordinance 95-620, relating to the acquisition, management, sale, leasing and disposition of personal and real property, **Briefing Document**
2. Proposed Ordinance 95-664, relating to procurement procedures for public contracts, **Briefing Document**
3. K.C.C. 4.16.020, 4.04.230 and 2.14.010.
4. Memo from Caroline Thompson, dated October 25, 1995.
5. Letter from Pearl McElheran to members of the design commission.