



King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item No.:	7 & 8	Date:	2 June 2010
Proposed Ordinance No.:	2009-0396 2010-0329	Prepared by:	Rebecha Cusack Nick Wagner

SUMMARY

Proposed Ordinances 2009-0396 and 2010-0329 would each place on the November 2010 ballot a charter amendment that addresses the allocation of collective bargaining authority within the executive branch of King County government.¹ The proposed amendments represent two different approaches and are mutually exclusive.

Proposed Ordinance 2009-0396 (pp. 7-9 of these materials) would place on the ballot a charter amendment giving the County Sheriff authority to bargain working conditions for employees of the Sheriff's Office, while reserving to the County Executive the authority to bargain compensation and benefits for those employees. The effect of this amendment would be limited to the Sheriff's Office.

Proposed Ordinance 2010-0329 (pp. 13-16 of these materials) would place on the ballot a charter amendment that would apply not only to the Sheriff's Office, but to all separately-elected officials who head departments that are subject to the Charter.² The amendment would maintain the County Executive's status as the county's collective bargaining agent, but would require the county's collective bargaining ordinance to, among other things, "provide for the effective participation in bargaining by those separately elected officials who head departments that are subject to this charter."

BACKGROUND

Charter § 890

Section 890 of the Charter currently provides: "If an ordinance providing for collective bargaining is enacted, . . . it shall designate the county executive as the

¹ In the current title of Proposed Ordinance 2009-0396, the ballot date is November 2009, since the ordinance was originally introduced in 2009. Title Amendment T1 would change that to November 2010.

² I.e., the Assessor and the Elections Director, as well as the Sheriff.

bargaining agent of the county” (p. 17 of these materials). Chapter 3.16 of the King County Code is such an ordinance, and, as required by charter section 890, KCC section 3.16.010 designates the county executive as the county’s bargaining agent (*see* p. 19 of these materials).

King County Sheriff

County Sheriff was made an elective office by charter amendment in 1996. In 2006, following a series of newspaper articles about the conduct of 17 Sheriff’s Office employees over a period of 22 years, a Blue Ribbon Panel was convened at the Sheriff’s request to “research internal management systems, suggest well-functioning internal review processes, and identify and recommend areas of needed improvements.” The Panel’s report, which was issued on 11 September 2006, included numerous findings and recommendations, including several related to collective bargaining and labor relations.³

THE SHERIFF’S AND BLUE RIBBON PANEL’S PROPOSAL (Proposed Ordinance 2009-0396)

Among the public comments received by the 2007-2008 King County Charter Review Commission (“CRC”) was a proposal by the County Sheriff to “grant the Sheriff authority to negotiate working conditions in labor relations contracts with employees under the Sheriff’s authority.”⁴ (Under the Sheriff’s proposal, the Executive would continue to negotiate compensation and benefits.) The Sheriff reasoned that the absence of such authority made it difficult for her to manage the Sheriff’s Office effectively or to carry out the reforms recommended by the Sheriff’s Blue Ribbon Panel.

This recommendation was supported by the Blue Ribbon Panel, whose chair addressed the CRC in support of the Sheriff’s proposal.⁵ Among the reasons advanced by the Panel in its January 2008 report to the Council were:

1. “Without this authority, it is difficult for citizens to hold the Sheriff accountable for the leadership and oversight of the office.”
2. “This arrangement will lead to a more effective and accountable management system by allowing the Sheriff to have a meaningful role in negotiating and

³ The report is available online at

<http://www.seattlepi.com/conductunbecoming/blueribbonreport.pdf>.

⁴ The Sheriff’s five proposed amendments are listed in the CRC’s final report, an excerpt from which is included at pp. 21-23 of these materials.

⁵ *See* the Panel’s 28 January 2008 Progress Report to the Council, an excerpt from which is included at pp. 25-26 of these materials.

managing labor agreements with the employees the Sheriff is responsible for managing and overseeing.”

3. “Since the King County Council has the authority and responsibility to review and approve by ordinance all labor union agreements, as well as the annual county budget, the appropriate checks and balances are in place to hold the Sheriff accountable for any agreements the Sheriff negotiates.”
4. “[O]ur recommendation . . . would create a structure where the Executive and the Sheriff would have a greater incentive to collaborate during negotiations with the labor organizations representing Sheriff’s Office employees. . . . [B]oth elected officials would have to work together effectively in order to arrive at an agreed labor contract for joint submission and approval to the King County Council.”

To show that a division of collective bargaining authority was workable, the Blue Ribbon Panel held up as examples the King County Superior Court and the King County Prosecuting Attorney, who have authority to bargain management rights and working conditions. The Panel also pointed to a survey conducted by the Sheriff’s Office, which indicated that in at least 28 out of the 39 Washington counties, “the elected Sheriff has the final bargaining authority over management rights and working conditions in the labor agreements sent for ratification to a council or commission.”

The Blue Ribbon Panel recently reaffirmed its support for the Sheriff’s proposed charter amendment in a letter to the Council and the Executive dated 21 April 2010 (included at p. 27 of these materials).

Proposed Ordinance 2009-0396 (pp. 7-9 of these materials) would place on the ballot a charter amendment “designat[ing] the county sheriff as the bargaining agent of [the] county on all department of public safety matters except for compensation and benefits, which shall be negotiated by the county executive as provided in Section 890 of this charter.”⁶

THE CRC RECOMMENDATION (Proposed Ordinance 2010-0329)

The CRC disagreed with the Sheriff’s proposed charter amendments as a whole, on the ground that they “would establish the Sheriff’s Office as a governmental entity separate from the County Council and Executive, severely undermining internal accountability on budgetary and personnel matters . . . [and] are in direct conflict with the Charter Freeholders’ vision for a cohesive county government.” *See* p. 22 of

⁶ Technically, the proposed amendment, which would amend charter section 890 and create a new charter section 897, would require the Council to adopt an ordinance making that designation.

these materials. But the CRC agreed to consider the Sheriff's request for authority to negotiate the working conditions of Sheriff's Office employees.

Ultimately, the CRC decided not to adopt the proposal of the Sheriff and the Blue Ribbon Panel to give the Sheriff collective bargaining authority over working conditions. Instead, the CRC's proposed amendment would maintain the Executive's status as the county's bargaining agent, but would require the Council by ordinance to "provide for the effective participation in bargaining by those separately elected officials who head departments that are subject to this charter" (p. 29 of these materials).

Specifically, the amendment would require the county executive to obtain the separately elected official's consent before proposing or agreeing to language controlling the working conditions of the official's employees.⁷ If the executive and the official were unable to agree on such language, the amendment would require them to "report this in writing to the council, which shall provide guidance on how to proceed in further negotiations concerning the matter in conflict." The CRC-proposed amendment would be placed on the November 2010 ballot by Proposed Ordinance 2010-0329, which is included in these materials at pp. 13-16.⁸

The CRC was divided on this issue. The vote was 12 in favor, five against, and four absent. Six CRC members signed a minority report, a copy of which is included at p. 33 of these materials. In the view of the CRC minority:

The best solution . . . would have been no amendments. The voted compromise language approved by the Charter Commission is placing a matter in the County Charter that should be dealt with by "good faith" management relationships. If there is any proper place to write rules of good conduct for King County elected department heads, it is the County Code—not the Charter.

The CRC majority, for its part, although its recommendation differed from the proposal advanced by the Sheriff and the Blue Ribbon Panel, encouraged the Council "to consider the recommendations in the Blue Ribbon Panel report and its subsequent Progress Report" (p. 23 of these materials). The majority explained:

The remedies suggested by the Commission are different from those put forward by the Blue Ribbon Panel, partly due to the different charges of the Commission (broad) and the Blue Ribbon Panel (focused). The Commission believes that the recommendations of

⁷ Negotiation of compensation and benefits would remain the exclusive domain of the executive.

⁸ The CRC also proposed related code amendments, which are included in these materials at pp. 31-32.

both bodies can be used by the Council to create a more functional and responsive County government.

COUNCIL OPTIONS

The Council has at least three options:

1. Adopt Proposed Ordinance 2009-0396 (pp. 7-9 of these materials), which would place on the ballot a charter amendment giving the County Sheriff authority to bargain working conditions for employees of the Sheriff's Office, while reserving to the County Executive the authority to bargain compensation and benefits for those employees (the Sheriff and Blue Ribbon Panel proposal);
2. Adopt Proposed Ordinance 2010-0329 (pp. 13-16 of these materials), which would place on the ballot a charter amendment that maintains the County Executive's status as the county's collective bargaining agent, but would require the county's collective bargaining ordinance to, among other things, "provide for the effective participation in bargaining by those separately elected officials who head departments that are subject to this charter" (the CRC proposal);
3. Take no action at this time, pending a future assessment of the effectiveness of the Executive's new Office of Labor Relations.

TITLE AMENDMENT

Title Amendment T1 (p. 11 of these materials) would update the title of Proposed Ordinance 2009-0396 to provide that the proposed charter amendment is to be placed on the ballot in 2010, rather than 2009 as originally drafted.

TIMELINE

The charter deadline for Council action to place proposed amendments on the November 2010 ballot is September 17; however, adoption of a charter amendment at that late date, while complying with the county charter, would make it necessary for county elections staff to publish a supplemental voter pamphlet, which would entail substantial additional cost to the county. Adoption that late would also put additional time pressure on the process of recruiting individuals to serve on the pro-con committees and preparing the pro-con statements. *To avoid these undesirable consequences, the practical deadline for Council action to place a charter amendment on the ballot is the last Council meeting before the August recess: July 26.*

INVITED

1. Charter Review Commission Members
2. Patti Cole-Tindall, Labor Relations Manager,
King County Office of Labor Relations
3. King County Sheriff Sue Rahr

ATTACHMENTS

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KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 26, 2010

Ordinance

Proposed No. 2009-0396.1

Sponsors Lambert

1 AN ORDINANCE proposing to amend Section 890 of the
2 King County Charter and to add a new Section 897 of the
3 King County Charter, to designate the county sheriff as the
4 county's bargaining agent on all department of public safety
5 issues except for compensation and benefits; and
6 submitting the same to the voters of the county for their
7 ratification or rejection at the November 2009 general
8 election.

9 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

10 **SECTION 1. Findings:**

11 A. Section 890 of the King County Charter specifies the county executive as the
12 bargaining agent of the county. The county executive has authority over collective
13 bargaining for department of public safety and other departments on all issues, including
14 contract terms related to wages, hours, benefits and working conditions.

15 B. The county sheriff, a separately elected official, currently has input, but no
16 authority to bargain contract provisions with represented employees of the department of
17 public safety.

18 **SECTION 2.** There shall be submitted to the qualified voters of King County for
19 their approval and ratification or rejection, at the next general election to be held in this

20 county occurring more than forty-five days after the enactment of this ordinance, an
21 amendment to Section 890 of the King County Charter and the addition of a new Section
22 897 to the King County Charter, as set forth herein:

23 **Section 890. Employee Representation.**

24 The county council may enact an ordinance providing for collective bargaining by the
25 county with county employees covered by the personnel system. If an ordinance providing for
26 collective bargaining is enacted, it shall not be subject to the veto power of the county executive;
27 and, except with respect to bargaining by department of public safety pursuant to Section 897 of
28 this charter, it shall designate the county executive as the bargaining agent of the county. Any
29 agreement reached as a result of negotiations by the county bargaining agent with county
30 employees shall not have the force of law unless enacted by ordinance.

31 **Section 897. Department of Public Safety Employee Collective Bargaining.**

32 The county council may enact an ordinance providing for collective bargaining by the
33 county with employees of the department of public safety. The county executive shall not have
34 veto power over this ordinance. If such an ordinance is enacted, it shall designate the county
35 sheriff as the bargaining agent of county on all department of public safety matters except for
36 compensation and benefits, which shall be negotiated by the county executive as provided in
37 Section 890 of this charter.

38 SECTION 3. The clerk of the council shall certify the proposition to the manager
39 of the elections division, in substantially the following form, with such additions,
40 deletions or modifications as may be required by the prosecuting attorney:

41 Shall the King County Charter be amended to allow the King County Sheriff to
42 serve as the county's collective bargaining agent for all department of public

43 safety issues except for compensation and benefits, which would continue to be
44 bargained by the county executive?
45

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Robert W. Ferguson, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None

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June 2, 2010

T1

nw

Sponsor: Lambert

Proposed No.: 2009-0496

1 **AMENDMENT TO PROPOSED ORDINANCE 2009-0496, VERSION 1**

2 On page 1, line 9, strike "2009" and insert "2010"

3 **EFFECT: Corrects the year in which the proposed charter amendment will be**
4 **placed on the ballot.**

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Signature Report

May 27, 2010

Ordinance

Proposed No. 2010-0329.1

Sponsors Hague

1 AN ORDINANCE proposing to amend Section 890 of the
2 King County Charter, to make the requirement of a
3 collective bargaining ordinance mandatory, to require the
4 ordinance to provide for effective participation in
5 bargaining by separately elected department heads, to
6 require consultation between the county executive and
7 separately elected officials regarding language controlling
8 working conditions before such language is included in
9 collective bargaining negotiations, to provide for a process
10 for resolving disagreements about such language; and
11 submitting the proposed amendment to the voters of the
12 county for their ratification or rejection at the November
13 2010 general election.

14 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

15 SECTION 1. There shall be submitted to the qualified voters of King County for
16 their approval and ratification or rejection, at the next general election to be held in this
17 county occurring more than forty-five days after the enactment of this ordinance, an
18 amendment to Section 890 of the King County Charter, as set forth herein:

19 **Section 890. Employee Representation.**

20 The county council (~~may~~) shall enact an ordinance providing for collective
21 bargaining by the county with county employees covered by the personnel system. If an
22 ordinance providing for collective bargaining is enacted, it shall not be subject to the veto
23 power of the county executive; and it shall designate the county executive as the bargain-
24 ing agent of the county. Any such ordinance shall provide for the effective participation
25 in bargaining by those separately elected officials who head departments that are subject
26 to this charter. Language controlling working conditions, including work rules, shift
27 schedules, discipline and termination, in any collective bargaining agreement covering
28 employees of such a separately elected county official must be consented to by that
29 official prior to the bargaining agent agreeing to the language, proposing its inclusion in a
30 bargaining agreement or sending the bargaining agreement to the county council for
31 ratification. If the executive and separately elected official are unable to resolve a
32 conflict that arises regarding the language, they shall report this in writing to the council,
33 which shall provide guidance on how to proceed in further negotiations concerning the
34 matter in conflict. Any agreement reached as a result of negotiations by the county
35 bargaining agent with county employees shall not have the force of law unless enacted by
36 ordinance.

37 SECTION 3. The clerk of the council shall certify the proposition to the manager
38 of the elections division, in substantially the following form, with such additions,
39 deletions or modifications as may be required by the prosecuting attorney:

40 Shall King County Charter Section 890 be amended to make the
41 requirement of a collective bargaining ordinance mandatory, to require the
42 ordinance to provide for effective participation in bargaining by separately

43 elected department heads, to require the consent of the separately elected
44 department head regarding language controlling working conditions
45 before such language is included in collective bargaining negotiations, and
46 to provide for a process for resolving disagreements about such language,

47 as provided in Ordinance ____?

48 ___ Yes

49 ___ No

50

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Robert W. Ferguson, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None

King County Charter

Section 890 Employee Representation.

The county council may enact an ordinance providing for collective bargaining by the county with county employees covered by the personnel system. If an ordinance providing for collective bargaining is enacted, it shall not be subject to the veto power of the county executive; and it shall designate the county executive as the bargaining agent of the county. Any agreement reached as a result of negotiations by the county bargaining agent with county employees shall not have the force of law unless enacted by ordinance.

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King County Code

3.16.010 Bargaining agent designated. There is established an ordinance for collective bargaining and, pursuant to the provisions of Section 890 of the King County Charter, the King County executive is designated bargaining agent for King County. (Ord. 197 § 1, 1969).

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Suburban Cities Association, and the Municipal League of King County. Some individuals favored the initiative process, and others opposed it, while still others approved of the initiative process but with a different signature threshold than the current 10 percent. After extensive research and discussion, the subcommittee decided to propose a charter amendment adopting new language that will clarify the process by which citizens may amend the charter by initiative.

The Commission recommends that a clear signature threshold for charter initiatives be set at 20 percent of the votes cast for the office of King County Executive in the most recent election. The Commission further recommends that the charter initiative process eliminate the need for multiple votes on a single charter amendment proposal, and that the process for considering alternative charter amendments be specified in a clear and common sense manner. These recommended changes are intended to strike an appropriate balance between the goal of retaining a stable charter framework for county governance and the goal of affording citizens meaningful opportunities to initiate charter amendments.

Final vote: | Yes – 17 | No – 1 | Abstain – 0 | Absent – 3 |

Commission Procedures

Charter Section – Section 800

Subcommittee – Governmental Structure

Amendment Language – See page 30

The Commission recommends an amendment requiring the County Council to review all charter review commission recommendations and decide at an open public meeting how to proceed on each recommendation. This amendment is in response to the concerns of previous commissions that their recommendations were not fully and publicly considered. This proposed amendment would require Council to undertake public review of any proposed amendments that the Charter Review Commission brings forth. The Commission rejected an alternate amendment to recommend the election of Commissioners, whose recommendations would be sent directly to the ballot.

The Commission also recommends that the Charter be amended to clarify the charter review commission’s appointment and confirmation process. While the Charter generally requires that the Council confirm Executive appointments, there was uncertainty regarding whether Council confirmation was required for charter review commission members.

Final vote: | Yes – 19 | No – 0 | Abstain – 0 | Absent – 2 |

Elected Officials and Collective Bargaining

Charter Section – Section 890

Subcommittee – Regional Governance

Amendment Language – See page 31

The Commission recommends an amendment to the Charter that would require the Council to enact an ordinance providing for collective bargaining and the “effective participation in [collective] bargaining by those separately elected officials who head departments that are subject to this charter” (currently the Assessor and Sheriff). The amendment would preserve a single bargaining agent—the Executive—who is empowered to negotiate county labor contracts. The amendment requires, however, that prior to the Executive negotiating language specific to working conditions, he or she must garner the consent of the separately elected official. In addition, if the Executive and a separately elected official are unable to

resolve a conflict that arises regarding such language, the amendment directs the Executive and the official to seek guidance from the County Council.

The Commission also proposes that, where the code sets forth the powers and general provisions for the Human Resource Division (HRD), the Council adopt ordinance language that: 1) requires HRD to go beyond merely representing departments that are headed by elected officials to consulting with those county agencies in collective bargaining and related processes; and 2) provides recourse for the elected official if he or she believes that department objectives are not being met in the course of the collective bargaining process.

The Sheriff originally proposed five charter amendments to the Commission. These amendments would 1) grant the Sheriff authority to negotiate working conditions in labor contracts, leaving compensation (including wages and benefits) under the authority of the Executive; 2) reinstate the civil service commission; 3) remove references to the Sheriff's Office as an executive branch department; 4) change language in the Charter to designate the Sheriff rather than the Executive as chief peace officer; and 5) strike reference to the Department of Public Safety and replace it with the Sheriff's Office.

According to Sheriff Rahr, these amendments would affirm the independence and increase the authority of the Sheriff's Office. However, the Commission found that these five amendments taken as a whole would establish the Sheriff's Office as a governmental entity separate from the County Council and Executive, severely undermining internal accountability on budgetary and personnel matters. Moreover, the commission found that these proposals are in direct conflict with the Charter Freeholders' vision for a cohesive county government.

At the urging of the Sheriff's Blue Ribbon Panel, which advised the Commission to amend the Charter in order to give the Sheriff authority to bargain working conditions, the Commission agreed to consider the first of the Sheriff's proposals. The Panel asserted that this amendment would provide the Sheriff with the means for enacting necessary reforms in her office, particularly those focusing on discipline and hiring. Sheriff Rahr asserted that as an elected official she is solely accountable for the operation and performance of her department and, under current charter provisions, is effectively prevented from exercising the authority necessary to do her job because she does not have control over the collective bargaining process.

Many members of the Commission believed that giving the Sheriff collective bargaining authority would undermine the Executive's ability to manage the county's budget and personnel system, while other Commissioners believed that the conclusions of the Blue Ribbon Panel should be heeded. In the end, the Commission, in a divided vote, concluded that amending the language in the Employee Representation section of the Charter as proposed would affirm the Sheriff's bargaining authority by holding the Executive accountable for effectively including the Sheriff and other elected officials in the bargaining process. The Commission also drafted recommended ordinance language for adoption by the Council (see Appendix C).

In proposing these amendments to the Charter, the Commission agrees that there is a need to provide assurances to the Sheriff and other elected officials that they will have the opportunity to participate effectively in the collective bargaining decisions affecting their departments. The Commission recommends that the amendment should reference all separately elected officials, as they have similar circumstances to those of the Sheriff.

Specific to the Sheriff’s concerns, the Commission encourages the Council to consider the recommendations in the Blue Ribbon Panel report and its subsequent Progress Report. The Commission agrees that there is a need to improve the current system. The remedies suggested by the Commission are different from those put forward by the Blue Ribbon Panel, partly due to the different charges of the Commission (broad) and the Blue Ribbon Panel (focused). The Commission believes that the recommendations of both bodies can be used by the Council to create a more functional and responsive County government.

Minority Report Summary (6 signatories): The collective bargaining amendment for elected officials is a compromise that places in the County Charter a matter that should be governed by “good faith” conduct of the elected officials of King County. The appropriate place to prescribe management rules of conduct between elected officials and the branches of County government is the King County Code, not the Charter. This amendment is a step back for King County governance to a pre-charter time when the county and its leadership were fragmented. See page 39 for the full minority report.

Final vote: | Yes – 12 | No – 5 | Abstain – 0 | Absent – 4 |

Elections Deadlines

Charter Section – Sections 230.40, 230.50, and 800

Subcommittee – Governmental Structure

Amendment Language – See page 31

The Commission recommends an amendment to change the deadlines for placing initiatives, referenda, and proposed charter amendments on the ballot from 45 days before the election to a deadline to be specified by county ordinance. The Elections Division brought it to the Commission’s attention that the current deadline does not provide sufficient time for the production of election materials, especially ballots and voter pamphlets.

The proposed amendment would allow the Council to specify a deadline that appropriately reflects the time necessary to process such ballot measures in a timely way (state law currently provides 84 days). This revised deadline would allow more time to prepare and mail election materials such as notices, ballots, and voters’ pamphlets, without affecting the amount of time allowed for citizens to gather signatures on initiatives or for the Council to consider ballot initiative language.

Final vote: | Yes – 19 | No – 0 | Abstain – 0 | Absent – 2 |

Open Space Protection

Charter Section – New Section 897

Subcommittee – Rural/Local Issues

Amendment Language – See page 31

The Commission recommends providing additional, charter-based protection to certain open space properties in which King County holds an interest (either owns or owns the development rights to). The Open Space Amendment (OSA) would create a list of high conservation value county properties as an appendix to the Charter. These lands would be permanently protected from sale, transfer, or conversion to a different use than was authorized at the time of their acquisition. There would be no change in how residents currently use these spaces.

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2 *The King County Executive and the King County Council should use their best efforts to protect and implement the panel's recommendations that are subject to labor negotiations with the King County Police Officers Guild.*

A number of the panel's important recommendations are subject to the current labor negotiations between the Executive and Guild. The recommendations include performance evaluations, the Field Training Officer program, the Early Intervention System, and the Office of Law Enforcement Oversight. The panel members hope for continued support from the Executive and Council and respectfully urge them to work together to protect and implement these recommended reforms.

We are especially concerned about maintaining the scope and integrity of our oversight recommendations. The Office of Law Enforcement Oversight is the singular independent perspective outside the Sheriff's Office responsible for improving public trust and confidence in the integrity, performance, and professionalism of Sheriff Office employees. An oversight office with less authority or independence as recommended by the panel and enacted into law will not effectively serve the Sheriff's Office or the citizens of King County.

The Executive is responsible for bargaining labor agreements and the Council is responsible for reviewing and approving them. The panel respectfully urges the Executive and Council – who enacted and funded Ordinance 15611 establishing the oversight office – to protect the integrity of the ordinance so it can be implemented effectively.

3 *The King County Charter Review Commission should forward a recommendation to the King County Council to amend the County Charter to give the Sheriff the authority and responsibility to negotiate and manage working conditions with the labor organizations representing Sheriff's Office employees.*

As an independent, elected official, the King County Sheriff should have the responsibility and authority to negotiate working conditions with all labor unions representing commissioned and non-commissioned employees of the Sheriff's Office. Without this authority, it is difficult for citizens to hold the Sheriff accountable for the leadership and oversight of the office. This arrangement will lead to a more effective and accountable management system by allowing the Sheriff to have a meaningful role in negotiating and managing labor agreements with the employees the Sheriff is responsible for managing and overseeing. The King County Executive would retain the responsibility and authority to negotiate wages and benefits as part of the collective bargaining agreements.

Since the King County Council has the authority and responsibility to review and approve by ordinance all labor union agreements, as well as the annual county budget, the appropriate checks and balances are in place to hold the Sheriff accountable for any agreements the Sheriff negotiates.

The panel believes our recommendation regarding collective bargaining responsibilities would create a structure where the Executive and Sheriff would have a greater incentive to collaborate during negotiations with the labor organizations representing Sheriff's Office employees. In contrast to the current situation, our recommendation would place the Sheriff and Executive on an equal footing during the bargaining process, with the Sheriff responsible for bargaining working conditions and the Executive responsible for bargaining wages and benefits. Under this arrangement, both elected officials would have to work together effectively in order to arrive at an agreed labor contract for joint submission and approval to the King County Council.

The Blue Ribbon Panel learned that our recommended allocation of labor contract bargaining and management authority is not uncommon:

- The King County Superior Court Judges and the King County Prosecuting Attorney have similar authority over management rights and working conditions; and
- Based on a recent survey of Washington's 39 counties by the King County Sheriff's Office, in at least 28 counties the elected Sheriff has the final bargaining authority over management rights and working conditions included in the labor agreements sent for ratification to a council or commission.

All nine Blue Ribbon Panel members respectfully urge you to consider and support our recommendation to revise the King County Charter to give the Sheriff the responsibility and authority to bargain and manage labor agreement provisions governing working conditions, but *not* wages and benefits. The Sheriff's Office, King County government, and our community will benefit from your approval of our recommendation.

4 The King County Charter Review Commission should forward a recommendation to the King County Council to amend the County Charter so the King County Office of Citizen Complaints-Ombudsman would no longer have oversight responsibilities for the Sheriff's Office.

The panel's Recommendation 6 provides: "The King County Executive and the King County Council should create and fund an Office of Independent Oversight," with a provision that the King County Office of Citizen Complaints-Ombudsman should no longer have oversight responsibilities for the Sheriff's Office. These responsibilities should be performed by the new Office of Law Enforcement Oversight, assuming Ordinance 15611 is implemented after completion of the current labor negotiations. If the ordinance is not implemented, no Charter amendment will be needed.

Date: April 20, 2010

To: Honorable Dow Constantine, King County Executive
Honorable Members, King County Council

From: Members, King County Sheriff's Blue Ribbon Panel

RE: **King County Charter Revision**

Council Member
Larry Phillips
APR 21 2010
Received
District Four

We are writing to encourage you to approve a proposed change to the King County Charter. The change would give the elected Sheriff direct authority to bargain management rights and working conditions with the labor unions representing employees within the Sheriff's Office.

As part of our January 2008 Progress Report, we urged the Charter Review Committee and the King County Council to approve this change for submission to the voters. We are forwarding our proposal again because we are convinced our initial recommendations for improving the Sheriff's Office cannot be fully implemented until this change occurs. The detailed reasons for our proposal are discussed in the attached excerpts from our January 2008 Progress Report.

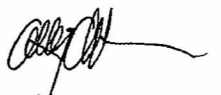
Under our proposal, the King County Executive would retain the responsibility and authority to negotiate and manage wages and benefits for Sheriff's Office employees. The King County Council would continue to have the authority and responsibility to review and approve by ordinance all labor union agreements, as well as the annual county budget. Accordingly, the appropriate checks and balances would be in place to hold the Sheriff accountable for any agreements the Sheriff negotiates.

All nine Blue Ribbon Panel members respectfully urge you again to consider and support our proposal to revise the King County Charter to give the Sheriff the responsibility and authority to bargain and manage labor agreement provisions governing management rights and working conditions. The Sheriff's Office, King County government, and our community would benefit from this change.


If you have any questions or comments about our recommendation, please contact Morgan Shook (206-493-2379; morgan@berkandassociates.com) who staffed the Blue Ribbon Panel.

KING COUNTY SHERIFF'S BLUE RIBBON PANEL


Randy Reville, *Chair*

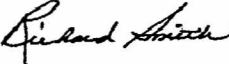

Anthony Anderson

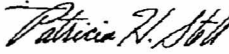

David Boerner

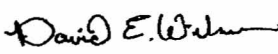

Faith Ireland


Michael O'Mahony


Jennifer Shaw


Richard K. Smith


Patricia H. Stell


David Eugene Wilson

cc: Sue Rahr, King County Sheriff

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ed, to the county council a written report recommending those amendments, if any, which should be made to the charter. Appointees shall be subject to confirmation by a majority of the county council. This citizen commission shall be composed of at least one representative from each of the county council districts. The county council shall consider the commission's report and recommendations and decide at an open public meeting how to proceed on each of the commission's recommended charter amendments.

Elected Officials and Collective Bargaining

Section 890 Employee Representation.

The county council (~~(may)~~) shall enact an ordinance providing for collective bargaining by the county with county employees covered by the personnel system. If an ordinance providing for collective bargaining is enacted, it shall not be subject to the veto power of the county executive; and it shall designate the county executive as the bargaining agent of the county. Any such ordinance shall provide for the effective participation in bargaining by those separately elected officials who head departments that are subject to this charter. Language controlling working conditions (including work rules, shift schedules, discipline and termination) in any collective bargaining agreement covering employees of such a separately elected county official must be consented to by that official prior to the bargaining agent agreeing to such language, proposing its inclusion in a bargaining agreement or sending the bargaining agreement to the county council for ratification. If the executive and separately elected official are unable to resolve a conflict that arises regarding such language, they shall report this in writing to the council, which shall provide guidance on how to proceed in further negotiations concerning the matter in conflict. Any agreement reached as a result of negotiations by the county bargaining agent with county employees shall not have the force of law unless enacted by ordinance.

Elections Deadlines

230.40 Referendum

... After the petitions are filed, the ordinance to be referred shall be placed on the ballot at the next special or general election occurring more than forty-five days after the petitions are filed after the minimum time established by ordinance for presentation of referendum measures to the county officer responsible for conducting elections, provided that in the case of an ordinance effective only in unincorporated areas of the county, the proposed ordinance shall be voted upon only by the registered voters residing in unincorporated areas of the county. ...

230.50 Initiative

... If the proposed ordinance is not enacted within ninety days after the petitions are ~~presented~~ filed, it shall be placed on the ballot at the next ~~regular~~ general or special election occurring after the minimum time established by ordinance for presentation of initiative measures to the county officer responsible for conducting elections, occurring more than one hundred thirty-five days after the petitions are filed or at an earlier election designated by the county council. ...

800 Charter Review Commission

... The county council may propose amendments to this charter by enacting an ordinance to submit a proposed amendment to the voters of the county at the next general election occurring more than forty-five days after the enactment of the ordinance occurring after the minimum time established by ordinance for presentation of proposed charter amendments to the county officer responsible for conducting elections. ...

Open Space Protection

New Section 897. High Conservation Value Properties.

The clerk of the council shall maintain the list of inventoried high conservation value properties set forth as Appendix A to this charter. The inventory may include only properties in which the county owns a fee simple interest or a lesser interest. No inventoried county property interest shall ever be conveyed, relinquished, or converted to a different use than was authorized at the time of acquisition, as evidenced by deed, easement, covenant, contract or funding source requirements, except that this section shall not prevent: the conveyance of an inventoried property interest to another government, the conveyance of an inventoried property interest under the lawful threat or exercise of eminent domain; the grant of an easement, license, franchise or use agreement for utilities or other activities compatible with use restrictions in place at the time of acquisition; or the use of an inventoried property interest for habitat restoration, flood control, low-impact public amenities or regionally significant public facilities developed for purposes related to the conservation values of the property, road or utility projects, or emergency projects necessary to protect public health, welfare or safety. This section shall not affect any contractual obligations entered into as part of the county's acquisition of an inventoried property interest.

See page 53 for the proposed inventory of high conservation value properties, Appendix A to the Charter.

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APPENDIX C: Ordinance Language

Ordinance language proposed for addition to the King County Code is underlined. Language proposed for removal from the code is shown in strikeout.

Collective Bargaining and Elected Officials

An ordinance amending the King County Code as follows:

K.C.C. 2.16.035.

...

- C. The duties of the human resources management division shall include the following:
1. Developing and administering training and organizational development programs, including centralized employee and supervisory training and other employee development programs;
 2. Developing proposed and administering adopted policies and procedures for employment (recruitment, examination and selection), classification and compensation, and salary administration;
 3. Developing proposed and administering adopted human resources policy;
 4. Providing technical and human resources information services support;
 5. Developing and managing insured and noninsured benefits programs, including proposing policy recommendations, negotiating benefits plan designs with unions, preparing legally mandated communications materials and providing employee assistance and other work and family programs;
 6. Developing and administering diversity management and employee relations programs, including affirmative action plan development and administration, management and supervisory diversity training and conflict resolution training;
 7. Developing and administering workplace safety programs, including inspection of work sites and dissemination of safety information to employees to promote workplace safety;
 8. Administering the county's self-funded industrial insurance/worker's compensation program, as authorized by Title 51 RCW;
 9. Consulting with and ((R)) representing county agencies in the collective bargaining process as required by chapter 41.56 RCW;
 10. Consulting with and ((R)) representing county agencies in labor arbitrations, appeals and hearings including those in chapter 41.56 RCW and required by K.C.C. Title 3;
 11. Administering labor contracts and providing consultation to county agencies regarding the terms and implementation of negotiated labor agreements;
 12. Advising the executive and council on overall county labor and employee policies;
 13. Providing labor relations training for county agencies, the executive, the council and others;
 14. Overseeing the county's unemployment compensation program;
 15. Developing and maintaining databases of information relevant to the collective bargaining process; and
 16. Collecting and reporting to the office of management and budget on a quarterly basis information on the numbers of filled and vacant full-time equivalent and term-limited temporary positions and the number of emergency employees for each appropriation unit.

K.C.C. 3.16.020 Powers.

The bargaining agent is authorized on behalf of King County to meet, confer and negotiate with bargaining representatives of the public employees of King County for the purpose of collective bargaining as contemplated by chapter 41.56 RCW and Section 890 of the King County Charter, and to timely recommend to the King County council proposed wages, hours, and employee benefits and other conditions of county employment for the purposes of county budgets and such collective bargaining agreement or agreements as may be required and authorized by ordinance. The bargaining agent shall not negotiate new collective bargaining agreements prior to preparing for bargaining and conferring with the labor policy committee as required in K.C.C. 3.16.012, 3.16.025 and 3.16.050. The bargaining agent shall additionally prepare for bargaining concerning departments headed by elected officials in accordance with KCC 3.16.025.

K.C.C. 3.16.025 General provisions.

- A. The bargaining agent shall establish and conduct a process to prepare for negotiations that performs at least the following functions:
1. The bargaining agent should continue to use collaborative or interest-based bargaining where both parties agree, and this chapter shall not be construed to restrict or inhibit such bargaining;
 2. The bargaining agent shall cause to be developed and maintained a database of information within King County government on wages, hours, employee benefits, vacation and other leave, job classifications and substantial and factual information to provide knowledge of working conditions necessary to conduct effective negotiations. Such information shall be made available to the bargaining representatives to the extent provided by RCW 41.56.030(4), Public Employees' Collective Bargaining law of the state of Washington, as set forth by the collaborative process identified in King County council Motion 9182; and
 3. The policy committee and implementation committee shall each confer with the bargaining agent to develop necessary guidelines for the implementation of this section, consistent with this chapter and King County council Motion 9182.
 4. Prior to negotiating collective bargaining agreements with employees in the departments headed by elected officials, the bargaining agent shall consult with the elected official or his or her designee regarding bargaining objectives and in crafting proposed bargaining agreement language. The bargaining agent shall give due consideration to the elected officials objectives during the negotiation process. Objectives may include management ability to efficiently assign work and deploy the work force and to efficiently hire, promote and discipline employees. The bargaining agent shall also give due consideration to the short and long term fiscal impact of achieving these objectives. Language controlling working conditions (including work rules, shift schedules, discipline and termination) in any collective bargaining agreement covering employees of such a separately elected county official must be consented to by that elected official prior to the bargaining agent agreeing to such language, proposing its inclusion in a bargaining agreement or sending the bargaining agreement to the county council for ratification. If the executive and separately elected official are unable to resolve a conflict that arises regarding such language, they shall report this in writing to the council, which shall provide guidance on how to proceed in further negotiations concerning the matter in conflict.
- B. The bargaining agent shall be the sole negotiator for King County government and shall bargain in good faith as provided by law. The bargaining agent shall commence and complete collective bargaining negotiations in a timely manner and in accordance with the overall principles and intent of this chapter.

Regional Committees

..Title

AN ORDINANCE relating to council rules and order of business for Regional Committees; and amending Ordinance 11683, Section 7, as amended, and K.C.C. 1.24.065.

..Body

SECTION 1. Ordinance 11683, Section 7, as amended, and K.C.C. 1.24.065 are each hereby amended to read as follows:

Rule 7: Regional committees.

- A. Establishment. Three regional, standing committees are established as provided under the King County Charter to develop, recommend and review regional policies and plans for consideration by the council: the regional transit committee, the regional water quality committee and the regional policies committee.
- B. Membership.
1. Composition of committees.
 - a. The regional policies committee and regional transit committee are to each have ~~((twelve))~~ nine voting members. ~~((Six))~~ Three members of each committee, including the chair of each, must be county councilmembers appointed by the chair of the council and must include councilmembers from districts with unincorporated residents. Each county councilmember shall have two votes. The chair of the county council shall also appoint the chair of each committee. The remaining members of each committee must be local elected city officials appointed from and in proportion to the relative populations of the city of Seattle and the other cities and towns in the county. Cities and towns other than the city of Seattle may appoint two persons for each of their allocated memberships in each committee, each person with one-half vote. A vice-chair of each committee shall be elected by majority vote of the committee members who are not county councilmembers.
 - b. The regional water quality committee is to have ~~((twelve))~~ nine voting members, ~~((Six))~~ Three members of the

APPENDIX B: Minority Reports

Minority Report – Elected Officials and Collective Bargaining

The Charter Commission has been faced with a barrage of issues proposed by the King County Sheriff, including the collective bargaining amendments that passed with a divided vote. The clear impact of all of the proposals would have been to create a new, separate executive branch of government in King County, the Sheriff's Office. The best solution for all of the issues and the collective bargaining issue would have been no amendments. The voted compromise language approved by the Charter Commission is placing a matter in the County Charter that should be dealt with by "good faith" management relationships. If there is any proper place to write rules of good conduct for King County elected department heads, it is the County Code – not the Charter.

This amendment will further divide the working relationships of the County executive branch. It is the beginning of a move to isolate the Sheriff and perhaps other elected officials from working with the King County Executive. Structurally, it is moving the County backwards to the old days of County government before the County adopted its home rule Charter in 1968. It will not improve accountability or authority within the County.

If further amendments to the Charter are granted to separate the Sheriff or other elected officials from effective working relationships with the County Executive, the patterns of past abuse that arose in a fragmented County and precipitated the 1968 Charter reform will repeat themselves. The greatest opportunity for abuse of public office is in the exercise of police powers and in the management of the police officers serving the County. Effective oversight by the County Council and Charter requirements that elected department directors work together with the County Executive are the best preventative measures to avoid future problems.

Signed,

Kirstin Haugen
Gary P. Long
Gov. Mike Lowry
Sharon Maeda
Lois North
Mike Wilkins

Minority Report – Open Space Protection

The Open Space Amendment seeks to use the King County Charter as the vehicle for regulating the use of specific parcels of real estate. This is a dangerous step that undermines the proper role of the charter.

Under the Washington Constitution, when a county frames a "home rule" charter, it is establishing a government. Wash. Const. art. 11, sec. 4. When adopted, the charter becomes the "organic law" that creates the body politic and establishes the structure and function of county government. *Id.*, see also *Ford v. Logan*, 79 Wash.2d 147, 155 (1971). Unfortunately, the recommendation to utilize the charter as a regulatory tool is a step away from this role and opens the door for charter amendments based on agendas or the politics of the day, rather than defining the structure of county government.

King County should resist attempts to use the charter review process for agendas unrelated to the structure of county government. The better public policy is to regulate the use of properties through duly enacted ordinances.

Signed,

Jim English
John Groen
Sarah Rindlaub