

BRUCE LAING
KENT PULLEN
RON SIMS

AUDREY GRUGER
BRIAN DERDOWSKI

Introduced by: LARRY PHILLIPS
Proposed No.: 92-878

November 12, 1992
1%forOS.BD (ldt)

VELOED

ORDINANCE NO. **10715**

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AN ORDINANCE establishing the 1% for Open Space program; and creating a new 1% for Open Space fund.

PREAMBLE: Government sponsored capital projects located in undeveloped areas historically have been a major cause of unplanned growth and loss of critical natural and open space lands. In order to redress these past losses in King County and provide a permanent, appropriate source of funding for acquisition and restoration of natural and open space lands, King County will devote 1% of its funding for its capital projects to advance the preservation and stewardship of these critical lands. Government must provide a strong, positive example in the community of the importance of preservation and stewardship of our critical public open space lands as it also provides the other necessary infrastructure for growth and development. The 1% for open space program provides one means for establishing this necessary leadership. The program will also provide a key means for advancing the Growth Management Planning Council's County Wide Planning Policy FW-23, requiring jurisdictions to identify, establish, protect and steward urban and rural open space corridors of regional significance.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. There is hereby established a "1% for Open Space Fund." This fund shall be a first tier fund as described in Chapter 4.10.020 of the King County Code. The county's finance director shall be the fund manager.

SECTION 2. Definitions. A. "County construction project" means any project paid for by funds appropriated by King County, to construct or remodel any building, decorative or commemorative structure, park, road, bridge, sewer, solid waste facility, or any portion or portions thereof, within the jurisdiction of King County except projects excluded in Section 3 of this ordinance.

B. "Demolition costs" means payments for any work required for the removal of buildings or other existing structures from a county construction project site.

C. "Equipment costs" shall mean payments for any equipment or furnishings that are portable and of standard manufacture. Equipment shall not mean items that are custom designed or that create a new use for a facility, whether portable or affixed.

1 D. "Real property acquisition costs" shall mean
2 payments made for the purchase of parcels of land other than
3 specifically acquired for open space purposes, existing
4 buildings, and structures, and costs incurred by the county for
5 the appraisals or negotiations in connection with such
6 purchase.

7 SECTION 3. All appropriations for county construction
8 projects shall include an amount to be set aside for transfer
9 to the 1% for Open Space Fund, except for appropriations for
10 surface water projects, and maintenance projects, and except
11 for supplemental appropriations to correct actual or
12 anticipated project overruns not involving a change in project
13 scope. The transfer appropriations from the various projects
14 shall be pooled in the 1% for Open Space Fund except that when
15 bond proceeds are involved the 1% for Open Space project may be
16 retained in the respective bond fund if necessary to comply
17 with financial accounting requirements and bond conditions.

18 SECTION 4. The appropriations pooled in the 1% for Open
19 Space Fund shall be used to acquire public green spaces, green
20 belts, open space, trails, natural areas, and significant
21 wildlife habitat. They may also be used to provide funding for
22 habitat restoration projects on publicly owned lands. Such
23 appropriations should also be targeted for implementation of
24 the Growth Management Planning Council's adopted policies for
25 open space.

26 SECTION 5. Each year beginning with 1994 the executive
27 shall prepare and recommend to the council a 1% for Open Space
28 projects plan which identifies and describes projects to be
29 initiated during the coming budget year from the 1% for Open
30 Space Fund. It is recognized that the accuracy of this plan is
31 contingent upon the availability and interdepartmental
32 evaluation of the Capital Improvement Program request and
33 therefor may require update and amendment by the county council
34 upon its review. The annual 1% for Open Space projects plan
35 may include a special projects category to allow for

1 flexibility and responsiveness. This plan shall be approved by
2 the council as the basis for the 1% for Open Space Fund
3 appropriation.

4 SECTION 6. The minimum amount to be appropriated for open
5 space shall be the total county-funded portion of a capital
6 improvement project divided by 100, except that any county-
7 funded amount intended to be used for real property
8 acquisition, demolition, or equipment cost shall be excluded
9 from the total for purposes of the calculation. If project
10 funds are appropriated wholly or in part from a grant to the
11 county, and if the granting authority has approved use of a
12 portion of the grant amount for open space, then this amount
13 shall be appropriated in addition to any amount appropriated
14 from county funding sources.

15 SECTION 7. The funds appropriated pursuant to this
16 chapter shall be appropriated for transfer to the 1% for Open
17 Space fund. Upon the effective date of such appropriations,
18 funds shall be transferred to the project designated as the
19 "Transfer to 1% for Open Space Fund" and shall then be
20 automatically transferred to the 1% for Open Space Fund except
21 that when bond proceeds are involved the 1% for Open Space
22 monies may be retained in the respective bond funds if
23 necessary to comply with financial accounting requirements and
24 bond conditions. Expenditures from the 1% for Open Space Fund
25 shall be separately appropriated by the council based upon the
26 1% for Open Space projects plan submitted by the executive.

27 SECTION 8. For the purpose of transferring appropriations
28 to the 1% for Open Space Fund, a capital project entitled
29 "Transfer to 1% for Open Space Fund" shall be created for each
30 capital projects fund to which the 1% for Open Space
31 requirement applies. Whenever a new capital project fund is
32 created, a new "Transfer to 1% for Open Space Fund" project
33 shall be created within that capital projects fund to receive
34 open space monies for transfer to the 1% for Open Space Fund

1 provided the fund's capital projects fall within the
2 requirements of this chapter.

3 SECTION 9. In the case of any county construction project
4 which involves the use of General Obligation Bond proceeds,
5 amounts for open space described in this chapter shall be used
6 for projects and capital purposes consistent with the
7 ordinance(s) approved by the voters or the county council.
8 Bond proceeds shall be accounted for within the respective bond
9 funds or separately within the 1% for Open Space Fund whichever
10 is necessary to comply with these requirements.

11 INTRODUCED AND READ for the first time this 7th day
12 of December, 1992

13 PASSED this 25th day of January, 1993.

14 KING COUNTY COUNCIL
15 KING COUNTY, WASHINGTON

16 Audrey Dwyer
17 Chair

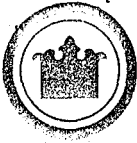
18 ATTEST:

19 Gerald A. Peterson
20 Clerk of the Council

21 ~~APPROVED~~ this 5th day of February, 1993.
22 Vetoed

23 Jim Hill
King County Executive

24 Attachments:



King County Executive
TIM HILL

King County Courthouse
516 Third Avenue, Room 400
Seattle, Washington 98104-3271

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CLERK
KING COUNTY COUNCIL

February 5, 1993

The Honorable Audrey Gruger, Chair
King County Council
Room 402
C O U R T H O U S E

Dear Councilmember Gruger:

It is with regret that I return the attached Ordinance 10715 with my veto. While I endorse the policy goals of this ordinance, I am concerned that it fails to recognize numerous legal restrictions of various County funds or to adequately consider significant policy implications for important County programs. Additionally, the effects of this ordinance on many of Metro's large-scale capital projects must be carefully analyzed before taking this action.

At my request, the King County Prosecuting Attorney's Office reviewed this ordinance for possible areas of legal concern. That review disclosed a significant number of legal and policy questions. In addition to legal restrictions on capital project expenditures, the ordinance as currently drafted raises serious questions of road fund diversion, compliance with various statutes concerning the hotel-motel tax, King County Airport operating funds, and compliance with various bond covenants.

In addition to these legal issues, significant policy questions need a more thorough analysis. For example, diversion of money from the road fund as envisioned in this ordinance would cause the County to lose eligibility for Rural Arterial Program funds, a program that produced \$280,000 for the County last year and up to \$500,000 in previous years. Diversion of funds from the King County Airport operating funds would seriously jeopardize the significant grant funds provided the airport by the Federal Aviation Administration.

As our County continues to grow, it is vitally important that we seize opportunities to ensure that future generations will enjoy open spaces, wildlife habitat, greenbelts and parks. Establishing a program to generate revenues with which to purchase these important properties is a laudable public policy goal.



The Honorable Audrey Gruger
February 5, 1993
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As presently drafted, however, the ordinance raises serious legal questions, as outlined in the enclosed opinion from the Prosecuting Attorney. As you will see in the opinion, a more thorough review would likely uncover additional legal issues. Therefore, I must veto Ordinance 10715.

I propose that a committee comprised of representatives of my staff, the Council, Metro, the Prosecuting Attorney's Office and the Citizens Open Space Oversight Committee be established to redraft the legislation after a more careful analysis of the issues presented by the Prosecutor.

Sincerely,



Tim Hill
King County Executive

Enclosure

cc: King County Councilmembers

ATTN: Cal Hoggard, Program Director
Jerry Peterson, Administrator

Pat Steel, Chief Financial Officer

Lois Schwennesen, Director, Department of Parks,
Planning and Resources

ATTN: Barbara Wright, Manager, Parks Division

James A. Greenfield, Manager, Office of Open Space

Norm Maleng, King County Prosecuting Attorney

ATTN: Richard Holmquist, Chief Civil Deputy
Robert Stier, Senior Deputy