

ADVISORY INFORMATION

Date Prepared: July 23, 2008

Subject: Authorization to Acquire Property and to File Condemnation Petition for the Construction of the Point Douglas Lift Station L-12 Improvements, MCES Project No. 802200, Resolution No. 2008-15

Proposed Action:

It is recommended that the Metropolitan Council pass the attached Resolution 2008-15 authorizing the Council to acquire by negotiation and, if necessary, to file a petition for condemnation of the property interests necessary for the Point Douglas Lift Station L-12 Improvements – MCES Project 802200.

Summary of Committee Discussion / Questions:

Council Member Beach asked if \$200 is fair market value. Jeanne Matross, Associate General Counsel, explained fair market value, and further explained that the price was reasonable since this parcel has been an easement to MNDOT since the 1940's for roadway purposes, there is minimal underlying value to the property.

Chair Leppik asked for an explanation of the fee interest vs. easement in this case. Ms Matross explained the issue of underlying fee interest, and the requirements to transfer land in this situation based on the circumstances of these easements and ownership.

Motion to accept proposed action was made, seconded and passed unanimously.



Environment Committee

Meeting date: July 22, 2008

For the Metropolitan Council Meeting of August 13, 2008

Business Item

Item: 2008 – 190

ADVISORY INFORMATION

Date:	July 9, 2008
Subject:	Authorization to Acquire Property and to File Condemnation Petition for the Construction of the Point Douglas Lift Station L-12 Improvements, MCES Project No. 802200, Resolution No. 2008-15
District(s), Member(s):	District 13, Richard Aguilar
Policy/Legal Reference:	Minnesota Statutes 473.504, Subd. 9 and Chapter 117
Staff Prepared/Presented:	William P. Moeller 651- 602-4504
Division/Department:	MCES c/o William G. Moore 651-602-1162

Proposed Action

It is recommended that the Metropolitan Council pass the attached Resolution 2008-15 authorizing the Council to acquire by negotiation and, if necessary, to file a petition for condemnation of the property interests necessary for the Point Douglas Lift Station L-12 Improvements – MCES Project 802200.

Background

MCES is constructing a new lift station, Lift Station L-12, on property which Mn/DOT has used for highway purposes since 1944. In recent times Mn/DOT has acquired land for highway purposes in fee. However, at the time Mn/DOT acquired the land for highway purposes at the L-12 location, Mn/DOT commonly acquired an easement for highway purposes as opposed to fee title.

Mn/DOT has agreed to transfer the land for L-12 to Metropolitan Council. However, because Mn/DOT had acquired an easement, under state law Mn/DOT must first offer the land to the original owners (or their heirs) before it can transfer the land to the Council. In lieu of itself offering the land to former owners, Mn/DOT has required that the Council file an eminent domain action naming both Mn/DOT and the former owners in order to clear the title to the property for L-12 and specifically eliminate the interests of the former owners in the land. The Council has had the interests of the former owners appraised and has made an offer to the heirs of the previous owners. The appraised value for the underlying fee value to the highway land was a nominal \$200.00. The Council was unable to locate all of the heirs so the condemnation petition will be published prior to a hearing on the petition in order to eliminate all underlying fee interests. Therefore, the petition filed for the acquisition of the land necessary for L-12 is more in the nature of a quiet title action (for which eminent domain is often used) and is being done at the request of Mn/DOT prior to the transfer to Met Council of Mn/DOT's interest (a permanent highway easement) in the land.

Rationale

Property rights acquisition requires Metropolitan Council authorization.

Funding

Funding is provided in the 2008 MCES Capital Budget, Project Number 802200

Annual or Capital	Project No.	Estimated Project Cost	Current Authorization	Unencumbered Funds	Requested Amount
Capital	802200	\$3,400,000	\$4,500,000	\$4,040,000	\$200

Known Support / Opposition

Supported by MNDOT; no known opposition.

METROPOLITAN COUNCIL
390 North Robert Street, St. Paul, Minnesota 55101-1634

RESOLUTION NO. 2008 - 15

RESOLUTION AUTHORIZING ACQUISITION OF FEE TITLE PROPERTY
LIFT STATION L-12, MCES Project No. 802200

WHEREAS, the Council requires acquisition of fee title for the construction of Lift Station L-12, MCES Project No. 802200; and

WHEREAS, the Metropolitan Council hereby finds and declares that it must acquire possession of the fee title required for the L-12 Lift Station, MCES Project No. 802200 prior to filing of an award by the court-appointed commissioners;

NOW, THEREFORE, BE IT RESOLVED:

1. That the acquisition of fee title identified in the Lift Station L-12, MCES Project No. 802200 plans and specifications is for a public purpose and public use as defined by Minnesota Statutes § 117.025, is necessary for the furtherance of the construction of Lift Station L-12, MCES Project No. 802200 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 Regional Administrator to acquire the fee title property necessary for the Lift Station L-12, MCES Project No. 802200 negotiation; and
3. That, pursuant to Minnesota Statutes Chapter 473, the Council has the authority to acquire the property interests by eminent domain that the Council hereby directs its attorney to acquire by eminent domain those property interests, including fee title property, permanent and temporary easements which cannot be acquired by direct negotiation and that such acquisition be in accordance with the procedures authorized under Minnesota Statutes Chapter 473 and 117, including, specifically, 117.042; and
4. That the Council hereby approves and certifies that the total just compensation for the fee title being acquired for construction of the Lift Station L-12 Project is indicated in the appraisal submitted to the Council.

Adopted this 13th day of August, 2008.

Peter Bell, Chair

Pat Curtiss, Secretary