

E Environment Committee

Meeting date: August 28, 2007

For the Metropolitan Council of Sept. 12, 2007

ADVISORY INFORMATION

Date: August 20, 2007
Subject: Authorization to Acquire Fee Title, Permanent and Temporary Easements and to File Condemnation Petitions for the Lake Minnetonka Area Project, MCES Project 802800, Resolution No. 2007-27
District(s), Member(s): Mary Hill Smith, District #3
Policy/Legal Reference: Minnesota Statutes 473.504, Subd. 9 and Chapter 117
Staff Prepared/Presented: Bill Cook, Engineering Planning Manager, 651-602-1811
Division/Department: MCES c/o William G. Moore, 651-602-1162

Proposed Action/Motion

It is recommended that the Metropolitan Council pass Resolution 2007-27 which authorizes acquisition of fee title property, permanent and temporary easements necessary to implement the system improvements identified in the Minnesota Pollution Control Agency approved Lake Minnetonka Area Regional Interceptor Improvements Project Facility Plan, MCES Project 802800, and which authorizes the Council's legal staff to initiate condemnation proceedings for those parcels which staff cannot acquire by negotiation.

Issue(s)

- In order to complete acquisition of the necessary property interests, Council staff must initiate the acquisition process and, if necessary, the Council must initiate condemnation proceedings for those parcels which the staff cannot acquire by negotiation

Overview and Funding

The Lake Minnetonka Area Regional Interceptor Improvements Project Facility Plan identifies several projects for which land acquisition is needed for either permanent facilities or construction-related activities. Permanent facilities include lift stations, meter vaults and valve structures. Construction activities include items such as drilling pits. The planned projects are moving into a design phase and siting drives design details. Acquiring land at this stage ensures that the design is based on the actual facility locations and facilitates timely project completion. In several areas, land is currently available or likely to become available that appears to be suitable based on initial review. The current real estate market also provides an incentive to move ahead with land acquisition.

The proposed projects are:

- Consolidating lift stations L46 and L49 in Orono and L39 and L40 in Mound
- Rebuilding lift station L38 in Mound and improving interceptors leading to and away from L38
- Rebuilding lift station L26 and installing a parallel force main in Wayzata
- Upgrading the Excelsior system, including replacing several small lift stations, upgrading lift stations L19 (Excelsior) and L21 (Lake Virginia), and installing parallel interceptors and force mains

BUDGET INFORMATION

Annual or Capital	Year Approved	Estimated Project Cost	Current Authorization	Unencumbered Funds	Requested Amount
Capital	2007	\$113,000,000	\$17,000,000	\$3,940,000	\$3,000,000

METROPOLITAN COUNCIL
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RESOLUTION NO. 2007-27

**RESOLUTION AUTHORIZING ACQUISITION OF FEE TITLE PROPERTY, PERMANENT AND
TEMPORARY EASEMENTS**

Lake Minnetonka Area Regional Interceptor Improvements Project, MCES Project 802800

WHEREAS, the Council requires acquisition of fee title property, permanent and temporary easements for the construction of the Lake Minnetonka Area Regional Interceptor Improvements Project, MCES Project 802800; and

WHEREAS, the Metropolitan Council hereby finds and declares that it must acquire possession of the fee title and easements required for the Lake Minnetonka Area Regional Interceptor Improvements Project, MCES Project 802800 prior to completing design of the project improvements;

NOW, THEREFORE, BE IT RESOLVED:

1. That the acquisition of fee title and permanent and temporary easements for the projects identified in the Lake Minnetonka Area Regional Interceptor Improvements Project Facility Plan 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 Lake Minnetonka Area Regional Interceptor Improvements Project 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, permanent and temporary easements necessary for the Lake Minnetonka Area Regional Interceptor Improvements Project by 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 Chapters 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 property, permanent and temporary easements be acquired for construction of the Lake Minnetonka Area Regional Interceptor Improvements Project as indicated in the appraisals submitted to the Council.

Adopted this 12th day of September, 2007.

Peter Bell, Chair

Pat Curtis, Recording Secretary