



King County

KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

September 1, 2009

Ordinance 16639

Proposed No. 2009-0447.2

Sponsors Patterson

1 AN ORDINANCE relating to emergency declarations;
 2 amending Ordinance 3441, Section 5, as amended, and
 3 K.C.C. 4.16.050, Ordinance 12163, Section 3, and K.C.C.
 4 12.52.010 and Ordinance 1058, Section 3, as amended, and
 5 K.C.C. 12.52.030; and declaring an emergency.

6

7 STATEMENT OF FACTS:

8 1. After the flooding in January of this year, the United States Army
 9 Corps of Engineers ("the Corps") discovered two depressions on the right
 10 abutment adjacent to the Howard Hanson dam. The Howard Hanson dam,
 11 which is owned, operated and managed exclusively by the Corps, is the
 12 primary flood protection facility for all of the lower Green River valley.

13 2. The Corps is currently assessing the damage to the right abutment and
 14 has determined that until the assessment can be completed, the Corps will
 15 reduce the amount of water that it will allow to be stored behind the dam
 16 in order to protect the integrity of the dam.

17 3. Reducing the amount of stored water means that during large rain
18 events there is a higher risk of flooding in the Green River valley.

19 4. Public safety is the most fundamental purpose of government, and
20 citizens rightfully expect government to respond rapidly in the face of
21 significant threats to life and property.

22 5. Thousands of citizens live in the Green River valley, which is also a
23 major high-tech manufacturing center and the largest warehouse and
24 distribution center in the Pacific Northwest. An independent study by
25 EcoNorthwest determined that a shutdown of the county's floodplains
26 would result in lost economic output of at least forty-six million dollars
27 per day.

28 6. The Corps has exclusive jurisdiction over the Howard Hanson dam,
29 and levees and other flood protection facilities along the Green river were
30 designed only to supplement – not replace – the flood protection provided
31 by the dam. Nonetheless, King County and the King County Flood
32 Control Zone District ("the district") want to ensure that they are doing
33 everything within their authority to prepare for potential flooding.

34 7. The district is a local special-purpose government that provides funding
35 and policy oversight for flood protection projects in King County. King
36 County develops and implements the annual work program for the district.

37 8. The district and the county are working on emergency preparations to
38 address the threat of flooding in the Green River valley. As a result,

39 emergency supplies, materials and equipment need to be obtained and
40 coordinated as soon as possible.

41 9. In addition to the importance of acting proactively to address
42 significant threats of emergencies, the county needs to ensure that its code
43 is updated to encompass new types of threats such as cyber attacks.

44 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

45 SECTION 1. Ordinance 3441, Section 5, as amended, and K.C.C. 4.16.050 are
46 each hereby amended to read as follows:

47 A. In the event of an emergency (~~caused by fire, flood, explosion, storm,~~
48 ~~earthquake, epidemic, riot, insurrection, or for the immediate preservation of order or of~~
49 ~~public health or for the restoration to a condition of usefulness of any public property, the~~
50 ~~usefulness of which has been destroyed or where delay will result in financial loss to the~~
51 ~~county, or for the relief of a stricken community overtaken by such occurrences)), as
52 defined in K.C.C. 12.52.010, the executive may issue a determination of emergency or
53 proclaim an emergency pursuant to K.C.C. chapter 12.52 reciting the facts constituting
54 the same. Upon issuance of such a determination or proclamation the executive may
55 issue a waiver of the requirements of K.C.C. chapters 4.04, 4.16, 4.18, 12.16 and 12.18
56 with reference to any contract relating to the county's lease or purchase of tangible
57 personal property or services, contracts for public works as defined by RCW 39.04.010,
58 or to the selection and award of professional and/or technical service consultant contracts.
59 Such waiver shall continue in force and effect until terminated by order of the executive
60 or action by the council by ordinance. (~~Provided, h~~)However, (~~that~~) waivers for
61 contracts entered into, (~~which~~) that combined, encumber funds either in excess of two~~

62 hundred fifty thousand dollars, or in excess of appropriation shall be subject to ((the
63 ~~provisions of section~~) subsection B. ((below)) of this section.

64 An emergency waiver of the requirements of K.C.C. chapters 4.18((;)) and 12.16
65 and K.C.C. 12.18.095, pursuant to this section, shall not amend the annual utilization
66 goals unless the emergency makes it impossible to achieve the annual utilization goals.
67 The executive shall report, in detail, such emergency expenditures to the county council
68 within forty-five days of determining an emergency.

69 B. Waivers for contracts, which combined for each emergency, exceed two
70 hundred fifty thousand dollars, or are in excess of appropriation shall be forwarded to the
71 clerk of the council no later than 10:00 a.m. the second business day after it is issued.
72 Such waiver shall continue to have force and effect until terminated by order of the
73 executive or action of the council by ordinance, or until it expires, which shall be ten
74 calendar days after there have been contracts entered into, which combined, encumber
75 funds either in excess of two hundred fifty thousand dollars, or in excess of appropriation.
76 The council, by motion, may extend a waiver beyond the ten-day period above.

77 C. In the event a waiver authorized under this section expires or is terminated, no
78 further contracts or purchases may be made without complying with the non-emergency
79 contracting provisions of K.C.C. chapters 4.04, 4.16, 4.18, 12.16 and 12.18. Any
80 contract entered into under the authority of this section shall contain provisions allowing
81 the county to terminate the contract for convenience or as a result of the expiration or
82 termination of an emergency waiver as provided in this section. Such contract
83 termination provisions shall authorize the county to pay the contractor only that portion
84 of the contract price corresponding to work completed to the county's satisfaction prior to

85 termination, together with costs necessarily incurred by the contractor in terminating the
86 remaining portion of work, less any payments made before termination.

87 D. Reasonably necessary expenditures to respond to the emergency caused by
88 fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the
89 immediate preservation of order or of public health or for the restoration to a condition of
90 usefulness of any public property, the usefulness of which has been destroyed or where
91 delay will result in financial loss to the county, or for the relief of a stricken community
92 overtaken by such occurrences, that are directly associated and reasonably limited to
93 stabilizing or repairing the public health, safety, interest, or property of the county that
94 resulted in the emergency will not result in contracts or purchases being null and void,
95 notwithstanding the lack of an appropriation. If the responsible director determines that
96 the expenditures were made in excess of an appropriation, the executive will request an
97 appropriation, specifying the source of funds.

98 SECTION 2. Ordinance 12163, Section 3, and K.C.C. 12.52.010 are each hereby
99 amended to read as follows:

100 The following definitions shall apply in the interpretation and implementation of
101 this chapter:

102 A. "Emergency" or "disaster" means an event or set of circumstances such as fire,
103 flood, explosion, storm, earthquake, epidemic, riot or insurrection, (~~which~~) that
104 demands the immediate preservation of order or of public health or the restoration to a
105 condition of usefulness of any public property, the usefulness of which has been
106 destroyed or where delay will result in financial loss to the county or for the relief of a
107 stricken community overtaken by such occurrences or which reaches such a dimension or

108 degree of destructiveness as to warrant the executive proclaiming a state of emergency
109 pursuant to K.C.C. 12.52.030. "Emergency" or "disaster" also includes the potential for
110 flooding arising out of the diminished capacity of the Howard Hanson dam.

111 B. "Emergency management" means the preparation for and carrying out of all
112 emergency functions, other than functions for which the military forces are primarily
113 responsible, to mitigate, prepare for, respond to((;)) and recover from emergencies and
114 disasters((;)) and to aid victims suffering from injury or damage, resulting from disasters
115 caused by all hazards, whether natural or human-made, and to provide support for search
116 and rescue operations for persons and property in distress pursuant to the provisions of
117 chapter 38.52 RCW.

118 C. "Emergency worker" means any person, including but not limited to an
119 architect registered under chapter 18.08 RCW or a professional engineer registered under
120 chapter 18.43 RCW, who is registered with the county or state of Washington and/or
121 holds an identification card issued by the county or the state of Washington for the
122 purpose of engaging in authorized emergency management activities or is an employee of
123 the state of Washington or any political subdivision thereof who is called upon to perform
124 emergency management activities.

125 D. "Injury" means and includes accidental injuries and/or occupational diseases
126 arising out of emergency management activities.

127 E. "Search and rescue" means the acts of searching for, rescuing, or recovering
128 by means of ground, marine, or air activity any person who becomes lost, injured, or is
129 killed while outdoors or as a result of a natural or human-made disaster, including
130 instances involving searches for downed aircraft when ground personnel are used.

131 SECTION 3. Ordinance 1058, Section 3, as amended, and K.C.C. 12.52.030 are
132 each hereby amended to read as follows:

133 The executive shall see that the Washington State laws and ordinances of King
134 County are enforced, and shall direct and control all subordinate officers of the county,
135 except insofar as such enforcement, direction and control is by King County Charter
136 reposed in some other officer or board, and shall maintain the peace and order in King
137 County.

138 A. Whenever an emergency or disaster occurs in King County and results in the
139 death or injury of persons or the destruction of property, or involves the potential for
140 flowing arising out of the diminished capacity of the Howard Hanson dam, to such an
141 extent as to require, in the judgment of the executive, extraordinary measures to protect the
142 public peace, safety and welfare, the executive may forthwith proclaim in writing the
143 existence of such an emergency.

144 B. Upon the proclamation of an emergency by the executive, and during the
145 existence of such emergency, the executive may make and proclaim any or all of the
146 following orders:

147 1. An order recalling King County employees from vacation, canceling days off,
148 authorizing overtime, or recalling selected retired employees;

149 2. An order waiving the requirements of K.C.C. 4.04, 4.16, 4.18, 12.16 and
150 12.18.095 with reference to any contract relating to the county's lease or purchase of
151 supplies, equipment, personal services or public works as defined by RCW 39.04.010, or to
152 any contract for the selection and award of professional and/or technical consultant
153 contracts. Provided, however, that an emergency waiver of the requirements under K.C.C.

154 4.18, 12.16 and 12.18 shall not amend the annual utilization goals unless the emergency
155 makes it impossible to achieve the annual utilization goals.

156 3. An order directing evacuation and/or clearing of debris and wreckage caused
157 by an emergency or disaster from publicly and privately owned lands and waters;

158 4. An order imposing a general curfew applicable to King County as a whole, or
159 to such geographical area or areas of King County and during such hours, as the executive
160 deems necessary, and from time to time to modify the hours such curfew will be in effect
161 and the area or areas to which it will apply;

162 5. An order requiring any or all business establishments to close and remain
163 closed until further order;

164 6. An order requiring discontinuance of the sale, distribution or giving away of
165 alcoholic beverages in any or all parts of King County, and/or the closure of any and all
166 bars, taverns, liquor stores, and other business establishments where alcoholic beverages
167 are sold or otherwise dispensed; provided that with respect to those business establishments
168 which are not primarily devoted to the sale of alcoholic beverages and in which such
169 alcoholic beverages may be removed or made secure from possible seizure by the public,
170 the portions thereof utilized for the sale of items other than alcoholic beverages may, in the
171 discretion of the executive, be allowed to remain open;

172 7. An order requiring the discontinuance of the sale, distribution or giving away
173 of gasoline or other liquid flammable or combustible products in any container other than a
174 gasoline tank properly affixed to a motor vehicle;

175 8. An order closing to the public any or all public places including streets, alleys,
176 public ways, schools, parks, beaches, amusement areas and public buildings;

177 9. An order prohibiting the carrying or possession of firearms or any instrument
178 which is capable of producing bodily harm and which is carried or possessed with intent to
179 use the same to cause such harm; provided that any such order shall not apply to peace
180 officers or military personnel engaged in the performance of their official duties;

181 10. An order granting emergency postponement of King County permit
182 procedures for public work projects, as defined by RCW 39.04.010, responding to
183 conditions of the emergency and/or for restoration of public facilities damaged as a result
184 of the emergency. Such postponements shall be temporary. All projects must comply with
185 all applicable code requirements. A permit and inspection must be obtained as soon as
186 possible after work has begun, but permit application shall be made no later than six
187 months after the date of the emergency proclamation.

188 11. Such other orders as are imminently necessary for the protection of life and
189 property.

190 C. Any executive order authorized by this section shall, be filed with the clerk of
191 the council not later than 10:00 a.m. of the second business day after it is issued, except for
192 orders waiving requirements of K.C.C. 4.04, 4.16, 4.18, 12.16 and 12.18. Executive orders
193 issued under authority of this section shall continue in force and effect until terminated by
194 order of the executive or action by the council by ordinance. Provided, however, that
195 orders waiving the requirements of K.C.C. 4.04, 4.16, 4.18, 12.16 and 12.18 shall
196 terminate as provided for in K.C.C. 4.16.050.

197 D. Any proclamation issued by the executive pursuant to the authority of this
198 chapter shall be delivered to all news media within King County and shall utilize such other

199 available means as shall be necessary, in the executive's judgment, to give notice of such
200 proclamation to the public.

201 E. It shall be a misdemeanor for anyone to fail or refuse to obey any such order
202 proclaimed by the executive. Anyone convicted of a violation of this section is punishable
203 by a fine of not more than one thousand dollars or by imprisonment for not more than
204 ninety days, or both such fine and imprisonment.

205 SECTION 4. For the reasons set forth in the statement of facts in this ordinance,
206 the county council finds as fact and declares that an emergency exists and this ordinance

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208 is necessary for the immediate preservation of the peace, health, safety and welfare of the
209 public and delay would result in financial loss to the county.

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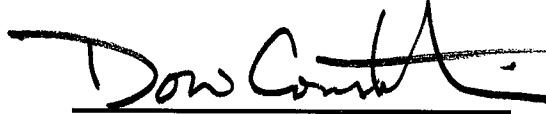
Ordinance 16639 was introduced on 7/20/2009 and passed as amended by the Metropolitan King County Council on 8/31/2009, by the following vote:

Yes: 8 - Mr. Constantine, Mr. Ferguson, Ms. Hague, Ms. Lambert, Mr. von Reichbauer, Mr. Gossett, Mr. Phillips and Ms. Patterson

No: 0

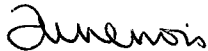
Excused: 1 - Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Dow Constantine, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments None