

Legislation Text

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Clerk 05/25/2018

AN ORDINANCE concerning protecting conservation lands in King County; adopting financial policies to accelerate the protection of vital open spaces, including urban green spaces, natural areas, wildlife and salmon habitat, trails, river corridors, farmlands and forests in King County; to address equity and social justice issues by increasing the availability of open spaces in historically under-served areas; and to address generational equity by spreading costs of protecting vital open spaces over time; amending Ordinance 8867, Section 1 and K.C.C. 26.12.010, Ordinance 13717, Section 1 and K.C.C. 26.12.003, as amended, and Ordinance 13717, Section 4 and K.C.C. 26.12.025 and adding a new section to K.C.C. chapter 26.12.

STATEMENT OF FACTS:

1. Motion 14458 sets forth King County's policy to remain one of the greenest metropolitan areas in the world by protecting and conserving land and water resources that will enhance our quality of life, strengthen our region's economy, enhance biodiversity, provide recreational opportunities and promote sustainable forestry and farming and locally grown food.
2. Motion 14458 requested that the executive develop and transmit to the council a work plan for implementing a preservation and conservation program to identify, protect and conserve water and land resources, including farmland and forest lands, ecological lands, river and stream corridors, trail corridors and historic resources on farmlands. The motion provided that the work

plan should be developed through a collaborative regional effort that engaged stakeholders, cities, tribes, nonprofit groups and the public and that included information about the percentage of land within the county that is currently designated to be within each of the following: agricultural production districts; forest production districts; and the farmland preservation program.

3. In March 2016, the executive transmitted the Land Conservation and Preservation Work Plan to the council, consistent with Motion 14458.

4. The Land Conservation and Preservation Work Plan included criteria for prioritizing conservation resources for protection, a budget estimate for preserving and maintaining the properties, recommended funding strategies, a proposal for outreach and education and a proposed timeline for implementation.

5. The Land Conservation and Preservation Work Plan set forth the goal of conserving and preserving remaining high-conservation-value lands throughout King County within the next thirty years, both in unincorporated areas and within cities. This includes approximately sixty-five thousand acres of land in the following categories: urban green space; natural areas; river corridors; forests; farmlands; and trails.

6. The department of natural resources and parks undertook a parcel-by-parcel review of remaining open space lands and other conservation opportunities in unincorporated King County to determine the most important parcels to protect in perpetuity and also worked with all thirty-nine cities to identify city conservation priorities within incorporated areas.

7. The vision of the Land Conservation and Preservation Plan builds on King County's long record of supporting programs to protect and enhance the quality of life and livability of our region, including our air and water quality, scenic beauty, fish and wildlife and our working forests and farms, by preserving our natural ecosystems and creating more urban green spaces as

our cities and towns grow in population and densify.

8. Natural lands protect wildlife, provide clean air, enhance recreation opportunities, improve water quality and promote climate resilience. Farmlands promote sustainable local agriculture and a thriving agricultural economy. Forests protect wildlife, provide recreation opportunities, enhance water quality and promote a sustainable local timber industry. Protected river corridors provide salmon habitat, flood protection, recreation opportunities and promote the health of Puget Sound. Trail corridors provide access to recreation opportunities, increase non-motorized mobility and improve air quality. Urban green spaces enhance livability and well-being, improve physical and mental health outcomes, and build community and expand recreation opportunities.

9. For decades, King County has demonstrated leadership in protecting natural lands. In 1968, King County voters approved the Forward Thrust initiative, which provided funding to preserve four thousand acres of park land as well as fifty-three miles of waterfront and riparian corridors.

10. In 1979, the voters approved the Farmland Preservation Initiative, and in 1982, King County initiated its Conservation Futures program, which has successfully protected more than one hundred thousand acres of valuable resource lands and farmlands.

11. In 1989, King County voters approved the Open Space bond measure, which provided funding for preserving high-conservation-value open space land.

12. In 2003, 2007 and 2013, King County voters approved tax levies to support parks, trails and open space, and provide funding to acquire and develop trail corridors, as well as to preserve valuable open space, and numerous cities, such as Seattle, Bellevue, Kenmore, Issaquah and others have passed tax levies to support parks and preserve open space.

13. In 2009, the voters of King County approved a charter amendment, known as the Open Space Protection Amendment, to enhance conservation protections for key county-owned

natural lands.

14. This long legacy of preserving natural lands has made King County one of the most livable areas in the country and a sought-after place to live, work and do business.

15. Protecting lands, including urban green spaces and forests and farmlands promotes numerous determinants of equity, including health and human services, food systems, parks and natural resources and community economic development, which comprise the county's equity and social justice initiative.

16. In September 2016, the executive convened the land conservation advisory group to advise the council and the executive on ways to preserve remaining conservation lands within a generation, including benefits and challenges, a preferred timeline, and public and private funding options.

17. Former King County councilmember Larry Phillips and city of Tukwila councilmember De'Sean Quinn served as co-chairs for the advisory group, which was convened with twenty-seven county residents with wide-ranging expertise, including professionals from environmental organizations, local businesses, governments, real estate firms, investment firms and philanthropists.

18. The advisory group engaged in two intense phases of work. Phase 1 consisted of nine meetings between September 2016 and January 2017. Phase 2 consisted of six meetings between September 2017 and December 2017.

19. The meetings included presentations from subject matter experts, including medical and environmental professionals who provided information on the environmental benefits of preserving land, such as improved air and water quality.

20. In January 2017, the advisory group completed and submitted a comprehensive Phase 1 report to the executive and the council.

21. The Phase 1 report endorsed the county's goal to "finish the job of protecting our great places forever." The Phase 1 report also developed recommendations for further work, including: working with historically underserved communities to identify the types of urban green spaces that they value most in order to further equity and social justice goals; working with cities to identify urban priority lands and trails; and working to effectively communicate the broad range of environmental, human health, community resilience and economic prosperity benefits that could result from achieving the land conservation goals.
22. After reconvening in September 2017 and addressing the remaining issues identified in the Phase 1 report, the advisory group issued its final report in December 2017.
23. Recognizing that conservation lands may be lost forever once they are developed, that the county's growing population needs more and better access to urban greenspaces, and that land values are rising, the advisory group recommended that the county pursue opportunities to accelerate the pace of acquiring conservation lands.
24. The advisory group emphasized the critical importance of equity, because land protection provides region-wide benefits, and benefits must accrue to all residents. The advisory group emphasized the region's strong history of protecting open space, but that disparities in access to open space still exist and must be addressed.
25. The land conservation vision strives to maintain and sustain the livability and ecological integrity of our region. It will take time to fully implement and will require additional work over many years.
26. Certain strategies to accelerate the pace of acquisitions and address equity issues can be implemented now, while steps for implementing the full vision continue. Ongoing work includes community collaboration to address open space equity issues, including potentially refining the criteria for determining equity areas; work with the conservation futures citizen

oversight committee and cities on potential refinements to the funding allocation process to help accelerate the pace of open space acquisitions; work with cities to further identify their open space needs and priorities; and further analysis of funding approaches.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

NEW SECTION. SECTION 1. There is hereby added a new section to K.C.C. chapter 26.12 to read as follows:

A. In addition to and consistent with the provisions of this chapter and chapter 84.34 RCW, the following financial policies should guide the allocation of conservation futures tax levy funds for acquiring property interests for land conservation. Key funding goals include: accelerating the pace of acquisitions and thereby reducing their ultimate cost, spreading costs to future taxpayers who will benefit from lands protected in perpetuity, maximizing the use of available funds, prioritizing acquisitions in equity areas and parcels that are at high risk of development, geographic equity over time, and ensuring that sufficient reserves remain available to pursue emerging conservation opportunities.

B. Matching funds should not be required for proposals to acquire property interests in equity areas.

C. Issuing bonds can help accelerate the pace of acquisitions, lower the ultimate cost of acquisitions, and spread the acquisition costs to include future taxpayers who will also benefit from lands protected in perpetuity.

D. The pace of acquisitions should be accelerated by issuing bonds and allocating as much as eighty percent of anticipated annual conservation futures tax levy funds for debt service, consistent with sound financial principles. Factors for determining the extent of bonding should include, land values, existing levels of bonding, progress in accomplishing an accelerated rate of acquisitions, economic forecasts, bond covenants, current and projected interest rates and other relevant factors.

E. The county should pursue additional means to accelerate the pace of acquisitions, including partnering with nonprofit organizations and the private sector and identifying additional public and private

funding sources.

F. Conservation futures tax revenues should be used to protect parcels identified by King County and cities as part of the 2018 Land Conservation Initiative and additional parcels that have similar conservation attributes. If sufficient funds are not available to complete the acquisition of all available property interests in a particular year, priority should be given to protecting parcels in equity areas and parcels most at risk for development.

G. Funds should remain available on an annual basis to pursue ongoing and emerging opportunities to acquire conservation lands.

SECTION 2. Ordinance 8867, Section 1 and K.C.C. 26.12.010 are hereby amended to read as follows:

A process is hereby established for the annual allocation of the conservation futures tax levy funds to acquire open space lands, including green spaces, greenbelts, wildlife habitat and trail rights-of-way proposed for preservation for public use by either the county or the cities within the county. King County, cities within the county, citizen groups and citizens may make application for funds in this allocation process.

A. The county executive shall determine a date, no later than April 1, as a deadline for submission of applications for use of conservation futures tax levy funds. At least one month before the application submission deadline date, the executive shall provide all cities within the county notice of the opportunity to apply to the county for a share of the annual allocation of the conservation futures tax levy funds available for that year. Notice also shall be provided (~~((in the official county newspaper))~~) on the King County website.

B. No later than March 1, the county council may adopt a motion that provides direction to the citizen oversight committee on priorities for evaluating the applications within the open space criteria identified in K.C.C. 27.02.025.

C.1. By July 15, the citizen oversight committee shall make project recommendations and recommend funding allocations for each project to the executive, including:

- a. a description of each project including project location and acreage;

b. a report on how each project meets the county open space selection criteria, contained in K.C.C. 26.12.025; and

c. the amount of funding requested in each project application; and

d. any additional relevant criteria of the jurisdiction in which the potential acquisition is located.

2. The committee's recommendations are solely advisory and the executive and/or the council may adopt, alter, add to or decline to adopt all or part of the committee's recommendations in the budget process.

D. The executive's project and funding recommendation shall be included in the annual proposed appropriation ordinance for the ensuing budget year.

E.1. Except as otherwise provided in subsection E. 2. and 3. of this section, any application funded by this process shall be sponsored and forwarded by the jurisdiction in which the project is located. Except for acquisitions of property interests in equity areas, ~~((F))~~the jurisdiction shall commit to providing a matching contribution no less than the amount of conservation futures tax levy funds appropriated for the project before conservation futures tax levy funds are reimbursed to that jurisdiction. This contribution may consist of cash, land trades with a valuation verified by an appraisal by a Member of the Appraisal Institute (MAI) certified appraiser or the cash value, excluding King County conservation futures contributions, of other open spaces acquired within the previous two years that is either directly adjacent to the project or the county concludes to be directly linked to the property under application.

2. A jurisdiction may make an application in partnership with one or more jurisdictions if the proposed project lies wholly within the boundaries of those jurisdictions, or if another reason for such a partnership is articulated within the application, such as a trail connection, a community separator or coordinated salmon habitat preservation. In such a partnership application, the relationship, roles and responsibilities for acquisition, ownership, any matching contribution obligations and future maintenance must be described. If a partnership application is funded by this process, the jurisdictions shall be required to enter into an interlocal agreement with the county formalizing the relationship, roles and responsibilities for acquisition, ownership,

any matching contribution obligations and future maintenance.

3. For an application by a citizen or citizen group (~~((for a project in the city of Seattle))~~), except for acquisitions of property interests in equity areas, the citizen or citizen group shall commit to providing a matching contribution no less than the amount of conservation futures tax levy funds appropriated for the project. This contribution may consist of cash, (~~((in-kind voluntary contributions or))~~) land (~~((donations))~~) trades with a valuation verified by an appraisal by a Member of the Appraisal Institute (MAI) certified appraiser or the cash value, excluding King County conservation futures contributions, of other open spaces acquired within the previous two years that is either directly adjacent to the project or the county concludes to be directly linked to the property under application. For a project based on an application by a citizen or citizen group, the funds shall be reimbursed to the jurisdiction in which the project is located. If a citizen or citizen group's application is funded by this process, the jurisdiction in which the project is located shall be required to enter into an interlocal agreement with the county formalizing the relationship, roles and responsibilities for acquisition, ownership, any matching contribution obligations and future maintenance.

F. If the King County transfer of development program bank, as established by K.C.C. chapter 21A.37, is awarded conservation futures levy funds in order to purchase development rights and thereby preserve open space in accordance with purposes and provisions of this chapter, the bank is authorized to sell those development rights and to use the proceeds from that sale to acquire additional development rights, thereby preserving additional open space lands in accordance with the terms and provisions of this chapter. When transferrable development rights are purchased by the bank in accordance with K.C.C. chapter 21A.37 using conservation futures tax levy funds allocated to a project under K.C.C. 26.12.003.G., matching conservation futures tax fund credit is allowed for funds generated from the subsequent sales of the transferrable development rights, if the funds from those sales are used to purchase additional open space that is identified as being within the scope of the original conservation futures tax project.

G. Conservation futures tax levy funds shall be deposited in the conservation futures fund for the

purpose of administering, disbursing and accounting for conservation futures tax levy funds authorized by King County. Conservation futures tax levy funds shall be disbursed to projects previously approved by King County upon receipt and verification by King County of properly completed requests for payment of the funds. The office of performance, strategy and budget shall prescribe the form for the requests. The disbursement requests shall be made only for capital project expenditures that include all costs of acquiring real property, including interests in real property, and the following costs, though it shall not include the cost of preparing applications for conservation futures moneys: cost of related relocation of eligible occupants; cost of appraisal; cost of appraisal review; cost of title insurance; closing costs; pro rata real estate taxes; recording fees; compensating tax; hazardous waste substances reports; directly related staff costs; and related legal and administrative costs. The city shall transmit payment to its payees for current capital project costs within five days of the receipt by the city of its requested conservation futures tax levy funds. The city shall provide a list of authorized individuals to certify requests to King County. The city is responsible for the accuracy of the payment requests and the propriety and timeliness of its disbursements following receipt of conservation futures tax levy funds. Conservation futures tax levy funds may not be used to acquire any property or interest therein through the exercise of the power of eminent domain.

H. Projects carried out by a governmental agency in whole or part with conservation futures tax levy funds shall not be transferred or conveyed except by interlocal agreement providing that the land or interest in land shall be continued to be used for the purposes of K.C.C. 26.12.005 through 26.12.025 and in strict conformance with the uses authorized under RCW 84.34.230. Also, the land or interest in land shall not be converted to a different use unless other equivalent lands within the geographic jurisdiction of the governmental agency are received in exchange for the lands or interest in lands. This section does not prevent the grant of easements or franchises or the making of joint use agreements or other operations compatible with the use of a project as provided for in this section and authorized under RCW 84.34.230.

SECTION 3. Ordinance 13717, Section 1 and K.C.C. 26.12.003, as amended, are hereby amended to

read as follows:

The definitions in this section apply throughout K.C.C. 26.12.003 through 26.12.035 unless the context clearly requires otherwise.

A. "Annual allocation" means the allocation of conservation futures tax levy funds collected in the ensuing budget year and other moneys deposited in the conservation futures fund.

B. "Citizen oversight committee" means the citizen oversight committee, established under K.C.C. 2.36.070.

C. "Conservation futures tax levy funds" means moneys collected through the tax levy upon all taxable property in King County authorized by RCW 84.34.230.

D. "Conservation futures fund" means the King County conservation futures fund established under K.C.C. ~~((4.08.085))~~ 4A.200.210.

E. "Equity areas" means areas within King County that meet all three of the specified criteria listed below, or areas where the project proponents or proponents can demonstrate, and the citizen oversight committee determines, that residents living in the area experience disproportionately limited access to public open spaces as well as demonstrated hardships such as, but not limited to, chronic low incomes, persistent poor health, or high rates of utilization of free and reduced price school meals. The three specific criteria are: areas located in a census tract in which the median household income is in the lowest one-third for median household income for census tracts in King County; areas located in a census tract in which hospitalization rates for asthma, diabetes, and heart disease are in the highest one-third for census tracts in King County; and for areas within the Urban Growth Boundary, do not have a publicly owned and accessible park within one-quarter mile of a residence, or for areas outside the Urban Growth Boundary that do not have a publicly owned and accessible park within two miles of a residence. The department of natural resources and parks shall identify and update equity areas at least every five years.

F. "Governmental agency" and "agency" mean King County ~~((, the city of Seattle))~~ or any ~~((suburban))~~

city within King County.

((F.)) G. "Open space land" means the fee simple interest in open space land, farm and agricultural land and timber land as those terms are defined in chapter 84.34 RCW, for public use or enjoyment, or any lesser interest in those lands, including development rights, conservation futures, easement, covenant or other contractual right necessary to protect, preserve, maintain, improve, restore, limit the future use of or otherwise conserve the land.

((G.)) H. "Project" means open space land to which King County conservation futures tax levy funds are allocated for acquisition under the processes under K.C.C. 26.12.010.

~~((H. "Suburban city" means each incorporated city or town in King County, except the city of Seattle.))~~

SECTION 4. Ordinance 13717, Section 4 and K.C.C. 26.12.025 are hereby amended to read as follows:

In making an annual allocation of conservation futures tax levy funds, the county shall consider the following criteria: wildlife habitat or rare plant reserve; salmon habitat and aquatic resources; scenic resources; community separator; historic or cultural resources; urban passive-use natural area or greenbelt; park or open space system addition; and transfer of development rights program implementation. Additional criteria may include: passive recreation; education/interpretive opportunity; threat of loss of open space resources; ownership complexity; partnerships; stewardship and maintenance; equity; adopted financial policies; and any other criteria consistent with RCW 84.34.020.