



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

October 16, 2007

Ordinance 15926

Proposed No. 2007-0492.1

Sponsors Dunn and Phillips

1 AN ORDINANCE approving the city of Enumclaw 2006
2 Comprehensive Water System Plan.

3

4 STATEMENT OF FACTS:

5 1. K.C.C. chapter 13.24 requires approval of comprehensive plans for
6 water utilities as a prerequisite for granting right-of-way franchises and
7 approval of right-of-way construction permits. Plans are required from
8 water utilities with sources of supply, or distribution facilities, within
9 unincorporated King County. With some exceptions, this requirement
10 also applies to amendments to such plans.

11 2. RCW 43.20.260 requires that water system plans for any new
12 industrial, commercial, or residential use are to be consistent with the
13 requirements of any comprehensive plans or development regulations
14 adopted under chapter 36.70A RCW or any other applicable
15 comprehensive plan, land use plan, or development regulation adopted by
16 a city, town, or county for the service area.

17 3. King County last approved the city of Enumclaw's 1993
18 Comprehensive Water System Plan in May 1996. The 2006 update
19 includes provisions for capital facilities to address anticipated growth
20 within Enumclaw's Urban Growth Area ("UGA"), improvements to its
21 existing facilities, and additional provisions for water conservation and
22 water rights acquisitions. It also includes provisions for serving three
23 different service areas - its "future service area" established under the
24 South King County Coordinated Water System Plan ("CWSP"), its
25 "wholesale service area," and its "retail service area," each of which has a
26 different meaning. Within a "future service area" under the CWSP, the
27 designated water utility has the exclusive authority to provide water
28 service to a proposed new development within that area, unless it cannot
29 do so in a "timely and reasonable" fashion, in which case a different water
30 utility may provide it. There is no general definition in state law or rules
31 for a "wholesale service area," which in this plan the city identifies as two
32 existing small water systems located within the boundaries of its "retail
33 service area." The city has indicated that it will supply water on a
34 wholesale basis if requested by the small water systems, provided the
35 systems' water rights are transferred to the city and the city is able to
36 secure additional supply from the city of Tacoma. With regard to a "retail
37 service area," pursuant to the Municipal Water Law ("MWL"), a
38 municipal water supply system has a "duty to serve" new customers only
39 within its designated "retail service area," which is the area to which it

40 supplies direct service to retail customers. The plan acknowledges that
41 based on current source and capacity constraints, the city is not prepared
42 to meet the water supply demands projected in the plan's six-year and
43 twenty-year planning horizons for its entire "future service area," although
44 it may be able to provide some service to that area within the twenty-year
45 horizon if it has the capacity to do so after meeting its service obligations
46 to existing customers and to new customers within its "retail service area".
47 Should such capacity be available to directly serve any part of the "future
48 service area," the plan states that the city will amend its water system plan
49 to convert to a "retail service area" designation those areas of its "future
50 service area" where it can provide retail water service. Absent that
51 amendment process, the city has stated that it has no intention of serving
52 any part of its "future service area" or expanding the place of use of its
53 water rights beyond the retail areas designated in the plan.

54 4. The city of Enumclaw currently provides water service in south central
55 King County, north of the White river. The city's corporate boundaries
56 include approximately 3.8 square miles, and its service facilities extend
57 into unincorporated King County outside the city boundaries. It has a
58 large "future service area" established in 1989 in the CWSP; see
59 discussion of service area, below. The city adopted a new comprehensive
60 plan under the Growth Management Act in 2005, and modified its UGA
61 boundary at the time to include the golf course that was transferred to the
62 city by King County. The UGA is entirely within the "retail service area"

63 identified in the plan. The city forecast population growth within the city
64 limits to about sixteen thousand by 2023, and a population over twenty-
65 one thousand by 2033.

66 5. The city currently has a building moratorium due to inadequate sewer
67 system capacity. It anticipates the lifting of the moratorium with the
68 completion of treatment plant upgrades in 2008 or 2009.

69 6. The city began providing water service in 1912, a year before the city
70 incorporated. Over the years, it has assumed ownership of several smaller
71 systems. Water is provided by two spring sources, a groundwater well
72 field, and an intertie with the city of Tacoma. Annual average water
73 consumption is approximately 2 million gallons per day. Since 1994, the
74 city's per capita demand has dropped from 223 gallons per day to 140
75 gallons per day, due to improved facilities and a water conservation
76 program. The city estimates that, with forecasted growth in demand of
77 four to nine percent in the next six years, and up to 36 percent within the
78 next twenty years, it has adequate capacity to meet forecasted demand
79 until 2017. It is investigating a number of supply alternatives to meet
80 demand beyond then, including increased conservation, restoration of
81 water source capacity to their full water rights, additional wholesale water
82 and possibly acquisition of new water rights.

83 7. The city's plan identifies five million seven hundred thousand dollars in
84 water system improvements to be completed by 2011, and an additional
85 eight million nine hundred thousand dollars between 2012 and 2025. The

86 financing plan calls for use of revenue bonds issued in 2007 and 2010,
87 with sixty-five percent of the capital improvements funded out of capital
88 reserves rather than debt. It plans to change its current rate structure to
89 ensure rate adequacy, equity, promotion of water conservation, and
90 customer affordability. As of 2006, the city reduced its rate multiplier to
91 customers outside the city limits from twice the in-city rate to one hundred
92 fifty percent of the in-city rate.

93 8. The city's service area or areas includes a "future service area,"
94 approved as part of the South King County CWSP adopted in 1989, a
95 "retail service area" as defined by the Washington state Department of
96 Health ("DOH") under the 2003 MWL and a "wholesale service area"
97 which is comprised of two small water systems. The plan proposes
98 boundary changes to conform to the MWL "duty to serve" requirements,
99 to recognize approximately fifty current and potential retail customers
100 outside the CWSP boundary, and to ensure water supply to all customers
101 within the UGA for Enumclaw. It also states that it does not intend to
102 become a satellite management agency, as authorized under the Public
103 Water System Coordination Act, to provide service, that is, via
104 ownership/operation of new small systems, within its designated "future
105 service area." In addition, the proposed boundaries for the "retail service
106 area" include areas outside the city's designated service area boundaries in
107 the existing South King CWSP. The plan states that King County has the
108 authority to simply amend the existing CWSP service area map to reflect

109 these additions. The King County office of the prosecuting attorney has
110 advised staff that no clear authority exists for King County to take such an
111 action. Although this area is not claimed by any other utility, the
112 inconsistency with the CWSP should be resolved with a modification to
113 that CWSP, as provided for in state law. This ordinance includes a finding
114 to that effect.

115 9. Enumclaw agreed to modify some provisions of the draft plan to
116 describe in more detail how it intends to provide "timely and reasonable"
117 service within its proposed "retail service area", and to be consistent with
118 the existing CWSP and anticipated changes. It has also agreed with a
119 DOH requirement to submit a plan amendment each time it proposes to
120 add retail customers within its "future service area", thereby modifying the
121 boundaries of its "retail service area." The plan contains a statement, on
122 page 2-2, that, upon approval of this plan, and pursuant to the MWL, the
123 place of use of its water rights becomes "coextensive" with the "retail
124 service area", "future service area", and "wholesale service area", and that
125 the city may serve any of those areas without the necessity of a change to
126 its water rights. This provision of the MWL requires a determination that
127 such an automatic change to the place of use in a water utility's water right
128 cannot be inconsistent with a county's comprehensive plan. The county
129 has interpreted this provision, taking into consideration guidance
130 published by DOH, as only applying to the "retail service area", and to
131 customers outside the "retail service area" served by the utility, or with

132 which the utility has an agreement to provide service. This would mean
133 that the MWL provision would not apply to the entire "future service area"
134 that Enumclaw has under the CWSP. However, with the clarification
135 provided by Enumclaw that it will formally modify its "retail service area"
136 each time it includes a new customer within its "future service area", the
137 county finds that the plans for service are not inconsistent with the
138 county's Comprehensive Plan. The county anticipates receiving and
139 reviewing those plan amendments, as provided under K.C.C. 13.24.010.E.
140 10. Enumclaw has acknowledged that there may be opportunities for the
141 use of reclaimed water—particularly with regard to irrigation of its golf
142 course—and has committed to evaluating such opportunities after the
143 wastewater treatment plant upgrade is completed in 2008/2009.
144 11. The water system comprehensive plan, as amended, has been
145 determined by the utilities technical review committee ("UTRC") to be
146 consistent with the King County Code, and the King County
147 Comprehensive Plan, as documented by the checklist provided by the
148 executive with the transmittal letter. The UTRC specifically finds that the
149 provisions in the revised Plan for providing service to the "retail service
150 area", including Enumclaw's UGA, are consistent with K.C.C.
151 13.24.010.B.2, and King County Comprehensive Plan Policies F-225, F-
152 226 and F-228.

153 12. Under the state Environmental Policy Act the city of Enumclaw
154 reviewed the draft Comprehensive Water Supply Plan, completed a
155 checklist, and issued a Determination of Nonsignificance on June 2, 2006.

156 13. The state DOH has not yet approved the Enumclaw Plan. DOH has
157 indicated that Enumclaw has provided adequate responses to the DOH
158 comments, and DOH will approve the Enumclaw Plan on receipt of the
159 King County approval ordinance. Alternatively, DOH may approve the
160 plan before the final King County approval, conditioned on the receipt of
161 the King County approval.

162 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

163 SECTION 1. The city of Enumclaw 2006 Water System Plan Update,
164 Attachment A to this ordinance, is hereby approved as a comprehensive water system
165 plan, subject to the following finding:

166 King County finds that the Enumclaw 2006 Comprehensive Water System
167 Plan is consistent with King County's Comprehensive Plan. However,
168 Enumclaw's service to properties located within its proposed "retail service area"
169 but outside of its service area boundary as described in the South King County
170 Coordinated Water System Plan appears inconsistent with the Coordinated Water
171 System Plan. Only King County or the Washington state Department of Health is
172 authorized under state law to initiate an update or modification to the South King
173 County Coordinated Water System Plan. Service by the city to those properties
174 within the "retail service area" may occur, provided the city seeks modification of
175 the South King CWSP boundary at such time the South King County Coordinated

176 Water System Plan water utility coordinating committee is reconvened as
177 provided for by law.
178

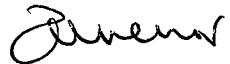
Ordinance 15926 was introduced on 10/1/2007 and passed by the Metropolitan King County Council on 10/15/2007, by the following vote:

Yes: 8 - Mr. Gossett, Ms. Patterson, Ms. Lambert, Mr. von Reichbauer, Mr. Ferguson, Mr. Phillips, Ms. Hague and Mr. Constantine
No: 0
Excused: 1 - Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 23 day of OCTOBER, 2007.



Ron Sims, County Executive

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Attachments A. City of Enumclaw Comprehensive Water System Plan Draft June 2006