

**PROCEEDINGS OF THE
WASHINGTON STATE BOUNDARY REVIEW BOARD
FOR KING COUNTY
RESOLUTION AND HEARING DECISION**

**IN RE: A NEW CITY OF FAIRWOOD
Proposed Incorporation
King County, Washington**

FILE NO. 2258

I. PUBLIC HEARING OVERVIEW

In October of 2007, the Fairwood Municipal Initiative, the proponent, filed a Notice of Intention with the Boundary Review Board to incorporate a new City of Fairwood (File No. 2258) as prescribed by RCW 36.93 (Local Governmental Organization – Boundaries.) The Fairwood Municipal Initiative proposes to incorporate 4000 acres of land generally located in southeast King County. The application for incorporation was based upon a petition signed by citizens representing at least 10% of the registered voters within the boundaries of the proposed new City (RCW 35.02 – Incorporations.)

The Boundary Review Board conducted a Special Meeting/Public Hearing to consider the proposed incorporation of a new City of Fairwood on May 26, 2009, May 27, 2009, and May 28, 2009. The Board closed the Special Meeting/Public Hearing on May 28, 2009, and, thereafter, began its deliberations, and came to a preliminary decision/recommendation in the matter of the proposed incorporation of a new City of Fairwood (File No. 2258.)

Washington law requires the Board to: (1) examine the record (e.g., application materials; technical studies; fiscal studies; regulatory analyses; other documents, exhibits, statements and testimony); (2) determine the specific policies and guidelines are applicable to the proposed action; (3) review and weigh these elements; and (4) take the action that best advances those elements.

The Board reviewed the record for **File No. 2258** as prescribed by RCW 36.93. The Board directed particular attention to RCW 36.93.170 (Factors) and RCW 36.93.180 (Objectives.) Additional authorities applicable to **File No. 2258** include, but are not limited to: RCW 35.02 (Incorporation of Cities), RCW 36.70A (State Growth Management Act); King County Comprehensive Plan/Countywide Policies, and other applicable state, regional, and local regulations and guidelines.

The Board finds that the record for File No. 2258 contains sufficient documentation (e.g. Incorporation Study, evidence of community information programs, and certification of petitions and/or legislative action) to complete its review of the proposed incorporation of a new City of Fairwood.

On the basis of the testimony, evidence and exhibits presented at said hearing, and the matters on record in said **File No. 2258**, it is the decision of the Board to **approve** the action proposed in said **Notice of Intention**.

The legal description for the proposed new City of Fairwood is attached hereto and marked as "Exhibit I", together with a map showing the boundaries of the area herein marked as "Exhibit II."

II. FINDINGS

RCW 36.93.170 FACTORS AFFECTING THIS PROPOSAL

The Board finds that the following Factors (RCW 36.93.170) are applicable to the proposed incorporation of the Fairwood Area (approximately 4000 acres). Additional authorities applicable to the proposal include, but are not limited to: RCW 36.70A, King County Comprehensive Plan/Countywide Policies. These State and local authorities are intended to ensure reasonable development regulations and adequate public services to local communities.

A brief review of key issues related to each applicable element is presented below:

RCW 36.93.170 (1) POPULATION AND TERRITORY

The Board finds the following factors to be applicable to File No. 2258: Population Density/Proximity to Other Populated Areas/Land Area/Land Uses; Comprehensive Land Use Plans; Topography, Natural Boundaries and Drainage Basins; Likelihood of Significant Growth in the Area During the Next Ten Years; and Population Density/Proximity to Other Populated Areas/Land Area/Land Uses. The following is a brief review of key issues related to these factors.

The entire area proposed for incorporation lies within the Urban Growth Area defined by King County. The King County Comprehensive Plan/Countywide Policies call for contiguous orderly growth of local jurisdictions (e.g., U-304, U-208, U-301, U-304.) The Comprehensive Plan anticipates transfer of the Fairwood community to a local jurisdiction. Several Countywide policies identify cities as the appropriate providers of local governance and urban services (e.g., FW-13, CO-1, CO-3; LU-31 - LU-34, LU-36, FW-13, LU-31.)

The State Growth Management Act (RCW 36.70A) also supports the incorporation of the Fairwood Area. Incorporation of this area is consistent with RCW 36.70.20 which calls for community planning goals, for urban growth, services and infrastructure, and environmental preservation.

If approved, the new City of Fairwood will be required by the State Growth Management Act to develop and implement a comprehensive plan and regulatory controls to administer existing and future land uses for its current and future populace. The City shall also be required to develop and implement a comprehensive plan and regulatory controls for provision of public services and essential public facilities. Further, the City shall be required to develop and implement regulatory controls to protect critical areas.

Documentary evidence provided to the Board (e.g., Notice of Intention, the Incorporation Feasibility Study) demonstrates a commitment – both in terms of plans and resources -- to govern and serve the Fairwood Area.

Plans and resources are based upon the definition of the Fairwood Area as an urban community that will likely experience continuing urban growth over the next ten years. Documentation in File No. 2258 indicates future growth at urban levels of density generally consistent with the existing built environment and the natural environment.

At present, the Fairwood Area is essentially unified with respect to its built community. It is substantially developed with single-family homes. There is territory within the proposed incorporation area that is suitable and permitted for redevelopment/new development with residential uses. There is sizeable commercial property within Fairwood Area boundaries. The proposed new City of Fairwood also includes natural features such as open spaces, water bodies, variable topography, and habitat area.

The evidence establishes the intention that the new City shall initially adopt King County regulatory authorities – and then develop a specific Fairwood Comprehensive Plan – for land use/zoning designations and zoning for this community to permit future residential development that will be generally similar to and essentially compatible with existing density/design standards for residential

uses. Similarly, the new City would develop and implement plans/regulations for commercial uses, public facilities, and open spaces in the community. Incorporation of the Fairwood Area will create an opportunity to immediately establish consistent and coordinated development standards to serve the local community.

The record demonstrates support for the natural environment within the Fairwood Area through King County Comprehensive Plan which would ultimately be followed by a Fairwood Comprehensive Plan. Such plans include guidelines and regulatory controls (e.g., critical areas ordinances; open space preservation; storm water/flood control programs) designed to protect sensitive areas. The proposed incorporation includes regional facilities such as Gary Grant/Soos Creek Regional Park, Petrovitsky Park, and Lake Youngs. King County has committed to ongoing ownership and maintenance of these facilities.

If the new City is formed, its citizens would be provided with a full array of essential public services, facilities and infrastructure either directly by the city or by service contract. Existing improvements would be maintained and additional urban infrastructure and services could be developed as necessary to serve this urban community.

The Board finds that the record for File No. 2258 establishes that a new City of Fairwood would have the funding necessary to support basic required and/or expected land use planning, housing, public services, public facilities, and public amenities. Similarly, funding resources would be sufficient to provide for protection of the natural environment.

The Board finds that the proposed incorporation is likely to achieve the requirements for a viable, vibrant government either at its inception or as it would be expected to grow in the future. Further, provisions for local planning and controls within the City of Fairwood could be expected to result in positive effects to the surrounding built community and the natural environment.

RCW 36.93.170 (2) MUNICIPAL SERVICES

The Board finds the following factors to be applicable: need for municipal services; effects of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; probable future need for such services; costs; effect on the finance, debt structure and contractual obligations; and prospects of government services from other sources, and rights of other affected governmental units. Following is a brief review of key issues related to these factors.

The record demonstrates that the new City of Fairwood will require municipal services and facilities. Service policies are established by the State Growth Management Act and the King County Comprehensive Plan. For example, the State Growth Management Act requires local jurisdictions to plan and provide a full array of public services and facilities to its citizens. King County FW-13 states that cities are the appropriate provider of local urban services to Urban Areas. FW-29 and FW-30 address the need for jurisdictions to plan for and coordinate services. Additionally, King County/Countywide Policy CO-1 calls for a jurisdiction to plan for "(a) full range of urban services".

The Incorporation Feasibility Study demonstrates that the proposed new City of Fairwood would have necessary basic fiscal resources to support local governance. Upon incorporation, the City of Fairwood would assume responsibility for providing – either directly or by contract – basic public services and facilities including: water service, surface water management, sewer service, fire service, police service, emergency medical services, utilities, road maintenance, law and justice services, human services, libraries, and parks and recreation services. The evidence shows that a new City of Fairwood is committed to undertaking all necessary steps to ensure equivalent – or improved -- levels of service for the community at current development and as the community experiences growth.

More specifically, Incorporation Feasibility Study findings indicate that a substantial portion of the costs for governance and services will be essentially offset by property taxes, standard service fees, and other revenues based on population. Fairwood Area citizens would be assessed reasonable taxes and fees for both basic and enhanced services/facilities. These include, but are not limited to property taxes, REET, sales taxes, utilities fees, regular levy rates, and, if approved by the local community, special levy rates for capital facilities and public services.

For example, the proposed City of Fairwood will assume responsibility for provision and management of capital facilities (e.g., roadways). Acquisitions and improvements will be identified by means of a priority listing which reflects both necessity (i.e., public health, welfare and safety) and the interests of the citizens.

The proposed City of Fairwood will assume responsibility for providing police services through a contract with the Office of the King County Sheriff and will contract with King County Fire Protection District No. 40 and No. 37 to provide fire/emergency services to the Fairwood Area.

The proposed City of Fairwood will assume responsibility for providing water services through a contract with King County Water District No. 90. Sewer services would be provided through Soos Creek Water & Sewer District and Cedar River Water & Sewer District.

A new City of Fairwood could be expected to initially utilize King County standards – followed by the development of a Fairwood Comprehensive Plan -- for protection of critical areas and for a storm water management system.

A new City of Fairwood would have available access to regional parks and recreation facilities, libraries, and law and justice services. The Renton School District and the Kent School District would continue to serve the area in that school district boundaries are unaffected by incorporation.

The evidence shows that that the new City would not initially offer a community-based human services program as of the date of incorporation. Future human services programs could be provided if identified by means of a priority listing which reflects both necessity (i.e., public health, welfare and safety) and the interests of the citizens.

The Board finds that the Incorporation Feasibility Study contains a thorough examination of revenues and expenditures relating to governance of and service to the Fairwood Area. The Study demonstrates that sufficient funds are available, both at current development and with future growth, to create a logical municipal service area.

The Board finds that the availability of fiscal resources would enable the proposed new City to plan for and reliably deliver, at reasonable rates, those basic public services that are required in order to provide for public health, safety, and welfare by the State Growth Management Act, King County Comprehensive Plan, and RCW 36.93.

The City can provide unified regulatory authorities administered by a single local government unit resulting in more cohesive policies, standards, programs, and services. Thus, services can be anticipated to be more effective, more efficient, and less costly to both government and citizens of the Fairwood Area.

RCW 36.93.170 (3) EFFECTS OF PROPOSAL

The Board considers the factors of mutual economic and social interests, and local government structure effects to be applicable to the proposed incorporation of a new City of Fairwood. Following is a brief review of key issues related to these factors.

The Fairwood community shares mutual social and economic links. Citizens of the Fairwood Area utilize community facilities including libraries, schools, parks and recreation programs. Residents shop in the local community and use local professional services (e.g., medical care, personal care.) Citizens travel local and arterial roads through the Fairwood Area. Utility services are coordinated under the aegis of the above-identified regional service providers.

The Incorporation Feasibility Study emphasized fiscal analyses (including an examination of benefits and costs) attendant to immediate incorporation to provide for governance and service to the Fairwood Area at levels equivalent to those levels currently provided to the community by King County.

More specifically, Incorporation Feasibility Study findings show that the governance of and service to Fairwood will be funded, in part, through property taxes, standard service fees, and other revenues based on population. The Study indicates that existing and anticipated municipal funds, together with regional funds, and state funds (e.g., sales taxes available pursuant to SSB 6686), will provide sufficient resources to assure governance of the Fairwood Area in a manner that will address impacts on cost and adequacy of services, finances, debt structure, and rights of other governmental units.

For example, the evidence demonstrates a commitment to providing community planning and hiring professional staff to ensure equivalent levels of service for the Fairwood Area both at current development and at estimated maximum development. For example, Fairwood Area residents would receive basic services (e.g., policing, fire/emergency services, utilities, infrastructure) immediately upon incorporation. The citizens of Fairwood would continue to benefit from such amenities as regional parks and the library system.

Improvements to levels of service and addition of new amenities would occur over time to address community interests and as permitted by available resources.

The State Growth Management Act and King County Comprehensive Plan/Countywide Planning Policies encourage local governance of communities. With incorporation, citizens would participate in local governance including land use planning, service planning, fiscal planning and planning for public amenities to serve the community. The evidence supports a finding that the City is prepared to govern and to provide full services to this community.

The Board finds that City of Fairwood would have sufficient resources available to provide the government structure that is necessary to support the social interests and economic interests of the community. The proposed new City of Fairwood would unite a greater community which shares mutual social interests and economic interests.

The Board finds that incorporation would enable community leaders and citizens to undertake land use planning, service planning, fiscal planning and planning for public amenities to serve the community. Thus, a new City of Fairwood could successfully promote strong and unified local government providing for coordinated integration of citizens into the new community, supporting social organization, economic health, and protection of public safety and welfare.

CONSISTENCY WITH THE GROWTH MANAGEMENT ACT

Boundary Review Board decisions must be consistent with the following sections of the State Growth Management Act (Chapter 36.70A RCW):

- RCW 36.70A.020 Planning Goals
- RCW 36.70A.110 Urban Growth Areas
- RCW 36.70A.210 Countywide Planning Policies

The key Growth Management policies relevant to the proposed incorporation are:

- RCW 36.70A.020 (1) Urban Growth: Encourages development in urban areas where adequate public facilities and services exist or can be provided efficiently.
- RCW 36.70A.020 (2) Reduce Sprawl: Reduce inappropriate conversion of undeveloped land into sprawling low-density development.
- RCW 36.70A.020 (10) Environment: Protect and enhance the environment and quality of life.
- RCW 36.70A.020 (11) Citizen Participation and coordination in the planning process and ensure coordination between communities/jurisdictions to reconcile conflicts.

- RCW 36.70A.020 (12) Public Facilities and services: Ensures that adequate public services and facilities are available to serve land developments.
- RCW 36.70A.110 (1/6) calls for each county to designate an urban growth area.
- RCW 36.70A.110 (3) directs urban growth to areas with existing or available public services and facilities.
- RCW 36.70A.110 (4) states that "(in) general, cities are the units of local government most appropriate to provide urban ... services."
- RCW 36.70A.210 (1) calls for cities to be primary providers of governmental services in urban growth areas.

The Board finds that the incorporation of a new City of Fairwood meets Growth Management Act criteria for governance of urban areas. The State Growth Management Act supports local jurisdictions as the governing units for urban areas where local jurisdictions can provide citizens with reliable, stable governance and services. The proposed action is supported by RCW 36.70.A which calls for local communities to provide governance – including: goals for urban growth, services and infrastructure, public services, and environmental preservation.

The Board finds that a new City of Fairwood would be incorporated with sufficient basic funding resources to meet the Growth Management Act criteria for incorporation of urban areas including the provision of growth management, land use planning, housing, public services/public facilities (e.g., utilities, infrastructure) and public amenities.

RCW 36.93.180 OBJECTIVES

The Boundary Review Board considered RCW 36.93.180 (Objectives), with respect to the proposed incorporation of a new City of Fairwood as follows:

RCW 36.93.180 (1) PRESERVATION OF NATURAL NEIGHBORHOODS AND COMMUNITIES

The Board finds that the Fairwood Area is a "neighborhood" as that term is defined by case law, as "either geographically distinct areas or socially... distinct groups of residents". The Fairwood Area, in its entirety, exhibits many features that support its community connections. The community is characterized by similar and linked built environments and natural environments (e.g., Gary Grant/Soos Creek Parks).

The citizens of the community share similar demographic, social, and economic profiles. Residents use common community facilities – e.g., schools, roadways, community centers, shopping centers, parks, and recreation facilities.

The evidence demonstrates a commitment to provide Fairwood Area citizens with a voice and a vote in planning to effectively govern and serve this area as a part of a unified community. The inclusion of a sizeable area and population serves to create a cohesive community and encourages more effective local governance. Incorporation would permit a new City of Fairwood to guide synchronized community plans and community development in a manner which considers both built lands and the critical natural areas. Incorporation would permit the new City of Fairwood to provide coordinated public services.

King County officials support the incorporation of Fairwood citing that this action would be consistent with state, regional and local guidelines. The County has indicated a preference for immediate transfer of unincorporated urban areas to local jurisdictions to provide uniform governance for citizens. Incorporation of the Fairwood Area would permit citizens to establish local land use designations and zoning standards for residences, businesses, infrastructure, and community amenities.

The evidence demonstrates that the Fairwood Area will continue as a predominantly residential community with designations and zoning similar to that existing under King County. A new City of Fairwood would plan to provide and implement plans for development review and

environmental review (e.g., protection of slopes, sensitive areas, and stormwater management) to the Fairwood Area based upon local, regional and state regulations to support preservation of this community.

The Board finds that incorporation of a new City of Fairwood advances RCW 36.93.180(1). Incorporation would preserve connections within the greater neighborhood. A new City would provide residents and business owners with access to a voice and a vote in planning for the cohesive governance of a unified neighborhood and a greater community.

RCW 36.93.180 (2) USE OF PHYSICAL BOUNDARIES, INCLUDING BUT NOT LIMITED TO BODIES OF WATER, HIGHWAYS, AND LAND CONTOURS

The proposed Fairwood incorporation area is bordered primarily by the Urban Growth boundary line and the City of Renton. The proposed boundaries of the new City create (or enhance) clear physical borders for the Area.

"Social neighborhoods" may also be the basis for boundaries. The evidence shows that the citizens of the Fairwood Area share a social affiliation. As such incorporation of a new City of Fairwood would further the establishment of a cohesive community.

The proposed incorporation of a new City of Fairwood is consistent with the King County Comprehensive Plan because it achieves progress toward establishment of local governance for the greater unincorporated area in King County.

The proposed incorporation is consistent with the planning goals established by the State Growth Management Act for providing local governance to unincorporated urban territories.

The Board finds that incorporation of a new City of Fairwood advances RCW 36.93.180(2). The incorporation of the proposed new City of Fairwood provides for a community unified under established physical boundaries. Incorporation would further progress toward coordinated transfer of unincorporated areas into local jurisdictions to provide for effective, coordinated local governance and efficient services to the local community.

RCW 36.93.180 (3) CREATION AND PRESERVATION OF LOGICAL SERVICE AREAS

RCW 36.93, RCW 36.70A, et seq., and the King County Comprehensive Plan establish cities as the providers of services for incorporated communities. A new City of Fairwood would have responsibility for providing public services to all of its citizens under city plans and regulations including, but not limited to: a Comprehensive Land Use Plan, a Comprehensive Sewer and Water Plans, Transportation Element of the Comprehensive Plan and a Comprehensive Storm Water Management Plan.

The evidence demonstrates that the incorporation of a new City of Fairwood would create and preserve logical service areas. All properties would be designated for services through the local government. Incorporation of the Fairwood Area would enable design and implementation of efficient, consistent, consolidated service programs throughout the greater community. More specifically:

- The proposed City of Fairwood will contract with the King County Sheriff, King County Fire Protection District No. 40, and King County Fire Protection District No. 37 to provide emergency services. Provision of services and management of costs are demonstrated to be feasible based upon currently available municipal funding and future funding as reported in the Incorporation Feasibility Study.
- The proposed City of Fairwood will provide by contract with King County Water District No. 90 for water service and with Soos Creek Water & Sewer District and/or Cedar River Water and Sewer District for wastewater management.

- The proposed City will coordinate stormwater services consistent with King County standards. Specific systems/facilities will be designed to address both the natural environment (e.g., basins, terrain) and the built environment (e.g., structures, roadways).
- The proposed City will coordinate through agreements with King County, provision of access to parks, recreation facilities, libraries and other community services for the citizens of the Fairwood Area. Children would continue their current schools in the Renton School District or the Kent School District.
- Roadways (including streets, storm water drains, and other right of way features) meet standards for safe and efficient travel. As reported in the Incorporation Study, funding is planned from various existing taxes and fees as well as anticipated sources (e.g., grants, development impact fees) for routine upgrades and maintenance and for future capital essential improvements. Further enhancements may be provided in accord with the interests of the citizens.

The record demonstrates that provision of public services to the Fairwood Area would be improved by placing the entire area under a single municipal jurisdiction. Synchronized services and facilities (e.g., emergency services, water service, storm water and surface water management systems, wastewater treatment) will promote protection of the built environment and the natural environment.

King County strongly supports transition to local governance of unincorporated urban areas such as the Fairwood Area. Countywide Planning policies encourage cities as the appropriate units to govern, develop, and serve Urban Areas to provide citizens with more effective, efficient governance. The County lacks sufficient resources to manage land uses or serve properties in these urban areas.

The State Growth Management Act identifies cities as the logical providers of local governance and urban services and supports the creation of government units that possess sufficient resources to govern and serve the citizens.

The Board finds that incorporation of a new City of Fairwood advances RCW 36.93.180(3). The incorporation of a new City of Fairwood will allow the new City to plan and implement coordinated, efficient service programs to provide the essential services necessary to maintain a viable, safe community.

Sufficient resources are reported to support basic required and/or improved, public services, public facilities, and public amenities for community members. With incorporation, the Fairwood Area residents would be authorized to consider – and perhaps to seek new sources of income – to provide for additional services and/or community amenities to enhance the built community and natural environment.

RCW 36.93.180 (4) PREVENTION OF ABNORMALLY IRREGULAR BOUNDARIES

Approval of the incorporation of the Fairwood Area will provide a reasonable and regular boundary. The proposed boundaries of the Fairwood Area are not geometric in form; however, these boundaries do provide regularity based upon the fact that the borders of the Fairwood Area coincide with the established Urban Growth Area boundary and with the duly approved incorporated boundaries of the City of Renton.

Further, under the King County Comprehensive Plan and the State Growth Management Act, the Fairwood Area, as an unincorporated urban community, is encouraged to achieve transition to a local jurisdiction. The Fairwood Area, as an unincorporated community, does not benefit from effective governance. With incorporation, a new City would benefit from cohesive, coordinated governance and services.
