



King County

Metropolitan King County Council Law, Justice and Human Services Committee

REVISED STAFF REPORT

AGENDA ITEM: 5

DATE: October 4, 2007

PROPOSED ORDINANCE: 2007-0359

PREPARED BY: Clifton Curry

ACTION: *On October 4, 2007, the Law, Justice and Human Services Committee reviewed Proposed Ordinance 2007-0359. The committee amended the ordinance to add an effective date of January 1, 2008. The committee voted to pass out of Committee with out a recommendation to the amended ordinance.*

SUBJECT: AN ORDINANCE relating to fire investigations; amending Ordinance 11955, Section 5, as amended, and K.C.C. 2.16.055 and Ordinance 1438, Section 3(C), as amended, and K.C.C. 2.16.060.

SUMMARY: The King County Sheriff's Office provides law enforcement services to unincorporated King County and, through contracts, to cities, Metro Transit, King County Airport, and school districts. The sheriff provides contract police services for cities and other governmental entities that allow the contracting agency to specify levels of service. Under state statute, the sheriff can grant "limited or special" commissions for law enforcement personnel other than sheriff's deputies. King County's fire/arson investigators have special commissions even though fire investigations are conducted by the Department of Development and Environmental Services (DDES). This ordinance would transfer authority for the investigation of fires from DDES to the sheriff's office.

Background. The investigation of "origins, causes, circumstances and extent of loss from fires" is the responsibility of trained fire investigators, who can make determinations whether fires are the result of accidental or other causes, or are deliberately set, and are criminal arson. Therefore, the investigations of fires can lead to criminal prosecution requiring that investigators be trained in law enforcement investigation. Many arson investigators are law enforcement personnel.

In King County, the Fire Marshal Division, part of the Department of Development and Environmental Services (DDES), is responsible for programs designed to reduce the potential risk of fires and for investigating the causes of fires. The department addresses these responsibilities in two ways. First, the division's Fire Engineering and Inspection Unit reviews building plans, prior to construction, to ensure that fire safety codes are met. Secondly, the division has a Fire/Arson Investigation Unit with seven staff (one supervisor, five investigators, and one support staffer), primarily fire investigators who are trained and certified investigators serving residents of unincorporated King County and 16 cities through contracts.

The Fire/Arson Investigation Unit conducts comprehensive fire investigations to determine the origin and cause of fires and criminal investigation of those fires determined to be arson. Criminal investigation includes all work that is necessary for the identification, apprehension and prosecution of those responsible for committing the crime of arson. The unit also investigates associated crimes which are perpetrated in the commission of an arson fire. These investigations include coordination with local, state and federal law enforcement agencies within the State of Washington and nationwide. As part of their responsibilities, the investigators participate in courtroom testimony and depositions rendering expert opinions. To conduct their investigations, investigators utilize sheriff radio frequencies and the sheriff's property management unit for the storage of evidence. Fire investigators are included within the new public safety employee's retirement system. In 2006, the unit investigated 660 fires, of which 362 were believed to be arson fires.

All fire investigation personnel are specially commissioned by the King County Sheriff's Office under RCW 36.28.020 and RCW 10.93.090. Special commissions differ from "general authority peace officers." A regularly commissioned officer has as their primary function the detection and apprehension of persons committing violations of criminal and civil law. All sheriffs' deputies are commissioned in this way. However, state law allows the sheriff to grant special commissions to persons to perform law enforcement functions on a limited basis. The limitation is based on the type of work the person is going to do. For example, the sheriff employs deputies under limited commissions to provide court security. In addition, the county's fire investigators have special commissions. One of the limitations of the fire investigator commissions is that they do not carry firearms during the conduct of their investigations. However, investigators note that they perform their work at crime scenes at all hours of the day and night, in all parts of the county. They have questioned whether it wouldn't be appropriate to carry firearms given the possible dangerous nature of their work. The sheriff has historically limited special commissioned staff to carry firearms only when they are under the direct management and supervision of the sheriff (court security personnel, for example, carry firearms while under direct supervision of fully commissioned sheriff's staff). The sheriff's office contends that the supervision and specialized training are needed to safely carry and use firearms in the law enforcement context for public safety and risk management.

Proposed Ordinance. This Ordinance would, if approved, delete the responsibility for the investigation of the "origins, causes, circumstances and extent of loss from fires" from DDES and transfer that responsibility to the sheriff's office. The Ordinance would place the unit within the sheriff's Criminal Investigations Division, and would have the investigations conducted under the direction of a "fire investigation supervisor" who shall be considered an assistant fire marshal to meet statutory requirements. The transfer of responsibilities would be joined by a transfer of staff from DDES to the sheriff's office. These actions would take place as part of the budget process. Consequently, staff is recommending that an amendment be considered that makes this transfer effective January 1, 2008.