

Transportation Committee

Item: 2008-109

For the Metropolitan Council meeting of April 23, 2008

ADVISORY INFORMATION**Date Prepared:** April 15, 2008**Subject:** Authorization to Acquire Fee Title and to File Condemnation Petition, Resolution 2008-08**Proposed Action:**

It is recommended that the Metropolitan Council pass the attached resolution, which authorizes the Council's attorney to initiate condemnation proceedings in order to obtain fee title to the land identified on **Exhibit A** for the construction of Cedar Grove Transit Station.

Summary of Committee Discussion / Questions:

Peter Hanf, Associate General Counsel, presented this item to the committee. He said that council staff was seeking the authority to condemn a small area that would be used as a drainage pond for the Cedar Grove Transit project. He said that the entire project would be built on what is currently MnDOT right of way and that state GO bonds will be used, in part, to pay for the project. He explained that state GO bonds cannot be used to improve trunk highway right of way. Therefore, he said, before the Council can use the GO bonds, MnDOT must convey their interest in the land to the Council. He stated that MnDOT owns most of the land in fee and intends to declare this property as excess and convey it to the Council. There is a small area where MnDOT holds an easement interest rather than fee title. And by statute, MnDOT must release the highway easements to the underlying fee title land owner. Therefore, he said, this puts the Council in a position that if it is going to use the GO bonds to pay for the project that it has to obtain fee title to the easement area. He said that Council staff was attempting to locate the heirs of the land owner who conveyed the easement to MnDOT. An appraisal of the fee title interest would be obtained and that the Council would make an offer to the heirs before they filed a petition in condemnation. He said that the reason why condemnation was necessary was because there may be some difficulty finding all the heirs. The condemnation would act to clear title. He stated that the value of the underlying fee interest should be nominal since the land has been encumbered with a highway easement for over 50 years. And there is not much, if anything, you can do with the land.

Motion by Wolter, seconded by Beach, and passed.

Transportation Committee

Business Item

Item: 2008-109

Meeting date: April 14, 2008

For Metropolitan Council Meeting of April 23, 2008

ADVISORY INFORMATION

Date:	April 4, 2008
Subject:	Authorization to Acquire Fee Title and to File Condemnation Petition, Resolution 2008-08
District(s), Member(s):	District 15, Daniel Wolter
Policy/Legal Reference:	Minnesota Statutes 473.405, and Chapter 117
Staff Prepared/Presented:	Arlene McCarthy, Director, MTS 651-602-1754 Peter Hanf, Legal Counsel, 651-602-1749
Division/Department:	Metropolitan Transportation Services

Proposed Action

It is recommended that the Metropolitan Council pass the attached resolution, which authorizes the Council's attorney to initiate condemnation proceedings in order to obtain fee title to the land identified on **Exhibit A** for the construction of Cedar Grove Transit Station.

Background

- General obligation bonds cannot be used to improve trunk highway right of way.
- MNDOT must release highway easements to underlying fee title owners.
- In order to construct the Cedar Grove Transit Station, as part of the Urban Partnership Agreement (UPA) with the Federal Transit Administration, Met Council must acquire land from MNDOT in fee. Council staff must initiate a condemnation proceeding for fee title ownership to land that MNDOT holds an easement interest on.

Rationale

MNDOT intends to convey land to the Met Council for the Cedar Grove Transit Station project. MNDOT holds fee title to the right of way necessary for the transit station, busway, parking lot and future planned parking structure. MNDOT intends to quit claim their interest in the land to the Met Council.

Pursuant to the most recent plans, the drainage pond and a portion of the north parking lot are located on right of way where MNDOT holds an easement interest rather than fee title. By statute, MNDOT must release its easement rights to the underlying fee title land owner. MNDOT obtained the highway easements over 50 years ago; the fee title owners are no longer alive. In order to clear title and in order to meet the UPA schedule, Met Council must obtain fee title by condemnation. An appraisal will be done, all potential heirs will be named in the condemnation petition and the Council will deposit the appraised value with the court. Fee title to the land will pass to the Council and MNDOT will then release its easement interests thereon to the Council.

Funding

The property acquisition costs are included in the budget for the Cedar Grove Transit Station.

Known Support / Opposition

Dakota County and MVTA support this action. No known opposition.

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RESOLUTION NO. 2008-08
RESOLUTION AUTHORIZING ACQUISITION OF FEE TITLE

WHEREAS, the Council requires acquisition of fee title to land described on the attached **Exhibit A** for the construction of the Cedar Grove Transit Station; and

WHEREAS, the Metropolitan Council hereby finds and declares that it must acquire fee title to and possession of the property prior to the filing of an award by the court-appointed commissioners;

NOW, THEREFORE, BE IT RESOLVED:

1. That the acquisition of the land identified on the attached **Exhibit A** is for a public purpose and public use as defined by Minnesota Statutes § 117.025, is necessary for the furtherance of the construction of the Cedar Grove Transit Station and, in the judgment of the Metropolitan Council, such acquisition will further the public health, safety and welfare, and be undertaken in accordance with Minnesota Statutes and the Real Property Acquisition Policy of the Metropolitan Council; and
2. That the Council hereby directs its attorney to acquire the property identified on **Exhibit A** necessary for the Cedar Grove Transit Station by condemnation; and
3. That, pursuant to Minnesota Statutes Chapter 473, the Council has the authority to acquire the property by eminent domain and that such acquisition be in accordance with the procedures authorized under Minnesota Statutes Chapters 473 and 117, including, specifically, 117.042; and
4. That the Council hereby approves and certifies that the total just compensation for the land identified on **Exhibit A** as indicated in the appraisal submitted to the Council.

Adopted this _____ day of _____, 2008

Peter Bell, Chair

Pat Curtiss, Recording Secretary

EXHIBIT A
LEGAL DESCRIPTION

All that part of the following described tract:

The East 60 acres of the northwest Quarter (NW $\frac{1}{4}$) of Section 19, Township 27 North, Range 23 West; which lies within a distance of 112.5 feet on each side of the following described line:

Beginning at a point on the North line of said Section 19, distant 324.4 feet West of the Northeast corner thereof; thence run Southwesterly at an angle of 40 degrees 44 minutes with said North line of 4,400 feet, and there terminating; together with a triangular piece of land in the above described tract adjoining and Northwesterly of the above described strip and Southeasterly of the following described line: Beginning at a point on the Northwesterly boundary of the above described strip, distant 150 feet Southwesterly of its intersection with a line run parallel with and distant 53 feet West of the North and South quarter line of said Section 19; thence run Northeasterly to a point on said 33 foot parallel line, distant 150 feet North of said intersection; Also together with a triangular piece of land in the above described tract adjoining and Southeasterly of the first above described strip and Northeasterly of the following described line; Beginning at a point on the Southeasterly boundary of the first above described strip, distant 100 feet Southwesterly of its intersection with a line run parallel with and distant 33 feet West of the North and South Quarter line of said Section 19; thence run Southeasterly to a point on said 33 feet parallel line, distant 100 feet South of said intersection, Dakota County, Minnesota.

Abstract property.