



King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item No.: 5	Date: 5 Oct 2009
Motion No.: 2009-0564	Prepared by: Nick Wagner

SUMMARY

Proposed Motion 2009-0564 (Attachment 1, pp. 3-5 of these materials) is a companion to Proposed Ordinance 2009-0351. The motion would establish as county policies that the agencies identified in the ordinance should:

- A. Provide on each of their web sites the maximum guidance and information to the public for making public records requests;
- B. Provide access to commonly requested nonexempt public records on its website to the extent feasible and economical; and
- C. In responding to public records requests:
 1. Notify the requestor in writing that they are responding on their own behalf, and not on behalf of other county agencies, which should be listed in the notice; and
 2. If their public records officer believes that other county agencies could have responsive records, notify the requestor and provide the name, phone number, email address and office mailing address of the public records officer of each of those other agencies.

Policies A and B are reflective of best practices identified by the Washington State Auditor in a report dated 19 May 2008 (“Performance Audit Report: Open Public Records Practices at 30 Government Entities”).

Policy C was highly recommended by the Attorney General, Rob McKenna, during his presentation to this committee at its September 9 meeting.

It is the understanding of Council staff that some county agencies have already implemented one or more of these policies, at least to some extent.

PROPOSED AMENDMENT

Legal counsel have recommended an amendment (Amendment 1; *see* Attachment 2, pp. 7-8 of these materials) making clear that the motion is not intended to serve as a basis for making

a legal claim against the county: “The policies in this ordinance are intended as guidance for best practices for county agencies, and shall not be interpreted to impose any legal obligation on agencies beyond those imposed by RCW chapter 42.56 and K.C.C. chapter 2.12.”

The proposed amendment also includes a reference to Attorney General McKenna's testimony before the committee and clarifies the wording of the motion.

Attachment 3 (pp. 9-11 of these materials) is a redline showing the changes that would be made by the amendment.

INVITEES

1. Tony Adams, Archives, Records Management, & Mail Services, Records and Licensing Services Div., DES
2. John Gerberding, Supervising Attorney, County Services and Finance, Prosecuting Attorney's Office
3. Deborah Kennedy, Archivist, King County Archives and Records Center
4. Anne Noris, Clerk of the Council, Metropolitan King County Council
5. Kelli Williams, King County Public Disclosure Officer
6. Val Wood, Deputy Director, Records and Licensing Services Division, DES

ATTACHMENTS

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Signature Report

October 2, 2009

Motion

Proposed No. 2009-0564.1

Sponsors Ferguson, Dunn and Phillips

1 A MOTION declaring county policy regarding access to
2 public records.

3
4 WHEREAS, King County has made substantial improvements in recent years in
5 its processing of public records requests, and

6 WHEREAS, King County is committed to further facilitating public records
7 requests and improving the county's responsiveness to such requests, and

8 WHEREAS, the Washington state Auditor observed in a May 2008 report, "When
9 entities provide guidance and information to the public for making public records
10 request[s] on its Web site, this communicates a culture of openness to the public and
11 reinforces the entity's commitment to accountability and transparency," and

12 WHEREAS, the Washington state Auditor further observed in the same report,
13 "The use of information technology can assist entities in being more responsive to
14 records requests and demonstrates transparency and accountability. Specifically,
15 providing commonly requested public records on Web sites is[,] in our opinion, a best
16 practice," and

17 NOW, THEREFORE, BE IT MOVED by the Council of King County:

18 It is county policy that the county assessor, elections director, executive,
19 prosecuting attorney, sheriff and council should:

20 A. Provide on each of their web sites the maximum guidance and information to
21 the public for making public records requests;

22 B. Provide access to commonly requested nonexempt public records on its
23 website to the extent feasible and economical; and

24 C. In responding to public records requests:

25 1. Notify the requestor in writing that they are responding on their own behalf,
26 and not on behalf of other county agencies, which should be listed in the notice; and

27 2. If their public records officer believes that other county agencies could have
28 responsive records, notify the requestor and provide the name, phone number, email

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29 address and office mailing address of the public records officer of each of those other
30 agencies.

31

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

Attachments None

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Oct. 5, 2009

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Sponsor: Ferguson

Proposed No.: 2009-0564

1 **AMENDMENT TO PROPOSED MOTION 2009-0564, VERSION 1**

2 On page 1, after line 16, insert:

3 "WHEREAS, the Washington state Attorney General testified before the council's
4 committee of the whole that coordination of public records responses by county agencies
5 should be considered a best practice but not legally mandatory, and that the size and
6 complexity of King County government would make it impracticable for the county to
7 respond to all public records requests as if it were a single agency;"

8 On page 2, at the beginning of line 18, insert "A."

9 On page 2, beginning on line 18, after "policy that" delete "the county assessor, elections
10 director, executive, prosecuting attorney, sheriff and council" and insert "county
11 agencies"

12 On page 2, at the beginning of line 20, delete "A." and insert "1."

13 On page 2, at the beginning of line 22, delete "B." and insert "2."

14 On page 2, at the beginning of line 24, delete "C." and insert "3."

15 On page 2, at the beginning of line 25, delete "1. Notify" and insert "a. notify"

16 On page 2, at the beginning of line 27, delete "2. If" and insert "b. if"

17 On page 3, after line 30, insert:

18 "B. The policies in this motion are intended as guidance for best practices for
19 county agencies, and shall not be interpreted to impose any legal obligation on agencies
20 beyond those imposed by chapter 42.56 RCW and K.C.C. chapter 2.12."

21 **EFFECT: The amendment would include a reference to relevant testimony of the**
22 **Attorney General at the committee's Sept. 9 meeting and would clarify the scope**
23 **and purpose of the motion.**

**[Redline of Amendment 1 against
original Proposed Motion 2009-0564]**

Motion

Proposed No. 2009-0564.1

Sponsors Ferguson, Dunn and Phillips

1 A MOTION declaring county policy regarding access to
2 public records.

3

4 WHEREAS, King County has made substantial improvements in recent years in
5 its processing of public records requests, and

6 WHEREAS, King County is committed to further facilitating public records
7 requests and improving the county's responsiveness to such requests, and

8 WHEREAS, the Washington state Auditor observed in a May 2008 report, "When
9 entities provide guidance and information to the public for making public records
10 request[s] on its Web site, this communicates a culture of openness to the public and
11 reinforces the entity's commitment to accountability and transparency," and

12 WHEREAS, the Washington state Auditor further observed in the same report,
13 "The use of information technology can assist entities in being more responsive to
14 records requests and demonstrates transparency and accountability. Specifically,
15 providing commonly requested public records on Web sites is[,] in our opinion, a best
16 practice," and

17 "WHEREAS, the Washington state Attorney General testified before the council's
18 committee of the whole that coordination of public records responses by county agencies
19 should be considered a best practice but not legally mandatory, and that the size and

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20 | complexity of King County government would make it impracticable for the county to
21 | respond to all public records requests as if it were a single agency;"

22 | NOW, THEREFORE, BE IT MOVED by the Council of King County:

23 | A. It is county policy that the county assessor, elections director, executive,
24 | prosecuting attorney, sheriff and council should:

25 | A1. Provide on each of their web sites the maximum guidance and information
26 | to the public for making public records requests;

27 | B2. Provide access to commonly requested nonexempt public records on its
28 | website to the extent feasible and economical; and

29 | C3. In responding to public records requests:

30 | 1a. ~~N~~otify the requestor in writing that they are responding on their own
31 | behalf, and not on behalf of other county agencies, which should be listed in the notice;
32 | and

33 | 2b. ~~I~~f their public records officer believes that other county agencies could
34 | have responsive records, notify the requestor and provide the name, phone number, email

Motion

35 address and office mailing address of the public records officer of each of those other
36 agencies.

37 B. The policies in this motion are intended as guidance for best practices for
38 county agencies, and shall not be interpreted to impose any legal obligation on agencies
39 beyond those imposed by chapter 42.56 RCW and K.C.C. chapter 2.12.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

Attachments None