



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**May 17, 2010**

**Ordinance 16825**

**Proposed No. 2010-0258.2**

**Sponsors Lambert**

1 AN ORDINANCE authorizing the condemnation of the fee  
2 title to an existing road right of way, for public highway  
3 purposes, including permanent public access to a regionally  
4 significant railroad corridor "railbanked" under the federal  
5 Rails to Trails Act, 16 U.S.C. 1247(d), within council  
6 district three.

7 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

8 **SECTION 1. Findings:**

9 A. In 1911, upon petition of Fall City-area property owners, King County Road  
10 No. 920, now known as Southeast 39th Place ("SE 39th Place"), was duly established by  
11 order of the King County board of commissioners. A record of the road establishment  
12 petition and proceedings ("the record") is on file in the map vault maintained by the road  
13 services division of the King County department of transportation. A copy of the record  
14 is on file with the King County council.

15 B. The record shows that King County acquired two portions of right of way for  
16 SE 39th Place in fee, and acquired a third portion of right of way for SE 39th Place by  
17 grant of easement from the Weyerhaeuser Timber Company ("Weyerhaeuser").  
18 Specifically, on November 19, 1911, in a document entitled "Waiver of Damages for  
19 Falls City Road" ("the easement"), Weyerhaeuser granted King County an easement for a

20 road generally sixty feet in width, over a route described in the easement and depicted on  
21 a survey map entitled "King County Engineer's Office Survey No. 988 C. Ronnei  
22 Petition" ("the survey"). A copy of the easement is Attachment A to this ordinance. A  
23 reduced-size copy of the survey is Attachment B to this ordinance. A full-size copy of  
24 the survey is on file with the King County council.

25 C. The easement granted by Weyerhaeuser runs over a parcel of land now  
26 identified as King County assessor's tax parcel no. 1124079028. The legal description for  
27 tax parcel no. 1124079028 is Attachment C to this ordinance.

28 D. Then and now, SE 39th Place served to connect the main thoroughfare  
29 between Carnation and Fall City, now known as State Route 203, to a railroad corridor  
30 ("the corridor"), which was then owned by the Chicago, Milwaukee and Puget Sound  
31 Railroad, and which still exists today.

32 E. In 1992, the Burlington Northern Santa Fe Railway Company, as successor in  
33 interest to the Chicago, Milwaukee and Puget Sound Railroad, contracted with King  
34 County to "railbank" the corridor under the National Trails System Act, 16 U.S.C.  
35 1247(d), also known as the federal Rails to Trails Act, and sold the corridor to King  
36 County. The corridor now serves as the regional Snoqualmie Valley Trail.

37 F. From the time that SE 39th Place was first established in 1911, and until  
38 March 2010, the public used SE 39th Place to access the corridor, first for railroad-related  
39 purposes, and then for recreational purposes. Nonmotorized public access to the corridor  
40 continued even after motor vehicle access was restricted by a gate installed where SE  
41 39th Place enters tax parcel no. 1124079028. Pedestrians, bicyclists and equestrians used  
42 the road to get to the corridor until March 2010.

43 G. In October 2009, Weyerhaeuser sold tax parcel no. 1124079028 to Rutherford  
44 Slough LLC ("the LLC"). The easement is listed as an exception to title in the deed  
45 conveying the parcel from Weyerhaeuser to the LLC.

46 H. In October 2009, personnel in the department of natural resources and parks  
47 learned that the LLC was considering restricting public access to SE 39th Place on tax  
48 parcel no. 1124079028. The director of the parks and recreation division and the deputy  
49 director of the department of natural resources and parks explained to representatives of  
50 the LLC that King County has a public highway easement for SE 39th Place, and that  
51 restricting public access would violate the easement. Thereafter, in an effort to be a good  
52 neighbor and partner, King County personnel made significant, repeated efforts to  
53 establish a cooperative relationship with the LLC, including numerous phone calls,  
54 emails and letters.

55 I. On October 30, 2009, parks and recreation division director Kevin Brown and  
56 department of natural resources and parks deputy director Bob Burns met with  
57 representatives of the LLC to discuss the access issue, including the LLC's concerns  
58 regarding impacts from the public's continued use of SE 39th Place to access the  
59 Corridor. On November 5, 2009, Kevin Brown sent a letter to a representative of the  
60 LLC addressing the concerns discussed at the October 30 meeting, including specific  
61 proposals to address parking, signage, potential trespassing, maintenance, hours of  
62 operation and trash collection at tax parcel no. 1124079028.

63 J. Thereafter, Kevin Brown and Bob Burns attempted to schedule follow-up  
64 meetings to confirm that the LLC's concerns had been addressed. They contacted  
65 representatives of the LLC not only by phone, but also at least nine times by letter and

66 email to set up a meeting. Despite these efforts, representatives from the LLC were not  
67 available to meet.

68 K. Representatives of the LLC finally agreed to hold a follow-up meeting on  
69 March 25, 2010. A representative of the LLC also expressed a commitment in two  
70 separate phone conversations, one with King County councilmember Kathy Lambert and  
71 another with Bob Burns, that the LLC would not physically block public access to SE  
72 39th Place on the LLC property.

73 L. Despite those assurances, and some time prior to the March 25, 2010, meeting,  
74 the LLC installed or caused ecology blocks to be installed to bar public access to SE 39th  
75 Place over tax parcel no. 1124079028.

76 M. Katy Terry, Bob Burns, King County councilmember Kathy Lambert and  
77 others met with LLC representatives on March 25, 2010. At that meeting, the LLC's  
78 representatives made it clear that the LLC would not remove the ecology blocks. The  
79 LLC's representatives stated that they would not even consider removing the ecology  
80 blocks unless and until King County authorized the LLC to develop tax parcel no.  
81 1124079028 under a not-yet-developed plan involving single-family residential  
82 development, with access from an entirely new road to be constructed at county expense.

83 N. The public has a significant investment in the corridor and has a right to  
84 access and use the regional trail that occupies the corridor.

85 O. As a railroad right of way "railbanked" under 16 U.S.C. 1247(d), the corridor  
86 is preserved under federal law for the future restoration of interstate rail service.

87 P. RCW 64.04.180 declares that railroad properties, including but not limited to  
88 rights of way, land held in fee and used for railroad operations, bridges, tunnels and other

89 facilities, are declared to be suitable for public use upon cessation of railroad operations  
90 on the properties. The statute further declares that it is in the public interest of the state  
91 of Washington that such properties retain their character as public utility and  
92 transportation corridors, and that they may be made available for public uses including  
93 highways, other forms of mass transportation, conservation, energy production or  
94 transmission or recreation.

95 Q. Chapter 8.08 RCW authorizes counties to exercise the power of eminent  
96 domain to acquire land and property for public use.

97 R. RCW 36.75.040 authorizes the board of county commissioners of each county  
98 to acquire land for county road purposes by condemnation, and to exercise the right of  
99 eminent domain as provided by law.

100 S. RCW 36.68.010 authorizes counties to establish park and playground systems  
101 for public recreational purposes and to acquire lands, buildings and other facilities for  
102 such purposes by condemnation.

103 T. RCW 36.89.030 authorizes counties to establish, acquire, develop, construct  
104 and improve open space, park, recreation and community facilities, and to acquire lands,  
105 buildings and other facilities for such purposes by condemnation.

106 U. RCW 67.20.020 authorizes counties and other entities to acquire by  
107 condemnation land for parks and other recreational facilities, and roads leading from said  
108 parks and other recreational facilities to nearby highways.

109 V. The King County council finds that it is necessary for King County to acquire  
110 additional property rights in the right of way for SE 39th Place over tax parcel no.  
111 1124079028 to ensure perpetual public access from State Route 203 to the corridor.

112           W. The King County council finds that in light of the "railbanked" status of the  
113 corridor, and the possibility that the corridor could be returned to active use for interstate  
114 rail service, it is necessary for King County to acquire sufficient property rights to ensure  
115 public vehicle access from State Route 203 to the corridor in perpetuity.

116           X. In order to acquire the property and property rights required to ensure public  
117 access from State Route 203 to the corridor in perpetuity, it is necessary for King County  
118 to condemn additional property rights in the road corridor that was established over tax  
119 parcel no. 1124079028 by order of the King County board of commissioners in 1911.

120           Y. The King County council finds that public health, safety, necessity and  
121 convenience demand that King County acquire fee title to the road corridor established  
122 over tax parcel no. 1124079028 by order of the King County board of commissioners in  
123 1911, and that the property, property rights and rights in property to the road corridor  
124 established over tax parcel no. 1124079028 by order of the King County board of  
125 commissioners in 1911 be condemned, appropriated, taken and damaged for the purposes  
126 herein described.

127           SECTION 2. The King County council has deemed it necessary and in the best  
128 interest of the citizens of King County that fee title to the road right of way described in  
129 Attachments A and B to this ordinance be condemned, appropriated, taken, and damaged  
130 as described in Attachment C to this ordinance, for public road purposes, including, but  
131 not limited to, nonmotorized access to the Snoqualmie Valley Trail, and subject to the  
132 making or paying of just compensation to the owners herein in the manner provided by  
133 law.

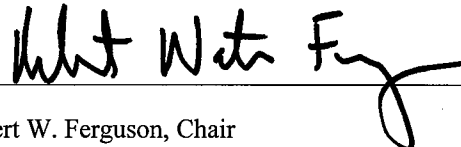
134            SECTION 3. The attorneys for King County are hereby authorized and directed  
135 to begin to prosecute the proceedings provided by law to condemn, take and appropriate

136 the land and other property interests, property rights and rights in property necessary to  
137 carry out this ordinance.  
138

Ordinance 16825 was introduced on 4/12/2010 and passed by the Metropolitan King County Council on 5/17/2010, by the following vote:

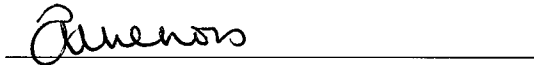
Yes: 9 - Ms. Drago, Mr. Phillips, Mr. von Reichbauer, Mr. Gossett,  
Ms. Hague, Ms. Patterson, Ms. Lambert, Mr. Ferguson and Mr. Dunn  
No: 0  
Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



Robert W. Ferguson, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 21st day of May, 2010.



Dow Constantine, County Executive

RECEIVED  
2010 MAY 21 PM 3:48  
KING COUNTY COUNCIL CLERK

**Attachments:** A. Waiver of Damages and Grant of Easement from Weyerhaeuser Timber Company to King County, B. Reduced-Size Copy of King County Engineer's Office Survey No. 988, C. Legal Descriptions--One Referenced Parcel for Condemnation and Its Associated Conveyance Document



WAIVER OF DAMAGES  
for  
FALLS CITY ROAD.

To The  
Honorable Board of County Commissioners,  
King County, Washington

WHEREAS, King County, Washington, has caused a survey to be made for a wagon road, sixty (60) feet in width, upon the petition of <sup>A.P.</sup> C. Ronnei, to be known as Falls City Road, Survey #988, which runs through the Northwest quarter of the Southwest quarter (NW $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section 11, Township 24 North, of Range 7 East, in a Southeasterly direction, and through the Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$  of NW $\frac{1}{4}$ ) of said Section, in a northwesterly direction, said lands being owned by the Weyerhaeuser Timber Company, and

WHEREAS, the said Weyerhaeuser Timber Company, upon request, has agreed to give to King County, Washington, an easement for said road, as the same has been laid out and surveyed, over and across the above described land, for the sum of One Hundred and Seventy-five Dollars (\$175.00),

NOW THEREFORE, in consideration of the premises and of the payment of the sum of One Hundred and Seventy-five Dollars (\$175.00) by said King County, Washington, to the said Weyerhaeuser Timber Company, of Tacoma, Washington, the receipt of which is hereby acknowledged, and of the further conditions and reservations hereinafter set out, the said Weyerhaeuser Timber Company, a corporation of Washington, hereby consents and agrees to give, and by these presents, hereby gives and grants to King County, Washington, a municipal corporation of the State of Washington, the right to lay out, establish, construct and main-

tain a County Road, sixty (60) feet in width, except as hereinafter expressly provided, over and across the lands above described, being the Southwest quarter of the Northwest quarter ( $SW\frac{1}{4}$  of  $NW\frac{1}{4}$ ) and the Northwest quarter of the Southwest quarter ( $NW\frac{1}{4}$  of  $SW\frac{1}{4}$ ) of Section 11, Township 24 North, of Range 7 East, in King County, Washington, to be known as Falls City Road, Survey #988, the same being more particularly described as follows, to-wit:

A strip of land 60 feet wide in the  $SW\frac{1}{4}$  of  $NW\frac{1}{4}$  of Section 11, Township 24 North, Range 7 East of the Willamette Meridian, being 30 feet on each side of the following described center line, as located on the ground. Beginning at a point 492.12 feet north and 271.42 feet east of the quarter corner common to Sections 10 and 11, Twp. 24 N., Range 7 E., W.M., which point is the beginning of a curve to the right having a radius of 2864.9 feet said curve starting from a course bearing  $N 55^{\circ} 46' 30'' W$  running thence along said curve a distance of 370 feet more or less to a point 720 feet more or less northerly from the quarter corner common to Sections 10 and 11, Twp. 24 North, Range 7 East, W. M., measured along the section line. Containing 0.51 acres, more or less.

Also a strip of land 60 feet in width in the  $NW\frac{1}{4}$  of  $SW\frac{1}{4}$  of Section 11, Twp. 24 N., Range 7 East, W.M., being 30 feet on each side of the following described center line as located on the ground, except that portion between station 26 + 52.17 and 30 + 50 which is 100 feet on left side of center line and that portion between stations 39+00 and 40+00 which is 50 feet on left side of center line. Beginning at station 20+75, a point on section line between Sections 10 and 11, said township and range, 167.00 feet more or less, southerly from the quarter corner between Sections 10 and 11; thence on a curve to the left having a radius of 238.73 feet for a distance of 93.75 feet; thence  $N 68^{\circ} 53' E$  a distance of 168.25 feet; thence on a curve to the right having a radius of 81.85 feet for a distance of 193.5 feet; thence on a curve to the left having a radius of 71.62 feet for a distance of 121.67 feet; thence on a curve to the right having a radius of

Checked by *Chas. W. D.*

359.3 feet for a distance of 81.25 feet; thence on a curve to the left having a radius of 359.3 feet for a distance of 113.02 feet; thence on a curve to the right having a radius of 359.3 feet for a distance of 108.33 feet; thence on a curve to the left having a radius of 286.48 feet a distance of 152.50 feet; thence on a curve to the right having a radius of 89.53 feet for a distance of 82.76 feet; thence S 38° 17' E for a distance of 432.97 feet; thence on a curve to the right having a radius of 882.00 feet for a distance of 523.00 feet more or less to station 41+46, a point on east and west sixteenth line of the SW<sub>1</sub> of Section 11, Twp. 24 N., Range 7 East, W.M., and easterly 1285 feet more or less distant from the sixteenth corner between Sections 11 and 10, Twp. 24 N., Range 7 East, W.M. Containing 3.54 acres, more or less, as the same has been heretofore surveyed and laid out, and is shown, marked and designated upon a certain blue print map, attached hereto, entitled:

King County Engineer's Office

Survey No. 988

C. Ronnei Petition

In Sections 10, 11 & 14, Twp. 24 N.,

Range 7 E., W. M.

March 1911 Scale 1 in. 400 ft. Vol. 338 Pgs 41-56

J. R. Morrison

County Engineer."

and which said blue print map is also marked for identification as follows: "Weyerhaeuser Timber Company, by Geo. S. Long, General Manager."

And the said Weyerhaeuser Timber Company does hereby acknowledge receipt of payment in full for all timber, and all other claims in damages which may have heretofore occurred or shall hereafter arise by reason of the laying out, construction and maintenance of the road as herein described.

It is hereby mutually agreed, that the rights hereby given to King County, Washington, are subject to the following terms and conditions.

1.

That the Weyerhaeuser Timber Company, its successors and assigns, shall at all times, by such means as may be necessary or convenient, have the right to cross and re-cross said road upon grade, or otherwise, for the purpose of conducting the operation of logging the timber from lands adjacent to, or in the vicinity of said road.

2.

If the said road shall cease to be used and maintained as a public highway by King County, Washington, or shall be abandoned, or the route thereof changed in any manner, then all rights under this agreement shall immediately cease and terminate, and the strip of land over which said road runs, shall become the private property of and revert to said Weyerhaeuser Timber Company, without further notice.

IN WITNESS WHEREOF, the Weyerhaeuser Timber Company has caused this instrument to be executed this 19<sup>th</sup> day of November, 1911, at Tacoma, Washington.

In Presence Of:

*W. L. ...*

WEYERHAEUSER TIMBER COMPANY.

By

*Wm. S. Long*  
*Paul ...*

