

February 11, 2009

The Honorable Dow Constantine  
Chair, King County Council  
Room 1200  
C O U R T H O U S E

Dear Councilmember Constantine:

Enclosed for council consideration and adoption is a proposed ordinance relating to the consideration of greenhouse gas emissions during review of proposed actions that are subject to the State Environmental Policy Act (SEPA). The proposed ordinance implements King County Comprehensive Plan Policy E-206.

The following is a brief summary the proposed ordinance:

- Makes findings relating to the potential impacts of climate change on King County and its citizens, King County's actions to date with respect to addressing climate change, and recent legal developments related to greenhouse gas emissions and environmental review.
- Defines a standard for greenhouse gas emission reductions that will be deemed to be non-significant under the State Environmental Policy Act (SEPA). The standard is a reduction of 15% below the emissions that are estimated from merely complying with existing regulations.
- Identifies types of mitigation measures that proponents may consider as a way to reduce greenhouse gas emissions. The measures include green building and low impact development, use of renewable energy, protection of open space, purchase of transferable development rights from rural areas, and building at higher densities in urban areas.
- Directs the Department of Development and Environmental Services (DDES) to adopt public rules to identify additional measures that will reduce greenhouse gas emissions. An advisory committee will assist DDES in identifying these measures and the rules must be approved by the King County Council before they go into effect.
- Requires the use of incentives to encourage the use of green building and low impact development practices. Priority processing is provided for development proposals that achieve twice the required level of greenhouse gas emission reductions.
- Requires DDES and the Department of Natural Resources and Parks (DNRP) to report to the council by March 31, 2011 on the requirements of the ordinance.

Since the 1971 adoption of the State Environmental Policy Act (SEPA), state and local governments have been required to evaluate their actions, including the issuance of permits, granting of licenses, or the adoption of legislation, to determine whether those actions will have a significant adverse impact on the environment. Under SEPA and implementing rules adopted by the Washington Department of Ecology (Ecology), the first step in the process is the completion of a checklist that discloses information about the action's impacts on a number of different elements of the environment. Among these are impacts on air, including air quality and climate.

In Executive Order PUT 7-10, I directed King County agencies to include greenhouse gas emissions as one of the items that are disclosed on the SEPA checklist. The DDES, in consultation with the development and environmental communities and other county departments developed a simple worksheet to provide the required information. The worksheet is available on the DDES website at <http://www.metrokc.gov/permits/info/site/ClimateChange.aspx#SEPA>.

2008 King County Comprehensive Plan Policy E-206 authorizes King County to exercise its "substantive authority" under SEPA to require those proposing actions covered by SEPA to mitigate their greenhouse gas emissions. The proposed ordinance provides a process to implement that policy direction.

The ordinance includes findings that establish the basis for taking action to reduce greenhouse gas emissions. As you know, the evidence is clear for human caused increases in greenhouse gasses. The United Nations' International Panel on Climate Change estimates that in order to limit temperature increases to no more than two degrees celsius, greenhouse gas emissions must be reduced to eighty percent below current levels by 2050. The proposed ordinance takes us on a path towards achieving this objective by setting an interim target of achieving 1990 levels by 2020 and by requiring actions subject to SEPA to reduce greenhouse gas emissions to 15% below the emissions that would result from merely complying with existing regulations. This interim target is consistent with HB 2815 adopted by the 2008 Washington Legislature.

Staff from DDES, DNRP, and the Executive Office met with a broad based stakeholder group over the course of several meetings to develop the proposed ordinance. That group included representatives from the residential and commercial development community, environmental and public interest groups, Washington Department of Ecology, Puget Sound Clean Air Agency, City of Seattle, and King County departments. The proposed ordinance was also circulated twice for public review to the stakeholder group, mailed to the DDES Newsletter list, and posted on the DDES website. 12 comments were received on the first draft and an additional 12 comments on the second draft. Copies of the comments will be made available upon request.

The comments fell into a few broad categories. Several comments noted that the Washington State Climate Action Team (CAT) established by Governor Gregoire will be developing a proposal on the same issue over the next year. These comments recommended that King

County defer further action until the CAT reports its recommendations. Now that the CAT has issued its final recommendations, it is clear that King County's approach is consistent with the CAT's recommendations.

Comments from representatives of some businesses noted that the options to reduce greenhouse gas emissions available to energy intensive industries are limited. They also noted that many businesses have taken actions over the years to reduce their energy use, which has had beneficial impacts on greenhouse gas emissions. The proposed ordinance was revised to allow applicants to make the case that further reductions in greenhouse gas emissions would not be cost effective in these circumstances.

A concern from the real estate industry and the residential development community concerned the potential impact on affordable housing. The proposed ordinance recognizes that a primary strategy to reducing greenhouse gas emissions is to encourage development in compact urban neighborhoods. Recent national studies show that when transportation costs are included, compact urban development is more affordable than less dense development in suburban, rural and resource areas.

In addition, the development community is already implementing many strategies that reduce greenhouse gas emissions. For example, the Master Builders Association of King and Snohomish County is a major proponent of the BuiltGreen™ program, which the proposed ordinance includes as one strategy to reduce emissions. Other measures that the development and real estate community advocates for, such as increased density in urban areas, will also qualify as measures to reduce emissions. As a result, I have concluded that the concern about the impact on affordability is misplaced. In fact, housing that meets the goals of this ordinance should cost less for homeowners to maintain, because of the reduced energy costs, and if built in transit friendly areas, result in lower transportation costs to the home owners.

During development of the ordinance, representatives from the development community expressed a concern that the entire burden of reducing greenhouse gas emissions was being placed on their businesses. This theme was also raised in some of the comment letters. The proposed ordinance specifically addresses this issue by recognizing that new development is only causing part of the problem of increasing greenhouse gas emissions and should only be expected to address its share of the problem. Other sectors of our economy and our society will also need to address their contributions towards greenhouse gas emissions.

Other comments addressed the proposed 15% emissions reduction target. Some in the development community questioned whether there was any factual support for this target. Coming from the opposite point of view, the Center for Biological Diversity questioned whether the 15% threshold would be sufficient to achieve the 2050 emission reduction target. I have decided to maintain the recommendation for a 15% reduction target at this time. The target is based on information available from reliable sources, including both state and local governments. As I noted earlier, it is also consistent with the 2020 emissions target established by the Washington Legislature in HB 2815. However, I agree with the Center that more will be required in future years. The proposed ordinance includes a requirement for a report back to

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the County Council. One topic of that report will be whether there should be changes in the emissions reduction target.

If you have any questions, please contact Stephanie Warden, Director, Department of Development and Environmental Services, at 206-296-6700, or Jim Lopez, Director, Office of Strategic Planning and Performance Management, at 206-263-9628.

Sincerely,

Ron Sims  
King County Executive

Enclosures

cc: King County Councilmembers  
ATTN: Tom Bristow, Interim Chief of Staff  
Saroja Reddy, Policy Staff Director  
Anne Noris, Clerk of the Council  
Frank Abe, Communications director  
Stephanie Warden, Director, Department of Development and Environmental Services (DDES)  
Jim Lopez, Director, Office of Strategic Planning and Performance Management  
Theresa Jennings, Director, Department of Natural Resources and Parks