



Legislation Details (With Text)

**File #:** 2005-0376      **Version:** 2

**Type:** Ordinance      **Status:** Passed

**File created:** 9/6/2005      **In control:** Growth Management and Unincorporated Areas Committee

**On agenda:**      **Final action:** 10/17/2005

**Enactment date:** 10/26/2005      **Enactment #:** 15305

**Title:** AN ORDINANCE authorizing the county executive to convey to the city of Kent, under threat of eminent domain, farmland development rights on property necessary for the Johnson creek relocation and restoration project, and to receive just compensation for the conveyance.

**Sponsors:** Julia Patterson

**Indexes:** Farmlands, Kent, City of

**Code sections:**

**Attachments:** 1. Ordinance 15305.pdf, 2. A. Property Legal Description, 3. A. Property Legal Description, 4. B. Parcel Map, 5. B. Parcel Map, 6. C. Vicinity Map, 7. C. Vicinity Map, 8. Revised Staff Report, 9. Staff Report 10-12-05

Date	Ver.	Action By	Action	Result
10/17/2005	2	Metropolitan King County Council	Hearing Held	
10/17/2005	2	Metropolitan King County Council	Passed	Pass
10/12/2005	2	Growth Management and Unincorporated Areas Committee	Recommended Do Pass Substitute	Pass
9/6/2005	1	Metropolitan King County Council	Introduced and Referred	

Clerk 09/01/2005

AN ORDINANCE authorizing the county executive to convey to the city of Kent, under threat of eminent domain, farmland development rights on property necessary for the Johnson creek relocation and restoration project, and to receive just compensation for the conveyance.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

**SECTION 1. Findings of fact.**

A. Ordinance 4341 established the King County farmland preservation program and had as its major purpose the protection and preservation of prime farmland and associated open space lands through the acquisition of development rights voluntarily offered by their owners for lands that met special soils

classification criteria, and that were threatened by expanding urbanization.

B. The voters of King County approved the acquisition of the development rights for prime farmland and associated open space lands, as proposed by Ordinance 4341, and approved the issuance of general obligation bonds in the amount of \$50,000,000 to acquire such development rights in order to protect and preserve prime farmland and associated open space lands in perpetuity.

C. Under the authorization provided in Ordinance 4341, the county currently holds the development rights to more than 12,600 acres of prime farmland and associated open space lands that serve as buffers for the farmlands, and the vast majority of this acreage is located within Agricultural Production Districts as designated in the King County Comprehensive Plan. The lands for which the county owns the development rights and which are located in Agricultural Production Districts serve an important public purpose and the protection and preservation of these lands constitute an important public use for the citizens of the county and for the county's farmland preservation program.

D. The county currently holds the development rights to prime farmland and associated open space lands in areas outside of the designated agricultural production districts and outside of municipal boundaries. These lands have been involved in ongoing agricultural activities since the county purchased their development rights. The protection and preservation of such lands as farmlands and associated open space land as buffers to farmlands serve an important public purpose and constitute an important public use for the citizens of the county and for the county's farmland preservation program.

E. The county currently holds the development rights to farmland and associated open space buffers for 6 properties lying wholly or partially within the boundaries of municipalities, and all such properties, save the Muth/Polygon property, have been actively farmed or been used as a buffer for actively farmed land since the acquisition of their development rights by the county. The protection and preservation of these properties as farmland, or in the case of the Muth/Polygon property due to its special condition, as open space land, serve an important public purpose and constitute an important public use for the citizens of the county and for the

county's farmland preservation program.

F. Ordinance 4341, in addition to authorizing the acquisition of development rights interest, also authorized the fee acquisition of suitable farmlands and required that the county sell the underlying property interest as soon as practicable while retaining the development rights.

G. In June 1986, the farmland preservation program acquired in fee the 15.03-acre Muth/Polygon property located within the municipal boundaries of the city of Kent.

H. In August 1988, the county sold the underlying property interest while retaining the development rights to the Muth/Polygon property.

I. The Muth/Polygon property is a unique property. It does not lie within the agricultural production district. It lies wholly within the municipal boundaries of the city of Kent. It has not been farmed since the purchase of its development rights almost 20 years ago by the county. It is not within the current use taxation program. It is not contiguous to any other farmland for which the county holds the development rights and does not act as an open space buffer to agricultural land. Approximately half of the property is occupied by wetlands, another portion is subject to the wetland buffer requirements and restrictions under the city of Kent Critical Areas Ordinance, and drainage patterns onto this parcel from development in the area make it highly unlikely that the property will ever be farmed in the future.

J. The Muth/Polygon property contains important habitat resources, including a salmonid-bearing stream, that the city of Kent is committed to protecting and enhancing through the Johnson creek relocation and restoration project (the "project"). This project, within the currently existing wetland area, is consistent with the property's ongoing open space use.

K. Kent's relocation and restoration project includes relocating Johnson creek, restoring and enhancing its buffer and constructing a regional storm water detention and water quality facility on the property.

L. The proposed storm water detention and water quality facility will have dual functions. It will serve to accommodate future development in the vicinity and water from the facility will be used to replenish the

wetland and Johnson creek, thereby maximizing the natural resource preservation and enhancement benefits of the project. These uses are not inconsistent with the ongoing open space character of the property.

M. The original purposes of acquiring development rights under King County Ordinance 4341 and the farmlands preservation program were to preserve a farming resource base. It is highly unlikely that these purposes can be met on the Muth/Polygon property, given the current physical conditions of the property and the surrounding area.

N. All other properties in the farmland preservation program serve an important public purpose and benefit. The protection and preservation of such properties constitute an important public use for the citizens of King County and for the farmlands preservation program. In light of such public use, these lands are not available to cities for any other public use through condemnation, threat of condemnation, or other method of acquisition, unless in accordance with the terms of Ordinance 4341.

O. On June 7, 2005, the Kent city council passed Ordinance No. 3754 authorizing the acquisition of the Muth/Polygon property by condemnation for the purpose of implementing the Johnson Creek Relocation and Restoration Project.

Pinsrsid16339218 . Kent Ordinance No. 3754 authorizes the payment of just compensation and the county will be compensated for the loss of its property interest.

SECTION 2. The King County executive is hereby authorized, under threat of eminent domain, to convey King County's interest in the lands, as described in Attachment A to this ordinance, to the city of Kent for the Johnson creek relocation and restoration project.

SECTION 3. The King County executive is hereby authorized to accept compensation for King County's interest in the land described in Attachment A. Said compensation will be returned to the farmland preservation program and, in accordance with K.C.C. 26.04.040, be used to purchase development rights on replacement farmland located within the Upper Green and Lower Green River Valleys and the Enumclaw Plateau.

	<u>Parcel Tax Account Nos.</u>	<u>Compensation</u>
Development Rights	102204-9004, 102204-9139	\$325,000.00

SECTION 4. Based upon the findings contained in section 1 of this ordinance, a unique set of circumstances exists on the Muth/Polygon parcels that prevent their use as farmland or for other purposes of the farmland preservation program. Furthermore, other lands within cities that are part of the farmland preservation program continue to serve an important public purpose and benefit, and their protection and preservation constitute an important public use for the citizens of King County and for the farmlands preservation program. Therefore, the King County council declares that this action does not constitute a precedent for condemnation of other lands in the farmland preservation program by cities, and such lands are not available to cities for any other public use through condemnation, threat of condemnation, or other method of acquisition, unless in accordance with the terms of Ordinance 4341.