Chapter 7: County Considerations

Working with Other Service Providers

Counties often work with multiple special purpose districts for the provision of services. Additionally, counties are often the coordinators of regional facilities or services. Counties usually have good relationships with those providers and in general, all parties are working toward the same or similar goals. Perhaps one of the biggest challenges of planning for facilities and services to serve new growth is coordinating the planning of multiple special purpose districts so the long term plans of the service providers also meets the planning needs of the county. For example, are the various special purpose districts using the same 20-year planning horizon the county uses? Are they using the same population projection? Are the assumptions used in their plans consistent with the countywide planning policies and the assumptions of the jurisdictions they serve?

Reaching out early to all special purpose districts and/or Tribes that provide facilities or services within the county is important. Strategies to line up timeframes, planning horizons, and making provisions to share data can become quite helpful later in the process. Additionally, by thinking through the data needs in advance, each agency may be able to provide their data in a format and manner that will be most helpful to the county. Coordination between the county and special purpose districts may also assist the districts in developing capital facility plans that are consistent with the county’s comprehensive plan.

Urban service providers in unincorporated UGAs

Some counties have designated Urban Growth Areas (UGAs) that are not associated with an incorporated city or town. These unincorporated UGAs require the same level of planning as those associated with cities. This requires counties to assure that plans are developed for the full range of urban services needed to serve the anticipated growth, including sanitary sewer. Coordination with the special purpose districts that provide services is a critical component in this process. Some examples of unincorporated UGAs include Belfair, Carlsborg, Silverdale, Birch Bay, Manson, Peshastin, and Spokane’s North Metro.

It is assumed that unincorporated UGAs will be allocated population growth to plan for, as well as future provision of the full range of urban services. Unincorporated UGAs that do not already have a full range of urban services are expected to be provided with those services at some point during the 20-year planning horizon. Generally, sanitary sewer and storm sewer are the most expensive urban services to provide. If there is not a special purpose district in place, such as a port district or sewer district, the county is ultimately responsible to provide urban services within the UGA. In order to make a sewer (or other) system financially viable, the county may need to develop or update functional plans, identify the necessary projects, estimate costs of providing those services and develop a financial plan to pay for the urban services. Given the potential rate base in relation to the likely costs, this can become quite challenging. Counties should work closely with state agencies such as the Department of Health and the Department of Ecology to develop the
appropriate plans and look for potential funding sources. The public will need to be informed of their anticipated costs and likely increasing rates.

**Extension of urban services**

Under the GMA urban levels of service must primarily be limited to areas planned for urban levels of development. This is generally limited to urban growth areas (UGAs) and, in some instances, areas that have been designated as "limited areas of more intense rural development" (LAMIRD). This is to carry out the GMA policy of directing urban levels of services to urban areas, and providing rural levels of services in rural areas. The GMA requires that fully planning counties shall designate UGAs "within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature.” RCW 36.70A.110(1).

The GMA at RCW 36.70A.110(4) states that "In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.”

There may be situations when a county is asked to make an exception and provide urban services, such as sewer outside of an UGA. The ability to extend urban services into rural areas is limited and may be dependent on a determination of an environmental or public health and safety emergency. Counties should ensure that policies within the comprehensive plan are in place to address emergencies or limited exceptions and to ensure that rural character is protected.

**WAC 365-196-425** provides guidance on the provision of services in rural areas. Urban governmental services that pass through rural areas when connecting urban areas do not constitute an extension of urban services into a rural area provided those public services are not provided in the rural area. Sanitary sewer service may be provided only if it:

(i) Is necessary to protect basic public health and safety and the environment;
(ii) Is financially supportable at rural densities; and
(iii) Does not permit urban development.

The definition of "rural services" at RCW 36.70A.030(17) states that "Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4)."

Note that the exceptions allowed for public health and safety and the environment are for limited circumstances. Under current case law, the only exception is where there is a documented health or safety emergency for which the only viable option of addressing the emergency is extension of sewer. In such a circumstance, the county needs to have adopted specific policies and regulations to limit the sewer service to what is necessary to resolve the emergency. Expansion to rural areas might be appropriate if necessary to solve an existing environmental problem, but not to prevent a future problem. In Cooper Point Association, et
al., v. Thurston County; Final Decision and Order (WWGMHB 00-2-0003, July 26, 2000) the Board found that the extension of a sewer line to rural area with an aging community sewer plant was not necessary as required by GMA – because existing users of the rural system were not yet experiencing problems that threaten public health and the environment.¹ And in CPSGMHB 03-3-0017, the County’s amendment that authorized sewer extension to churches adjacent to UGAs was determined to go beyond the limited exceptions allowed in the in GMA.

Alternatively, there may be instances where one UGA is relatively close to another UGA. It may make sense for these two jurisdictions to share certain facilities and services. In these cases the county should have strong land use policies in the rural element and rural zoning to ensure any sewer lines are not used as a reason to provide urban levels of development in rural areas or UGA expansions that are not justified by land capacity needs.

Another consideration is preserving capacity needed for areas within designated UGAs. For example, in one case a city and the county, which were concerned about the ability of the water district to provide domestic water to the urban growth area at full build out, had to work cooperatively with the water district to ensure it did not commit a large amount of water to an area outside of the UGA but within the water district’s service boundary, if it would have thwarted the district’s ability to provide domestic water inside the UGA. Because of a good working relationship between the city, county, and water district and years of cooperatively working toward implementation of the comprehensive plan, the parties were able to reach agreement among themselves.

Regional services and a regional CFP could be something enabled by countywide planning policies and would be most helpful for unincorporated UGAs where the county may only provide a few urban services and is dependent on an adjacent city or cities to provide others (e.g. sewer and/or water services). A county may look to its cities to provide urban services to unincorporated UGAs if proximate, enabled in the countywide planning policies, and through an interlocal agreement.

RCW 36.70A.210(3) lists the required countywide planning policies as follows:
A countywide planning policy shall at a minimum, address the following:

a) Policies to implement RCW 36.70A.110;
b) Policies for promotion of contiguous and orderly development and provision of urban services to such development;
c) Policies for siting public capital facilities of a countywide or statewide nature, including transportation facilities of statewide significance as defined in RCW 47.06.140;

¹ Thurston County v. Cooper Point Ass’n. The Washington State Supreme Court affirmed the Board’s determination that the County’s proposal to extend a sewer line from an urban treatment plant to rural Cooper Point is subject to and violates the development restrictions imposed by RCW 36.70A.110(4).
d) Policies for countywide transportation facilities and strategies;

e) Policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution;

f) Policies for joint county and city planning within urban growth areas;

g) Policies for countywide economic development and employment, which must include consideration of the future development of commercial and industrial facilities; and

h) An analysis of the fiscal impact.

**Urban Growth Area Expansions**

Every analysis of an Urban Growth Area expansion must be accompanied by a capital facilities plan, documenting that urban facilities and services can be provided at the adopted levels of service and that there is a financial plan in place to do so. The CFP analysis must be part of the proposal itself, not conducted afterward, and must be complete for all urban services.

**Additional Growth Management Hearings Board cases**

Several important Growth Management Hearings Board (GMHB) cases underscore the need to have up-to-date CFPs to support the initial designation and subsequent updates of UGAs. For more specific guidance regarding Urban Growth Areas and the relationship to CFPs, please see Growth Management Service’s [Urban Growth Area Guidebook](#). This topic has several related Hearings Board cases for consideration and guidance. Please review Chapter 1, Urban Growth Areas and Urban Services, of the guidebook for a summary of hearings board cases on the subject (pages 20 – 24).

**Summaries from GMHB Digests**

- Because non-municipal UGAs may allow an extension of urban growth to areas that do not already have a governmental structure for the provision of urban levels of service, it is important to have a plan for the provision of urban services to the entire non-municipal UGA. If this cannot be done, the boundaries of the non-municipal UGA are likely too large. *Irondale Community Action Neighbors, et al. v. Jefferson County, WWGMHB Case No. 04-2-0022 (FDO, May 31, 2005)* and *Irondale Community Action Neighbors v. Jefferson County, WWGMHB Case No. 03-2-0010 (Compliance Order, 5-31-05).*

- A county cannot be found in compliance with its urban growth boundaries when data are still being collected on water capacity and where the final UGA line should be drawn. *Klein v. San Juan County, 02-2-0008 – Lopez Island Urban Growth Area (FDO, 10-14-02).*

- The fact that water and sewer facilities are provided by non-county serving agencies does not relieve the county of including the budgets and/or plans in its analysis of the proper location of an UGA. A designated UGA without any updated or adequate inventory, estimate of current and future needs or adoption of methodologies to finance such needs for infrastructure does not comply with the GMA, nor did the county properly address urban facilities and services through an analysis of capital facilities planning. *Durland v. San Juan County 00-2-0062c (FDO, 5-7-01).*
• Continued incremental movement of an UGA boundary that promotes sprawl and inefficient use of tax money did not comply, and also substantially interfered, with the goals of the GMA. *Achen v. Clark County* 95-2-0067 (RO 11-20-96).

• RCW 36.70A.110(4) does not prohibit the extension of urban levels of service from one UGA to another, nor does it prohibit the crossing of rural or resource lands to extend those services. *OBCT v. Lewis County*, WWGMHB Case No. 04-2-0041c (FDO, 5-13-05).

• Compliance with the Act is achieved where a county develops LOS standards for rural and for urban water services and precludes extension of urban services into rural areas. *Evergreen v. Skagit County* 00-2-0046c (FDO, 2-6-01).

• Under the provisions of RCW 36.70A.110(4), which relates to prohibiting urban governmental services in rural areas except in limited circumstances, the phrase “basic public health and safety and the environment” involves two components. “Basic public health and safety” involves a component that encompasses a variety of protections for human well-being. “The environment” relates to protections that are directly beneficial to flora and fauna, but usually only indirectly beneficial to human well-being. *Cooper Point v. Thurston County* 00-2-0003 (FDO, 7-26-00).

Additional Hearings Board cases to consider include:
• Miotke et al v. Spokane County (05-1-0007)
• Wilma v. Stevens County (06-1-0009c)
• Panesko v. Benton County (07-1-0002)

**Additional Considerations**

**City Requested UGA Expansions**
When considering UGA expansion requests by a city, the county should work closely with the city. Ultimately the county is responsible to ensure the land capacity analysis, capital facilities plan, and funding plan supports the proposed UGA boundary and are adequate under the GMA. If a city contacts the county to discuss a potential UGA expansion, the city and county should work cooperatively to jointly prepare the land capacity analysis and coordinate capital facilities planning, including the funding plan, and the review of any alternatives. If the city prepared work prior to making the UGA expansion request, the county must review the city’s material, analyze it for county concurrence, and - if the county does agree - then adopt the pertinent materials by reference or otherwise integrate it into the county’s CFP. Even if the county reaches the same conclusion as the city, the record must show the county’s work and decision making process.

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2 See [Urban Growth Area Guidebook](#)
A board discussion of this issue is included in the first decision in the Kittitas County Conservation et al v. Kittitas County case, in Issue 14 of Case No. 07-1-0004c.\(^3\)

**Using Growth to Pay Debt**

Don’t rely entirely on anticipated growth to pay back the debt to serve growth. What if the growth doesn’t happen? In some cases, jurisdictions count on growth to pay back debt. This can be a slippery financial slope. If the growth does not occur, the full amount of the debt may not get paid, and the local government and existing rate payers are left to foot the bill. This type of debt financing can result in big increases in rates to the existing customers and in money planned for other uses being diverted to cover the debt on growth that didn’t happen. If growth estimates are used to identify how a debt will be repaid, the numbers used should be realistic and conservative.

For example, the City of Vancouver has a process to assess how the City will allocate funds to pay for urban services. A discussion of Vancouver’s process is outlined in the Local Examples section in Chapter 2 of the Urban Growth Area Guidebook.

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\(^3\) This case included many issues and was later consolidated with another case and heard before the Washington State Supreme Court. For the more information on the outcome of the consolidated cases please see [http://www.mrsc.org/mc/courts/slip/841870MAJ.htm](http://www.mrsc.org/mc/courts/slip/841870MAJ.htm)