



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

August 18, 2009

Ordinance 16628

Proposed No. 2009-0353.2

Sponsors Constantine

1 AN ORDINANCE authorizing vacation of a portion of
2 220th Avenue SE, File V-2554; Petitioner: Tahoma School
3 District.
4

5 **STATEMENT OF FACTS:**

- 6 1. A petition has been filed requesting vacation of a portion of the 220th
7 Avenue SE right-of-way hereinafter described.
- 8 2. The department of transportation notified the various utility companies
9 serving the area and has been advised that easements have either been
10 obtained or are not required within the vacation area.
- 11 3. An easement to Puget Sound Energy, for existing facilities within the
12 vacation area, has been recorded under King County recording number
13 20080327000473, records King County, Washington.
- 14 4. An easement to the Cedar River Water and Sewer District, for the
15 existing water main on the Tahoma School District's property, has been
16 recorded under King County recording number 20090109000764, records
17 King County, Washington.

18 5. A drainage easement to King County, for a new storm line from the
19 existing drainage pond to a new detention pond, has been recorded under
20 King County recording number 20080512001120, records King County,
21 Washington.

22 6. A declaration of covenant to King County, for inspection and
23 maintenance of stormwater facilities located on the Tahoma School
24 District's property, has been recorded under King County recording
25 number 20080512001121, records King County, Washington.

26 7. The department of transportation records indicate that King County
27 has not been maintaining the 220th Avenue SE right-of-way. The records
28 indicate that no public funds have been expended for its acquisition.

29 8. The department of transportation considers the subject portion of the
30 right-of-way useless as part of the county road system and believes the
31 public would benefit by the new alignment and the return of this unused
32 area to the public tax rolls.

33 9. The petitioner, the Tahoma School District, has deeded additional
34 right-of-way to King County for the newly constructed public turnaround.
35 This deed is recorded under recording number 20080512001122, records
36 of King County, Washington.

37 10. A Relinquish of Easement and Granting of Easement Agreement from
38 Seattle Public Utilities to King County, for the new road alignment across
39 the city of Seattle's Lake Youngs supply line right-of-way for the Cedar
40 River pipeline, was approved by the Seattle city council on December 1,

41 2008, under city of Seattle Ordinance No. 122866, and has been recorded
42 under King County recording number 20090115000524, records King
43 County, Washington.

44 11. A companion agreement to the Seattle Public Utilities Relinquish of
45 Easement and Granting of Easement Agreement, between the Tahoma
46 School District and King County, for transferring the obligations of
47 construction of the new road alignment to the Tahoma School District, has
48 been recorded under King County recording number 200800808000175,
49 records King County, Washington.

50 12. The right-of-way is classified as "C-Class" and, in accordance with
51 K.C.C. 14.40.020, the compensation due to King County for a road
52 vacation may be waived for governmental agencies at the discretion of the
53 King County council. The Tahoma School District has submitted a
54 written request for consideration that the compensation be waived. Two
55 factors support waiving of the compensation: a. the school district has
56 provided a new alignment for 220th Avenue SE and deeded the additional
57 right-of-way for the newly constructed public turnaround; and b. the
58 adjoining lands are for public school purposes and are therefore assessed
59 as tax exempt. The road services division recommends that the full
60 amount of compensation due to King County for this petition be waived.
61 Due notice was given in the manner provided by law and a hearing was
62 held by the office of the hearing examiner on the 15th day of July 2009.

63 In consideration of the benefits to be derived from the subject vacation the
64 council has determined that it is in the best interest of the citizens of King
65 County to grant said petition.

66 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

67 SECTION 1. The vacation approved by this ordinance is subject to the following
68 conditions:

69 A. Vacation of the right-of-way authorized by this ordinance shall not become
70 effective until the following events have occurred:

71 1. The construction of the proposed new pipeline crossing and the proposed
72 public turnaround have been completed and accepted into the county public road system
73 by the department of transportation.

74 2. That public access to the subject vacation area, the old 220th Avenue SE
75 crossing, is eliminated.

76 B. That all future maintenance of the stormwater drainage features located within
77 the vacation area on the school property shall be the responsibility of the petitioner, the
78 Tahoma School District, their successors, or assigns.

79 C. If any of the three pre-effective contingencies stated in Condition A have not
80 been satisfied by December 31, 2010, the approval conferred hereunder shall expire and
81 the subject vacation shall become null and void.

82 SECTION 2. The King County council, on the effective date of this ordinance,
83 hereby vacates and abandons that portion of the 220th Avenue SE, provided that the three
84 pre-effective contingencies stated in Condition A are satisfied, as conveyed to King
85 County by the recording of the deed recorded in King County recording number

86 9201090289 and the easement recorded in King County recording number 9207281918,
87 records of King County, Washington, as described below:

88 That entire portion of the 220th Avenue SE right-of-way as described in
89 the easement over the city of Seattle's Lake Youngs supply line right-of-
90 way, as conveyed to King County by the recording of King County
91 recording number 9207281918, records of King County, Washington.

92 Being further described as:

93 That portion of the south one-half of Section 9, Township
94 22 North, Range 6 East, Willamette Meridian, in King
95 County, Washington, lying within an irregular strip of land,
96 generally 60.00 feet in width, described as follows:

97 Commencing at Engineer's Station

98 118+80.44 of Petrovitsky Road Extension in

99 the south half of said Section 9, said Station

100 located S 24°23'14" W, a distance of 323.10

101 feet from the northeast corner of the

102 southeast quarter of the southwest quarter of

103 said Section 9;

104 Thence N 68°50'55" E, along the centerline

105 of 220th Avenue SE, a distance of 90.74 feet

106 to the southwesterly margin of the City of

107 Seattle's Lake Youngs Supply Line right-of-

108 way, also known as the Cedar River pipeline

109 right-of-way, as acquired by deed recorded
110 under King County Auditor's File Number
111 178644, recorded in Volume 240 of Deeds,
112 Page 347 and by deed recorded under King
113 County Auditor's File Number 228289,
114 recorded in Volume 304 of Deeds, Page
115 313, both in records of King County,
116 Washington and by condemnation under
117 King County Superior Court Cause Number
118 31510, and the TRUE POINT OF
119 BEGINNING;
120 Thence N 32°37'18" W, along said
121 southwesterly margin, a distance of 30.16
122 feet;
123 Thence N 68°50'55" E, a distance of 124.80
124 feet;
125 Thence northeasterly 27.95 feet, along a
126 curve to the left with a radius of 25.00 feet
127 and a central angle of 64°02'43", to the
128 northeasterly margin of said pipeline right-
129 of-way;

130 Thence S 33°33'24" E, along said
131 northeasterly margin, a distance of 75.83
132 feet;
133 Thence S 68°50'55" W, a distance of 151.40
134 feet, to the southwesterly margin of said
135 pipeline right-of-way;
136 Thence N 32°37'18" W, along said
137 southwesterly margin, a distance of 30.61
138 feet to the TRUE POINT OF BEGINNING.

139 Together with all that portion of the 220th Avenue SE right-of-way and
140 associated drainage easement, as described in Exhibits A and B of King
141 County recording number 9201090289, records of King County,
142 Washington. Being further described as:

143 That portion of Tract X lying within a strip of land 60.00
144 feet in width, having 30.00 feet of such width on each side
145 of the following described centerline:

146 Beginning at a point, said point being S
147 24°23'14" W, a distance of 323.10 feet from
148 the northeast corner of the southeast quarter
149 of the southwest quarter of Section 9,
150 Township 22 North, Range 6 East,
151 Willamette Meridian, in King County,
152 Washington;

153 Thence N 68°50'55" E, a distance of 272.34
154 feet;
155 Thence N 33°33'24" W, a distance of 5.21
156 feet;
157 Thence along a curve to the right, having a
158 central angle of 11°06'56" and a radius of
159 300.00 feet, an arc distance of 58.20 feet;
160 Thence N 22°26'28" W, a distance of 97.35
161 feet;
162 Thence along a curve to the left, having a
163 central angle of 27°49'54" and a radius of
164 300.00 feet, an arc distance of 145.73 feet;
165 Thence N 50°16'22" W, a distance of 16.23
166 feet;
167 Thence along a curve to the right, having a
168 central angle of 7°25'46" and a radius of
169 300.00 feet, an arc distance of 38.90 feet to
170 the end of establishment;
171 Thence S 35°20'18" E, a distance of 126.18
172 feet, to said northeast corner.

173 Tract X being described as that portion of the south half
174 and that portion of Government Lot 7, all in Section 9,
175 Township 22 North, Range 6 East, Willamette Meridian, in

176 King County, Washington, being further described as

177 follows:

178 Beginning at the south one-fourth corner of
179 said Section 9;

180 Thence S 89°11'05" E, along the south line
181 of said subdivision, a distance of 481.14 feet
182 more or less, to the northeasterly line of a
183 City of Seattle pipeline right-of-way and the
184 TRUE POINT OF BEGINNING;

185 Thence N 14°19'59" W, along said right-of-
186 way, a distance of 877.81 feet to a point of
187 curve;

188 Thence along a curve to the left, having a
189 radius of 606.70 feet, through an arc
190 distance of 204.54 feet to a point of
191 tangency;

192 Thence N 33°38'59" W, a distance of 456.80
193 feet to the southeast line of Tract 4, as
194 described in Exhibit "A" and recorded under
195 King County Auditor's File Number
196 8210210486;

197 Thence N 56°19'19" E, a distance of 543.35,
198 more or less, to the most easterly corner of
199 said Tract 4;
200 Thence S 53°27'24" E, a distance of 223.14
201 feet to a line northwesterly 1,192.00 feet
202 from, as measured at right angles, from the
203 northwesterly line of the abandoned
204 Burlington Northern Railroad right-of-way;
205 Thence S 36°32'36" W, along said line, a
206 distance of 79.07 feet to the approximate
207 east line of the west 20 acres of said
208 Government Lot 7;
209 Thence S 1°16'42" W, along said east line, a
210 distance of 193.01 feet to the south line of
211 said Government Lot 7;
212 Thence S 89°23'54" E, along said south line,
213 a distance of 640.00 feet, more or less, to the
214 northwesterly line of a state highway right-
215 of-way;
216 Thence southwesterly, along said right-of-
217 way, a distance of 1,450.00 feet, more or
218 less, to the south line of said Section 9;

219 Thence N 89°11'05" W, along said south
220 line, a distance of 185.00 feet, more or less,
221 to the TRUE POINT OF BEGINNING.

222 Except that portion thereof lying within the
223 southwest quarter of said Section 9.

224 Said associated drainage easement being further described
225 as follows:

226 Commencing at the point of beginning for
227 the road establishment of 220th Avenue SE
228 as adopted under King County Ordinance
229 No. 7553;

230 Thence N 68°50'55" E, along the centerline
231 of said 220th Avenue SE, a distance of
232 272.34 feet;

233 Thence N 18°22'14" E, a distance of 38.89
234 feet to the northeasterly right-of-way margin
235 of said 220th Avenue SE and the TRUE
236 POINT OF BEGINNING;

237 Thence N 68°50'55" E, distance of 80.00
238 feet;

239 Thence N 21°09'05" W, distance of 150.00
240 feet;

241 Thence S 65°06'57" W, distance of 86.00
242 feet, more or less, to the northeasterly right-
243 of-way margin of said 220th Avenue SE;
244 Thence southeasterly, along said right-of-
245 way margin, a distance of 145.00 feet, more
246 of less, to the TRUE POINT OF
247 BEGINNING.
248

249 SECTION 3. In accordance with K.C.C. 14.40.020.D, the council hereby waives
250 the compensation.
251

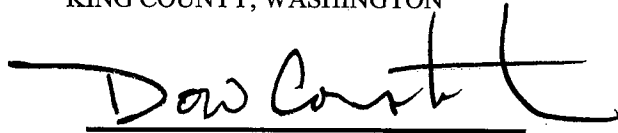
Ordinance 16628 was introduced on 6/1/2009 and passed by the Metropolitan King
County Council on 8/17/2009, by the following vote:

Yes: 7 - Mr. Constantine, Mr. Ferguson, Ms. Hague, Ms. Lambert, Mr. von
Reichbauer, Mr. Gossett and Ms. Patterson

No: 0

Excused: 2 - Mr. Phillips and Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Dow Constantine, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 27 day of August, 2009.



Kurt Triplett, County Executive

Attachments A. Hearing Examiner Report dated July 28, 2009

RECEIVED
2009 AUG 28 PM 4: 13
CLERK
KING COUNTY COUNCIL

July 28, 2009

**OFFICE OF THE HEARING EXAMINER
 KING COUNTY, WASHINGTON**
 400 Yesler Way, Room 404
 Seattle, Washington 98104
 Telephone (206) 296-4660
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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: King County Department of Transportation File No. **V-2554**
 Proposed Ordinance No. **2009-0353**
 Adjacent Parcel No.: **092206-9110**

TAHOMA SCHOOL DISTRICT
 Road Vacation Petition

Location: Portion of 220th Avenue Southeast

Petitioner: **Tahoma School District**
 Lori Cloud, Business Manager
 25720 Maple Valley-Black Diamond Road Southeast
 Maple Valley, Washington 98038
 Telephone: (425) 413-3433
 Email: lcloud@tahoma.wednet.edu

King County: Department of Transportation, Road Services Division
represented by Nicole Keller
 201 S. Jackson St.
 Seattle, Washington 98104-3856
 Telephone: (206) 296-3731
 Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner's:	Approve road vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the Hearing Examiner for Petition No. V-2554 was received by the Examiner on June 18, 2009.

PUBLIC HEARING:

After reviewing the Department's report and accompanying attachments and exhibits, the Examiner conducted a public hearing on the subject right-of-way as follows:

The hearing on Petition No. V-2554 was opened by the Examiner on July 15, 2009, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, Washington 98104, and then was left open administratively for receipt of a Department compensation estimate. The estimate was received later on July 15, 2009, at which time the hearing record closed. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	Portion of 220th Avenue Southeast
Right of way classification:	C Class
Area:	31,428 square feet
Calculated compensation value:	\$3,404.63 (net; see findings) (waiver recommended)

2. Notice of hearing on the Department's report was given as required by law, and a hearing on the report was conducted by the Examiner on behalf of the Metropolitan King County Council.
3. Except as provided herein, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department's report and the statements of fact contained in Proposed Ordinance No. 2009-0353. The Department's report will be attached to those copies of this report and recommendation that are submitted to the County Council.
4. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are in the hearing record as exhibit nos. 6 and 7.
5. The subject road right-of-way segment extends east from SE Petrovitsky Road, crossing a utility right-of-way (the "City of Seattle Lake Youngs Supply Line R-O-W/Cedar River Pipeline") and then turns northerly to run alongside the utility right-of-way. It is currently opened for public use, but is not maintained by the County. (The County has not formally accepted its construction.)
6. The adjoining (receiving) property is owned by Petitioner Tahoma School District. The District is in the process of developing a new transportation center on the adjoining property. In order to provide better vehicular access to the center with better intersection spacing and vehicular sight distance on SE Petrovitsky Road, the District has dedicated and will improve a replacement access road slightly to the north, which renders the subject right-of-way superfluous.
7. Given the replacement dedication, vacation of the right-of-way would have no adverse effect on the provision of access and fire and emergency services to the abutting properties and surrounding area.

8. Given the replacement dedication, the right-of-way is no longer necessary for the present or future public road system for travel or utilities purposes.
9. Easements necessary for construction, repair and maintenance of public utilities and services within the right-of-way have been retained.
10. The compensation value of the right-of-way has been calculated to be \$3,404.63 (\$7,245.22 gross value minus a credit for the replacement dedication valued at \$3,840.59), which sum has not been deposited with King County. KCC 14.40.020.D allows a compensation waiver for governmental agencies such as the Petitioner, at the Council's discretion.¹ KCDOT Road Services recommends that the compensation be waived in this case given the Petitioner's status and also the fact that a replacement is being provided.

CONCLUSION:

1. The right-of-way segment subject to this petition is no longer useful as part of the King County road system, and the public will be benefited by its vacation.
2. The thrust of the governmental agency compensation waiver provided by KCC 14.40.020.D seems to recognize a public benefit from waiving compensation in the spirit of intergovernmental cooperation. Nothing in the record suggests that a waiver should not be granted in this case. Accordingly, the Examiner seconds KCDOT's recommendation of waiver.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2009-0353 to vacate the subject road right-of-way and waive compensation pursuant to KCC 14.40.020.D.

RECOMMENDED July 28, 2009.

Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before August 11, 2009*. If a notice of appeal is filed, the original and six copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before August 18, 2009*.

¹ "When a road is vacated for a governmental agency, compensation shall be in accordance with the classification of the road, except that some or all of the compensation may be waived at the discretion of the council." [KCC 14.40.020.D]

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within 21 days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE JULY 15, 2009, PUBLIC HEARING ON DEPARTMENT OF TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2554.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller and Kelly Whiting representing the Department, and Lori Cloud representing the Petitioner. The hearing was continued administratively on Jul 15, 2009 to allow for submission of a compensation estimate. The estimate was received on July 15, 2009 at which time the hearing record closed.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Report to the Hearing Examiner for the July 15, 2009 hearing, with 15 attachments.
- Exhibit No. 2 Letter from Clerk of the Council to King County Department of Transportation (KCDOT), transmitting petition, dated May 9, 2006.
- Exhibit No. 3 Petition for Vacation of a County Road including legal descriptions of petitioner's properties, submitted May 8, 2009
- Exhibit No. 4 Copy of filing fee: check no. 3823, in the amount of \$100
- Exhibit No. 5 Receipt no. 00782 for filing fee
- Exhibit No. 6 Vicinity map
- Exhibit No. 7 Map depicting vacation area
- Exhibit No. 8 Easement agreement between the city of Seattle and King County, recording no. 9207281918
- Exhibit No. 9 Warranty Deed between Tahoma School District no. 409 and King County, recording no. 9201090289
- Exhibit No. 10 Short plat no. 1287010, recording no. 9209281728
- Exhibit No. 11 Letter from KCDOT to Petitioners requesting additional information, dated June 27, 2006
- Exhibit No. 12 Revised Petition for Vacation of a County Road, submitted September 29, 2006
- Exhibit No. 13 Final agency notice, sent January 10, 2007
- Exhibit No. 14 Letter from KCDOT regarding road variance L05V0053, dated December 20, 2005
- Exhibit No. 15 Letter from KCDOT revising response to road variance L05V0053, dated

May 24, 2007

- Exhibit No. 16 Engineering plans for the road replacement as provided to KCDOT on October 6, 2006
- Exhibit No. 17 Email from Robert Eichelsdoerfer to Nicole Keller regarding road alignment issues, sent August 20, 2007
- Exhibit No. 18 Final engineering plans for road replacement
- Exhibit No. 19 Letter from KCDOT to petitioners recommending approval and requesting deed, public access easement and utility relocation plans or easements for ingress/egress and maintenance of said utilities, dated September 18, 2007
- Exhibit No. 20 Letter from Erickson McGovern, PLLC, on behalf of petitioners, to KCDOT requesting extension of time, dated January 9, 2008
- Exhibit No. 21 Letter from KCDOT to Erickson McGovern, PLLC granting requested extension, dated January 17, 2008
- Exhibit No. 22 Memorandum from KCDOT to King County Real Estate Services (KCRES) requesting review of quit claim deed, dated January 17, 2008
- Exhibit No. 23 Email from KCRES to KCDOT approving quit claim deed, sent January 30, 2008
- Exhibit No. 24 Quit Claim Deed, recording no. 20080512001122
- Exhibit No. 25 Easement from petitioners to Cedar River Water & Sewer District, recording no. 20090109000764
- Exhibit No. 26 Easement from petitioners to Puget Sound Energy, Inc., recording no. 20080327000473
- Exhibit No. 27 Drainage easement from petitioners to King County, recording no. 20080512001120
- Exhibit No. 28 Declaration of Covenant between petitioners and King County, recording no. 20080512001121
- Exhibit No. 29 Letter from KCDOT to KC Council recommending approval of petition, dated February 1, 2008
- Exhibit No. 30 Letter from Erickson McGovern, PLLC to KCDOT requesting extension of time, dated April 3, 2008
- Exhibit No. 31 Letter from KCDOT to Erickson McGovern, PLLC granting extension of time, dated April 15, 2008
- Exhibit No. 32 Letter from KCDOT to Erickson McGovern, PLLC requesting review of agreement transferring construction obligations from King County to petitioners, dated May 15, 2008
- Exhibit No. 33 City of Seattle Ordinance 122866
- Exhibit No. 34 Relinquish of Easement and Granting of Easement Agreement from City of Seattle, Seattle Public Utilities to King County, recording no. 20090115000524
- Exhibit No. 35 Agreement between petitioners and King County regarding transfer of easements and design and construction responsibilities, recording no. 2080808000175
- Exhibit No. 36 Request for waiver of compensation, dated February 18, 2009
- Exhibit No. 37 Letter from KCDOT to KC Council transmitting proposed ordinance, dated May 26, 2009
- Exhibit No. 38 Proposed Ordinance 2009-0353
- Exhibit No. 39 Fiscal Note
- Exhibit No. 40 Affidavit of Posting, noting posting date of June 10, 2009
- Exhibit No. 41 Affidavit of Publication, noting July 1 and 8, 2009 publication dates
- Exhibit No. 42 Compensation Estimate Worksheet

PTD:vsm
V-2554 RPT