



CITY OF MARSHALL
Public Improvement and Transportation
Committee
A g e n d a
Thursday, February 29, 2024 at 5:30 PM
344 W. Main St., City Hall

APPROVAL OF AGENDA

APPROVAL OF MINUTES

1. Consider Approval of the Minutes

NEW BUSINESS

2. Elaine Park Discussion

ADJOURN

NOTICE IS HEREBY GIVEN that a quorum of the Marshall City Council may be present. No action by the Council will be taken during this meeting. Action will only be taken by members of the Public Improvement and Transportation Committee to conduct the meeting.

Disclaimer: These agendas have been prepared to provide information regarding an upcoming meeting of the Common Council of the City of Marshall. This document does not claim to be complete and is subject to change.

CITY OF MARSHALL AGENDA ITEM REPORT

Presenter:	Chair
Meeting Date:	Thursday, February 29, 2024
Category:	APPROVAL OF MINUTES
Type:	ACTION
Subject:	Consider Approval of the Minutes
Background Information:	Enclosed are the minutes from the previous meeting.
Fiscal Impact:	
Alternative/ Variations:	Staff encourages Members to provide any suggested corrections to the minutes in writing to City Clerk, Steven Anderson, prior to the meeting.
Recommendations:	That the minutes from the previous meeting be approved as filed with each member and that the reading of the same be waived.

-UNAPPROVED-

MINUTES
PUBLIC IMPROVEMENT/TRANSPORTATION COMMITTEE MEETING
February 13, 2024
4:00 PM

MEMBERS PRESENT: Schafer, Lozinski, Alcorn

MEMBERS ABSENT: None

STAFF PRESENT: Director of Public Works/City Engineer Jason Anderson,
Assistant City Engineer Eric Hanson,
Senior Engineering Specialist Geoff Stelter
Director of Administrative Services E.J. Moberg
Park Maintenance Supervisor Preston Stensrud
Public Ways Maintenance Supervisor Dean Coudron

OTHERS PRESENT: None

Call to Order

Schafer called the meeting to order at 4:00 pm.

1. Approval of the Minutes

MOTION BY LOZINSKI, SECOND BY ALCORN to approve the minutes of the December 12, 2023 Public Improvement/Transportation Committee meeting. ALL VOTED IN FAVOR. MOTION PASSED 3:0.

2. Project ST-001-2024: Chip Sealing on Various City Streets and Project ST-002-2024: Bituminous Overlay Project

Project ST-001-2024: Chip Sealing on Various City Streets – Annual chip seal project. The estimated total project cost is approximately \$161,267, including all streets shown below, excluding “Alternate Streets”. The 2024 Street Department budget includes a \$165,000 line item for this project.

ST-002-2024: Bituminous Overlay Project – Annual mill and overlay project. Current project estimate for mill and overlay is \$605,745, excluding “Alternate Streets” and ADA sidewalk ramp work. The 2024 Capital budget includes \$675,000 for this project.

Discussion was held regarding value, benefits and practices of chip sealing and discussion of various agencies and conferences. Anderson referred to prior analysis of chip seal versus overlay indication approximately \$33,000/mile for chip seal and approximately \$250,000/mile for overlay, a fraction of the cost and will continue to monitor. Lozinski requested the motion be split into two projects.

MOTION BY LOZINSKI, SECOND BY ALCORN to recommend to move forward to City Council with authorization to advertise for bids for Project ST-002-2024: Bituminous Overlay Project. ALL VOTED IN FAVOR. MOTION PASSED 3:0.

MOTION BY SCHAFFER, SECOND BY ALCORN to recommend to move forward to City Council with authorization to advertise for bids for Project ST-001-2024: Chip Sealing on Various City Streets. VOTING FOR: SCHAFFER, ALCORN. VOTING AGAINST: LOZINSKI. MOTION PASSED 2:1.

3. Project ST-010: Lyon Circle Reconstruction Project

The project is proposed to include the complete reconstruction of the road and curb and gutter. The newly constructed road will be narrower than the current circle, a reflection of the very low traffic demand for the dead-end circle. In addition, sanitary sewer will be replaced and the water main in the circle will be extended to the end of the circle and a fire hydrant will be added to the dead end. This project has been presented and discussed at the following PI/T meetings: 01/24/2023, 02/14/2023 and 10/24/2023. At the 10/24/2023 meeting, PI/T approved a motion directing City staff to get input via a public informational meeting with the existing property owners. Notices were mailed to all owners, and the informational meeting was held on 01/18/2024. No property owners attended the meeting. In addition, this item has been placed on the 02/13/2024 City Council meeting for the resolution necessary for the initiation of the special assessment procedures, which is the "Resolution Ordering Preparation of Feasibility Report on Improvement". This item was placed on the agenda to expedite the process if the City Council elects to complete this project in 2024. If Council wishes to complete the project in future years, the item can be pulled from the 2/13/2024 City Council agenda prior to the meeting. The project is identified in our 2024 CIP at a total cost of approximately \$283,000. All improvements are proposed to be assessed according to the current Special Assessment Policy, including but not limited to participation from Marshall Municipal Utilities, Wastewater Department, Surface Water Management Utility Fund and Ad Valorem participation. Final approval of the project must include determination of funding sources.

Anderson presented the project. Indicated that an informational meeting was scheduled with no attendance. Hanson did receive a call from 804 (27-665003-0) today, was aware of project, wondering what assessments would be, seemed to be in favor of the project. Anderson referred to discussions with Finance and regarding the challenge of financing this year. Anderson indicated staffing is in line to do for this year, but if Committee determines proceeding next year is the better scenario, the project can be held until 2025 but City staff probably would continue to attempt to contact individual owners again this year. Lozinski indicated street is deteriorated and has been for many years and good project to do this year. Property owner notification discussed. Schafer indicated it is a visible "side yard street" as the City hosts events and next to a hotel. Schafer inquired on the bonding schedule of the project. Moberg indicated the original bonding schedule included having Council authorize the sale of bonds at the first meeting of February. This project pushed back that timeline to see if this committee wanted to include Lyon Circle with 2024 bonding. Moberg indicated more favorable recent projections on interest costs. SRE contract award and construction timing will have an impact and need to firm up dollar amounts and money in hand for SRE. In addition SRE is contingent on grant funding.

MOTION BY LOZINSKI, SECOND BY ALCORN to recommend to Council the approval of the provided project layout and general design and recommend to City Council to Receive the Feasibility Report and Call for Hearing on Improvement. ALL VOTED IN FAVOR. MOTION PASSED 3:0.

4. Fencing Review – 4th Street Culverts

PI/T Committee members approached City staff regarding a desire to replace existing chain link fencing that is in place at the N 4th Street culvert crossing, just northeast of W Marshall Street. The existing fencing is not attractive and is generally in poor condition. Following a review, City staff identified the N 4th Street culvert crossing near W College Drive as being similar in condition and age. City Street Department staff has since received quotes for replacement chain link fencing, as well as fabricated fencing that would be similar to the fencing that exists at Memorial Park. Both would be colored to match the "Marshall green" color that is used predominately throughout our parks system. The chain link fencing option would cost roughly \$25,000, installed. The fabricated fencing option would cost roughly \$59,000, for materials only. Extra cost would be required for footing and fencing installation. City staff has explored utilizing Municipal State Aid Street (MSAS) funds for this fencing because both install locations are on the State Aid network. To utilize State Aid funds, MnDOT will require engineering plans and a bid or quote process based off approved plans. Before staff puts the effort into plan creation, we wanted a recommendation from the PI/T Committee regarding the type of fencing that will be installed. Cost as low as \$25,000 for chain link fencing to be

installed. Cost of the prefabricated fencing install is unknown currently, but the materials cost is \$59,000. Staff would propose utilizing MSAS funds, if allowed by MnDOT State Aid.

Anderson presented the project. Introduced by Schafer at a previous meeting. State Aid funding discussed whereas this may be a lower priority, but it is an acceptable use of State Aid funds. Both options were discussed and challenges discussed regarding footings. History of current fence discussed.

MOTION BY LOZINSKI, SECOND BY ALCORN to approve the recommendation of City Staff for a green, vinyl-coated chain link fence for these locations and to receive quotes for the project. ALL VOTED IN FAVOR. MOTION PASSED 3:0.

5. Project ST-015: 2025 MnDOT College Drive Improvement Project (SP 42014-40) – Aesthetics/Landscaping

MnDOT is proceeding with plans to complete State Project 4204-40, the reconstruction of MN 19/College Drive from roughly 400-FT west of Marlene Street to N. Bruce Street within our city limits. The project is a comprehensive reconstruction project that includes new pavement, sidewalk, and city utilities. Some notable changes include the addition of a roundabout, the removal of a traffic signal, the addition of RRFB pedestrian crossings, optimized road widths, access reductions, and strategically placed center medians. MnDOT includes an aesthetics budget for each State project that passes through a municipality. Typically, this amount is 2% of MnDOT's project costs. At this point, there is limited "aesthetic" features built into the project. It was determined early that the City would have limited desire to reach for heightened aesthetic features (large planting zones, colored concrete, benches, public art, etc.) within the MnDOT right of way. Some of the lighting will be covered by the aesthetic budget and the roundabout at S 2nd Street/Country Club Drive/MN 19 is proposed to have some landscaping. After reviewing with MnDOT, City staff has given feedback that the landscaping should be reduced in the roundabout. We've requested that the "Marshall" sign stay but that it has the ability to be changed for a logo change. In addition, limestone should not be used and it should have a granite element to it instead. Lastly, staff advised that the amount of roundabout landscaping should be reduced to be generally around the sign only, and the remaining land should be turf grass for easy maintenance.

Anderson presented the project. Roundabout plans reviewed. Designed for MnDOT oversized/overweight traffic. There will be the Marshall "m" logo attached to a precast concrete sign that will be designed to look like granite rock, rock mulch, plantings, rock outcropping and potentially more turf grass to minimize maintenance. Schafer inquired if single lane with trailer tracking apro.. Anderson indicated MnDOT designed it to pass oversize/overweight vehicles. Schafer commented on the future value of clean sidewalks and clean curb and effective lighting along the reconstructed corridor. Hanson indicated that the roundabout precast concrete sign will designed so that logo is changeable if needed in the future.

NO VOTING was conducted on this item. Committee indicated concurrence with City staff's guidance for landscaping on the project.

6. 2022 Active Transportation (AT) Infrastructure Project – 60% Plan Set

The City of Marshall was awarded \$360,381 in Active Transportation (AT) Infrastructure Program grant funds for construction of several city-wide pedestrian improvement projects including an enhanced pedestrian crossing (RRFB) at US Hwy 59/A Street, a shared use trail along US Hwy 59 between Boyer Drive & Windstar, and the re-alignment of the Camden Trail at County Road 7 along with an enhanced crossing (RRFB). The projects will need to adhere to State Aid standards and require approval from the District State Aid Engineer. City staff is included sheets from the 60% plan set for PI/T Committee review. The intent of this review is to discuss the layout of the proposed enhancements and ensure that the Committee is in agreement with the proposed plan. Project PK-013 consists of three project areas with an estimated construction cost of \$413,125, including 10% contingency. All costs outside of the AT Grant are proposed to be paid with Municipal State Aid Street (MSAS) funds. City staff has already submitted to advance \$150,000 in MSAS funding for this project.

Anderson presented the project locations.

CSAH 7-Schafer inquired regarding assessments to the project. Anderson indicated no assessments are proposed for the project. Anderson also discussed potential speed study being completed on CR7/Airport Road. Snow removal questioned by Lozinski. Pedestrian traffic discussed and limited snow removal during winter months. Stensrud indicated that if sidewalk were installed along CR7 between the existing trail and Westwood Drive that he would work to have it trail width now. Anderson summarized to pull the trail/sidewalk along CSAH 7 with Committee concurrence.

A/Main - Not approved through MnDOT yet. Minor bumpouts to shorten crossing and RRFBs on north side of the intersection. No center median as did not want to take away left turn on either side.

Boyer/Windstar – Working with MnDOT regarding ramp tie-in at Boyer. Will be future MnDOT cooperative agreement. Future trail connections discussed.

NO VOTING was conducted on this item.

7. Project PK-011: C Street/Southview Drive Trail

City staff secured a Transportation Alternatives grant in 2020 in the amount of \$399,528 for the construction of this shared use path. In addition, city engineering staff submitted for Active Transportation grant funds in 2024 with the hope of the AT grant funds covering the remaining local share of the project costs. If an AT grant is not secured, the city's Municipal State Aid Street (MSAS) funds will be used to cover all costs in excess of \$399,528. This project is scheduled in our capital plan for 2025. Because the project is federal, the Engineering Department has a large permitting and process burden to overcome. Numerous steps have already been taken, but we are now looking to finalize our general route and plan for the project so we can finalize design and keep the process moving. Included in the packet is the proposed trail route and general features. City engineering staff will need to procure some easements from various property owners and work through some utility adjustments.

Hanson presented the project. It was discussed need easement from Carr Properties through Tiger Park, easement from School District, easement from Carr Properties near Dollar Tree property where filling in boulevard, and MnDOT concurrence to use their property and Perkins concurrence to close their access. Discussion regarding location of path on the south side of Southview Drive and not on the north side, also discussion regarding the painted on-street bike trail. Staff looked at putting path on Hy-Vee side, but numerous complications regarding Coleman/Urban elevations, heavy traffic at Hy-Vee entrances, and signal pole at the intersection with US59. History of location discussed. Search of existing easements will be conducted.

NO VOTING was conducted on this item. Committee concurrence on proposed route and general design considerations for this project.

8. Project ST-007: UCAP Bus Shelter Project

Community Transit of United Community Action Partnership (UCAP Transit) has been awarded a grant project that totals \$207,000, including grant dollars and local match. UCAP Transit approached City staff in 2021 regarding the engineering and construction administration of this project. This project includes the installation of bus shelters and ADA sidewalk improvements at various locations as follows: Camden Drive/Riverview Apartments, Freedom Park/Dogwood Ave, Susan Drive/Baseline Road, N 4th Street/Darlene Drive (maps attached). Most of the improvements will be located in City right-of-way. UCAP Transit will be responsible for all capital outlay for this project, and the City will serve as the project sponsor for the grant and the engineer of record for the project. A Memorandum of Understanding between UCAP Transit and the City of Marshall will be executed at a future City Council meeting and prior to advertisement for bids. This project is similar to the UCAP Transit Bus Shelter project (Z52) that the City administered on behalf of UCAP Transit in 2020 where shelters and associated sidewalk improvements were installed

at N 4th Street/Redwood, S 4th Street/Stephen, and Birch Street near Village Drive. The project's grant match will be provided by UCAP Transit. There is no direct cost to the City of Marshall. The City's contribution is the professional staff hours required to create, administer, and deliver the construction project for UCAP Transit. The City will charge the cost of engineering and administering the project to UCAP in the amount of 16% of project costs, estimated at \$33,120.

Anderson presented the project. Lozinski inquired on snow removal. Anderson indicated that UCAP will be responsible for snow removal per the proposed Memorandum of Understanding. Authorization to advertise for bids will be presented at a future Council meeting.

MOTION BY LOZINSKI, SECOND BY SCHAFER to approve of the project design and authorize City staff to bring forward for City Council consideration. ALL VOTED IN FAVOR. MOTION PASSED 3:0.

9. Project PK-015: Independence Park Parking Lot

The 2024 capital budget includes \$130,000 in funding allocated toward Independence Park "back" parking lot paving. City Street Department staff has taken core samples of the existing gravel depth and determined the depth to be approximately 8 inches. The majority of the material is old street milling material that was hauled in and placed. The millings do not meet a specific standard and would not be considered a consistent or quality base material. City Engineering Department staff has created some cost estimates and construction options for the PI/T Committee to consider. All options are in excess of the \$130,000 included in the capital budget. Four options for a project were created, two include concrete and two include bituminous surfacing. Two of the options include the full "subcut" and two of the options do not. All options include curb and gutter and, therefore, storm sewer. Parks staff believes this is critical to ensure that vehicular traffic stays on the paved surface and doesn't enter the park. Engineering staff would recommend a full "subcut" to ensure a quality base and give the project the best opportunity for success, but a decision could be made to build on top of the existing material to save costs. Costs for the four options varies from \$195,000 to \$264,000.

Anderson indicated costs estimates are higher than \$130,000 in current CIP. City staff prepared four options, two bituminous paving and two concrete paving, one bituminous and concrete with full sub-cut and one bituminous and concrete that builds on existing granular material. City staff is recommending full sub-cut as it helps ensure quality construction. Costs range from \$195,000-\$264,000, which includes engineering. Stensrud presented the project indicating it has been a potential project for many years. Options would be to do sub-cut and get the gravel in this year and then finish next year. Another option would be to build parking lot and leave driveway until next year or a hybrid. Stensrud proposing to do curb and gutter and asphalt but not storm sewer nor concrete. Stensrud indicated sufficiency of holding the \$130,000 funds budgeted for 2024 and bring forward in 2025 with entire amount budgeted, however splitting will incur extra mobilization costs over two separate projects. Lozinski inquired on necessity of curb and gutter. Schafer inquired on installation of drop outlets for release would still define edge of parking lot. Curb and gutter installations in other communities discussed. Piping/manholes/sewers discussed. Lozinski indicated support of concrete without curb and gutter instead of bituminous with curb and gutter. Schafer inquired regarding post delineation. Stensrud replied posts would then need to be replaced and would add significant costs.

MOTION BY LOZINSKI, SECOND BY ALCORN for full sub-cut with concrete surfacing. Moberg indicated options for doing the project this year based on amounts at the January abatement bonds hearing. Schafer indicated the importance of staying at or below projections. Lozinski inquired on potential savings of doing project in sections. City staff to consider the input provided and bring back a proposed project. ALL VOTED IN FAVOR. MOTION PASSED 3:0.

10. Project SWM-009: Canoga Pond Outlet Project

Over the past year, it was brought to the attention of City staff that the water elevation of the stormwater pond that serves the Wilke-Miller-Buesing subdivision was staying at an abnormally high level. City staff investigated and identified that the pond outlet had been adjusted by an unknown party. Roughly 40-FT of concrete pipe was removed

and visible on the ground surface, and plastic pipe was installed in its place to the pond. The plastic pipe was set to a higher elevation in the pond. City televising identified a very poor connection between the existing concrete pipe and the new plastic pipe. The existing pond outlet was installed in 1988 and was assessed to the benefitting properties. City staff considers this pond outlet to be a city facility. To remedy this poor outlet, City staff is proposing to remove and replace the existing pond outlet. The pipe size is 18" today, and staff would propose to install 18" pipe again. Staff would propose to install a new pipe from the pond to the nearest manhole to the east, where the pipe changes direction and heads north to the MN 23 road ditch. By replacing this pond outlet, the stormwater pond will re-gain significant stormwater storage. City staff will need to work with the adjacent property owner to secure necessary permanent and/or temporary easements for construction of the outlet improvements. The cost of the project is identified as \$75,000 in the CIP. Estimate to be forthcoming. The project will be funded by the Surface Water Management Utility Fund.

Anderson presented the project. Project has been in the CIP for several years. The property owner, Taylor, has inquired regarding pond elevation increases over the years. Anderson indicated that following a city review, it is clear that the outlet to the pond has been adjusted and the normal pond water level is now nearly 1.5-FT higher than it was prior to adjustment. It is unclear who tampered with the pond outlet. Anderson indicated restoration of steps to reinstate flood protection for this pond. Anderson indicated current conditions of the pond and surrounding area. Taylor owns the pond, and City maintains the outlet pipe. Anderson indicated it is a critical outlet for the area.

MOTION BY LOZINSKI, SECOND BY ALCORN to recommend the proposed Canoga Pond Outlet Project to the City Council. ALL VOTED IN FAVOR. MOTION PASSED 3:0.

Other Business

No other business.

Adjourn

MOTION BY ALCORN, SECOND BY SCHAFER to adjourn the meeting. ALL VOTED IN FAVOR. MOTION PASSED 3:0. Meeting adjourned at 5:20 pm.

Respectfully submitted,
Lona Rae Konold, Administrative Assistant



MEMORANDUM

TO: Public Improvement and Transportation Committee (PIT)

FROM: Sharon Hanson, City Administrator

DATE: February 23, 2024

SUBJECT: Elaine Park Neighborhood February 29, 2024, 5:30 PM Meeting to Discuss Future Maintenance Responsibilities or Ownership

Please see letter dated February 9, 2024, addressed to Elaine Park neighborhood.

Please also note, that Elaine Park was also discussed with property owners in 2012, and in addition, Michael Park. However, for this meeting on February 29, 2024, only Elaine Park abutting property owners were contacted due to the original inquiry received by the city in late 2023.

On February 13, 2012, the city of Marshall met with Elaine Park neighborhood (and Michael Park neighborhood) to discuss options for future maintenance and use of these parks. Although we don't have specific minutes or action following this meeting in 2012, it is known that the city did not assume maintenance of the parks following this meeting, nor was any legal land transfer processes started nor completed. Further, it is understood by long-standing property owners abutting Elaine Park that the city of Marshall has never maintained the park, it was always maintained by abutting property owners.

Further, it is known that in 2006 the PIT Committee reviewed this matter and decided that the City not vacate the park properties and with the understanding that the "area residents continue to maintain them".

The city was approached by a property owner to maintain Elaine Park. Some options (as stated in the February 9, 2024, letter) for park maintenance include:

- A) The City maintains the park by mowing the green space or establishing other low-maintenance vegetation such as native plantings. With this option, the City would stake the boundaries of the park and require that any personal property located within the park be removed from the park. Currently it appears that a playground set and a portion of a utility shed are located within the park boundaries.
- B) The City attempts to obtain clear title to the park property. Should the City be able to clear title to the park property, it would value the property, establish a sales price for it, and divide and sell the property equally to adjoining property owners based on the established sales price.

C) The City re-establishes the premise that Elaine Park is a “neighborhood park” and leaves responsibility for the maintenance of the park to adjoining property owners. The City would not stake the boundaries of the park and leave personal property in Elaine Park within its discretion unless a complaint is received.

The city has consulted with City Attorney Firm Kennedy and Graven who advised that since the developer gave the City an easement for Elaine Park when the subdivision was established (similar to the streets and other easements dedicated to the City on the plat), the City does not have fee title to the park property, only an easement. Therefore, if the neighborhood would want to consider dividing up the park to abutting property owners, legal processes would have to take several steps that could complicate a flawless property transfer process.

City staff are recommending that we obtain direction from the Elaine Park neighborhood property owners regarding future maintenance and possible ownership, as well as supporting legal processes that enable that neighborhood direction.

February 9, 2024

Dear Resident,

In 1947, Eatros Place was platted and developed as a new housing development in the City of Marshall. As part of this development, Elaine Park was established. By dedicating Elaine Park to the City on the plat, the developer gave the City an easement for the park (similar to the streets and other easements dedicated to the City on the plat). This means that the City does not own the park property, it only has an easement to use the property for park purposes.

The City's understanding is that Elaine Park adjoining property owners have been maintaining this park by mowing the green space instead of the City. It is also the City's understanding that since the establishment of Elaine Park as part of the original housing development, the City has not maintained this green space likely due to the premise that this Park was established as a "neighborhood park" with support from the surrounding property owners, not the City to maintain the park.

Recently the City was approached about maintaining Elaine Park. Some options for park maintenance include:

- A) The City maintains the park by mowing the green space or establishing other low-maintenance vegetation such as native plantings. With this option, the City would stake the boundaries of the park and require that any personal property located within the park be removed from the park. Currently it appears that a playground set and a portion of a utility shed are located within the park boundaries.
- B) The City attempts to obtain clear title to the park property. Should the City be able to clear title to the park property, it would value the property, establish a sales price for it, and divide and sell the property equally to adjoining property owners based on the established sales price.
- C) The City re-establishes the premise that Elaine Park is a "neighborhood park" and leaves responsibility for the maintenance of the park to adjoining property owners. The City would not stake the boundaries of the park and leave personal property in Elaine Park within its discretion unless a complaint is received.

In consideration of this request, the City would like to hold a public meeting with property owners surrounding Elaine Park to determine the best future action to take with regard to this request for maintenance. **The meeting will be held on Thursday February 29, 2024 at 5:30 p.m. at City Hall, 344 West Main Street, in City Hall Council Chambers.** During this meeting information will be presented on the Park and also public feedback will be received.

If you have any questions, please contact Sharon Hanson at sharon.hanson@ci.marshall.mn.us or 507-537-6761.

Sharon Hanson
Sharon.hanson@ci.marshall.mn.us
507-537-6761

The Marshall Golf Club, a corporation and James Eatros and Marguerite Eatros, husband and wife, owners of the lands and premises lying and being in the County of Lyon and State of Minnesota described as follows to-wit:

Beginning at the northeast corner of the southeast quarter of the northeast quarter of section eight (8) in township one hundred eleven (111) North, range forty-one (41) west of the fifth principal meridian running thence south along and upon the east section line of said section eight (8) to the southeast corner of the northeast quarter of section eight, thence west along and upon the east and west quarter line of said section eight (8) to a point where said quarter line intersects the southeasterly line of trunk highway number twenty-three (23) as said highway is now laid out and constructed over, across and through the said section eight (8) thence northeasterly along and upon the said southeasterly line of said highway right of way to a point where said southeasterly line of said highway right of way intersects the east section line of said section eight (8), thence south along said section line to the point of beginning, do hereby acknowledge and certify that we have caused the said lands to be surveyed, divided, and laid out into lots and blocks as shown upon the annexed plat consisting of blocks one (1), two (2), three (3), four (4), and five (5) and Outlot "A"; each of which blocks have been subdivided into lots, parks, streets, and walks as shown upon the annexed plat; block number one (1) containing twelve (12) lots numbered from one to twelve inclusive, block number two (2) containing twenty-nine lots numbered from one to twenty-nine inclusive in the center of which is located a public park named "Elaine Park", block number three (3) containing twenty (20) lots numbered from one to twenty inclusive, block number four (4) containing twenty-four (24) lots numbered from one to twenty-four inclusive in the center of which is located a public park named "Michael Park", and lot number five (5) containing twenty-five (25) lots numbered from one to twenty-five inclusive, also containing also various avenues, walks, and parks shown upon said plat, which streets are named "Camden Drive", "South Highway No. 23", "G. I. Drive" and the said owners of said premises do hereby dedicate to the public the said drives, streets, avenues, parks, and walks to the public and for public use as a part of said tract and which is hereby named "Eatros Place" and as an addition to the City of Marshall, Minnesota. Subject to the utilities, easements and pipe line easement shown on said plat.

That said addition is laid out as and for an exclusive residence district and is restricted to buildings to be used for residence purposes only, except that a private garage may be built with each residence and no residence shall be built at a cost of less than \$5,000, but the owner reserves two lots from said tract for commercial purposes.

Dated at Marshall, Minnesota this eighteenth day of August, 1947.

Witnesses: *James Eatros*, *Marguerite Eatros*

Be it known that on this 18th day of August, 1947 before me a Notary Public within and for said county personally appeared James Eatros and Marguerite Eatros, husband and wife, to me known to be the persons who executed the foregoing instrument and each acknowledge the same to be their free act and deed and executed for the purposes therein stated.

SURVEYOR'S CERTIFICATE

I, Virgil C. Johnson, county surveyor in and for Lyon County, Minnesota, do hereby certify that at the request of James Eatros and Marguerite Eatros, husband and wife, I have surveyed and platted the lands and premises as described in above DEDICATION. And that I have caused a plat to be made of said survey of said premises subdividing the same into blocks, lots, streets, walks, and parks as is shown by the annexed plat. And that said plat is a correct representation of the survey, that all distances are correctly shown on the plat, and that monuments for the guidance of future surveys have been correctly placed in the ground as shown on said plat and which monuments are located as follows: one at the northeast corner of the south half of the northeast quarter of section eight (8) in township one hundred eleven (111) North, range forty-one (41) West, another at the southeast corner of the northeast quarter of section eight (8) in said township and range and the third at a point where the south line of said south half of northeast quarter of section eight (8) intersects the southeasterly right of way line of state trunk highway number twenty-three (23). That the outside boundary lines of said survey and plat are correctly shown and designated on said plat and the topography of said lands are correctly shown on said plat. That the monuments and angles between the base line are correctly shown together with the north and south line and that all rivers, streams, lakes, ponds, swamps, and public highways laid out, opened, and traveled are correctly located and plainly shown and designated on said plat. That said survey and plat is named "Eatros Place". Dated August 18 1947.

Virgil C. Johnson
County Surveyor, Lyon County, Minnesota

STATE OF MINNESOTA } ss
COUNTY OF LYON }
Virgil C. Johnson being first duly sworn deposes and says that he is the County Surveyor of Lyon County, Minnesota, that he is the person who made the survey of the land and premises herein described and that the annexed plat was made in said survey and that said survey so made is true and correct and that said plat made from said survey is true and correct.

Subscribed and sworn to before me this 18th day of August, 1947.

Accepted, approved, and passed by the Common Council of the City of Marshall, Minnesota this 15th day of August, 1947 pursuant to Resolution, entered and filed, and recorded in my office.

Chas. S. Chapman
City Recorder, Marshall, Minnesota

1st day of October, 1947
Chas. S. Chapman
County Clerk, A. J. M.

EATROS PLACE

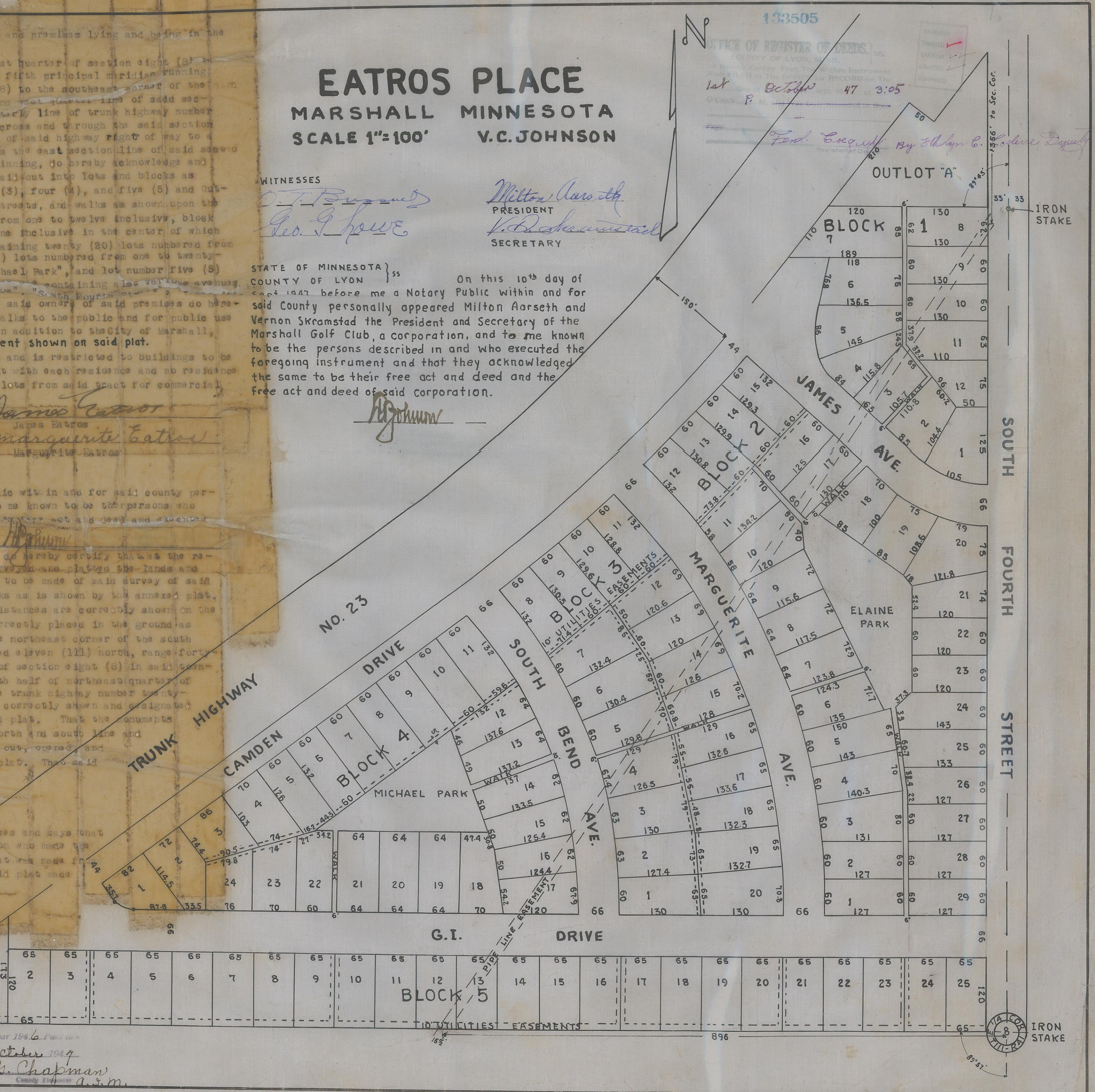
MARSHALL MINNESOTA

SCALE 1"=100'

V.C. JOHNSON

WITNESSES
Geo. J. Howe
Milton Aorseth
PRESIDENT
V. B. Skramstad
SECRETARY

STATE OF MINNESOTA } ss
COUNTY OF LYON }
On this 10th day of Sept 1947 before me a Notary Public within and for said County personally appeared Milton Aorseth and Vernon Skramstad the President and Secretary of the Marshall Golf Club, a corporation, and to me known to be the persons described in and who executed the foregoing instrument and that they acknowledged the same to be their free act and deed and the free act and deed of said corporation.



\$1,259,820.17 and an increase in contract time of 5 calendar days, extending the Substantial Completion Date from October 25, 2006 to October 30, 2006. All voted in favor of the motion.

PROJECT X29 (2002-008) EAST AREA SANITARY INTERCEPTOR SEWER (LIFT STATION NO. 3) CHANGE ORDER NO. 3:

Doom moved, Sanow seconded, the approval of Change Order No. 3 with Quam Construction, Inc., for Project X29 (2002-008) East Area Sanitary Interceptor Sewer (Lift Station No. 3). This project provides for an increase in the amount of \$2,645.00 for a total contract cost of \$1,520,457.00. All voted in favor of the motion.

PROJECT X75 WASTEWATER TREATMENT FACILITY EQUALIZATION CHANGE ORDER NO. 2:

Doom moved, Ritter seconded, the approval of Change Order No. 2 with R & G Construction for Project X75 Wastewater Treatment Facility Equalization. This change order provides for an increase in the amount of \$14,440.00 for a total contract cost of \$733,846.70. All voted in favor of the motion.

PUBLIC IMPROVEMENT/TRANSPORTATION COMMITTEE MEETING –

A. HANDICAPPED PARKING REQUEST AT HOLY REDEEMER; B. US BANCORP REQUEST FOR PARKING RESTRICTIONS – RESOLUTION ON “NO PARKING” ON MADRID STREET; C. VACATION OF PARKS; D. COLLECTOR AND ARTERIAL STREET DESIGNATIONS; E. MAT BUS PARKING LOCATIONS – RESOLUTION FOR LOADING ZONE IN FRONT OF MUNICIPAL BUILDING:

Glenn Olson, Director of Public Works/City Engineer, reviewed the request from Holy Redeemer for handicapped parking. Following discussion of the Public Improvement/Transportation Committee it was agreed that the church should retain the handicapped parking that exists, recommend that they provide any additional handicapped parking in their parking lot northwest of the rectory. In addition, they may utilize traffic cones and church ushers to try to assist the restrictions to parking as needed by the church during Holy Days and church services. These restrictions will not be enforced, and if complaints are made, the church will be contacted concerning the complaints. They are recommending no action and that a response letter be sent to the Holy Redeemer representative.

Glenn Olson, Director of Public Works/City Engineer, reviewed the request of US Bancorp for parking restrictions. Doom moved, Ritter seconded, the adoption of RESOLUTION NUMBER 2873, SECOND SERIES and that the reading of the same be waived. Resolution Number 2873, Second Series is a resolution Providing for Signage in the City of Marshall. This resolution provides for the installation of “No Parking” signs on both sides of Madrid Street from the East side of London Road Westerly to Channel Parkway. All voted in favor of the motion.

Glenn Olson, Director of Public Works/City Engineer, reviewed the vacation of Michael and Elaine Parks. Following discussion of the Public Improvement/Transportation Committee it was agreed not to proceed with the vacation of these parks with the understanding that the area residents continue to maintain them.

Glenn Olson, Director of Public Works/City Engineer, reviewed with the Public Improvement/Transportation Committee the public process of designating the thoroughfare



OFFICE OF
DIRECTOR OF PUBLIC WORKS/
CITY ENGINEER
344 WEST MAIN STREET
MARSHALL, MN 56258-1313
PHONE: 507-537-6773
FAX: 507-537-6830

TO: Property Owners Adjacent to Elaine Park and Michael Park

CC: Harry Weilage, Community Services Director
Dennis Simpson, City Attorney

FROM: Glenn J. Olson, P.E., Director of Public Works

DATE: January 24, 2012

RE: MICHAEL PARK / ELAINE PARK INFORMATIONAL MEETING
FEBRUARY 13, 2012 – 6:30 P.M.
MARSHALL MUNICIPAL UTILITIES BOARD ROOM
113 SOUTH 4TH STREET

You are receiving this letter because you are listed as the owner of property immediately adjacent to Elaine Park or Michael Park in Marshall, Minnesota.

An Informational Meeting will be held on Monday, February 13, 2012 at 6:30 p.m. in the Conference Room at Marshall Municipal Utilities located at 113 South 4th Street. Please enter through the side entrance door on the south side of the building.

These parks were dedicated to the city as neighborhood parks during subdivision development in 1947.

Since their inception, the property owners have maintained these areas.

In the last few years, questions and complaints have arisen concerning private use of the parks as well as responsibility for their maintenance.

It is with this in mind that the City will be holding an information gathering meeting to discuss the current status of the parks and to define a direction for future use.

The meeting will include a presentation by the Public Works Department regarding the background of the parks with a list of alternatives that may be considered.

Three alternatives are:

1. Leave the parks as is with local maintenance and no private installation of buildings or equipment.
2. Vacate the parks subdividing the property and apportioning the property to the adjacent landowners (a proposed apportionment will be provided at the meeting.)
3. Transferring ownership of the parks to the neighboring property owners similar to a condominium association agreement.
4. Other.

Should you have any questions, please contact me at 507-537-6773.

GJO:lrk

Michael Park / Elaine Park Informational Meeting

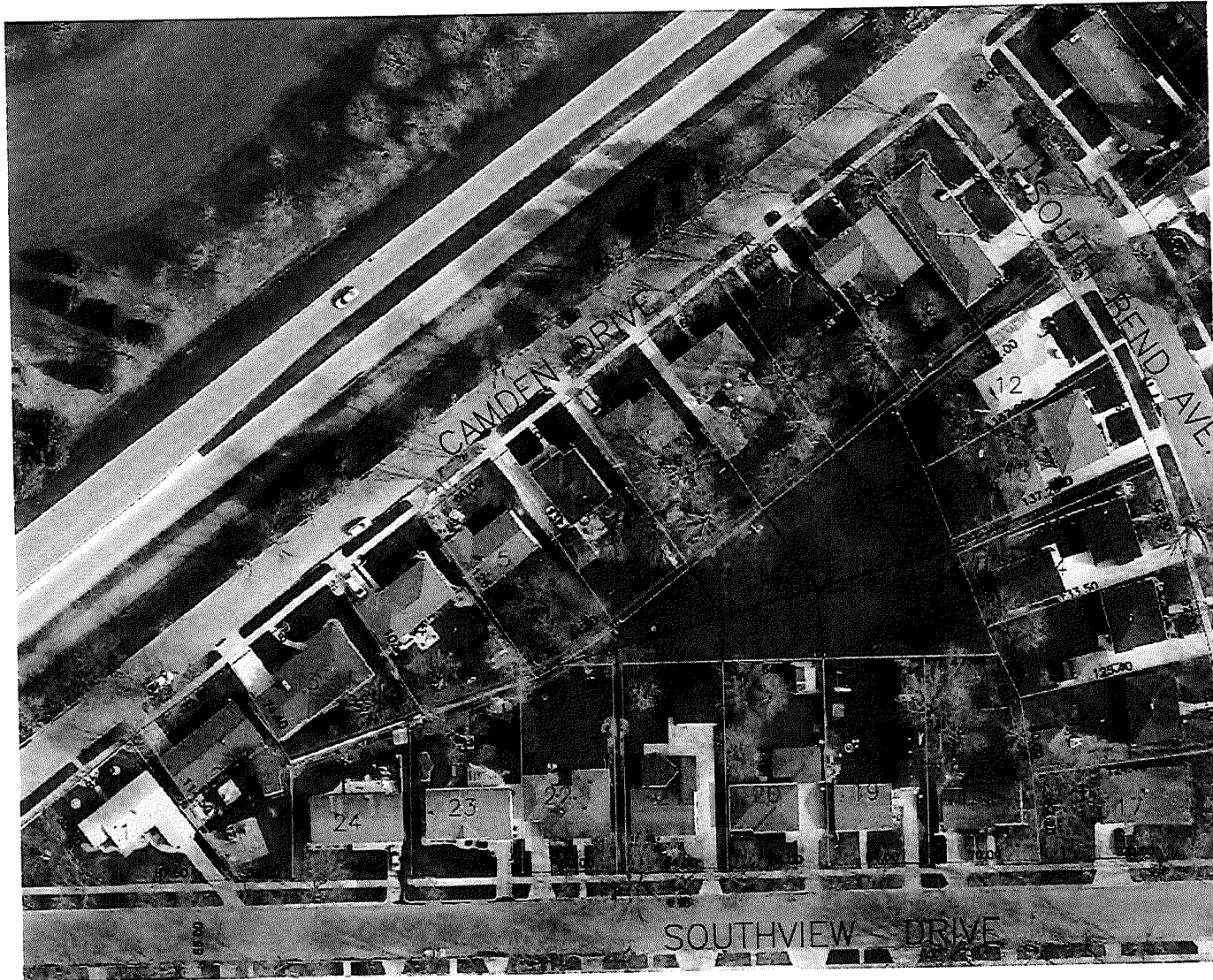
February 13, 2012



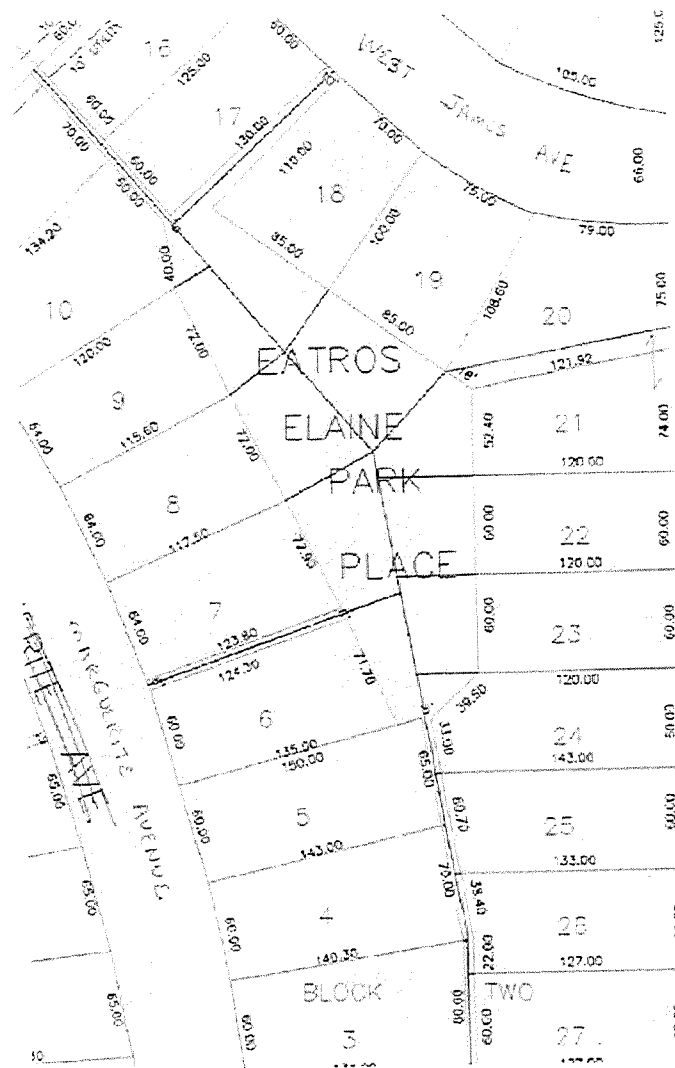
MICHAEL PARK AND ELAINE PARK



MICHAEL PARK



ELAINE PARK





QUESTIONS?

Purchase and Sale of Real Property

Understand the statutory authority of cities to acquire and dispose of real estate, including by sales, purchases, and alternatives such as gifts, leases, dedication, contract for deed, lease-purchase and others. Be alert to common issues in transactions such as environmental considerations, deed restrictions, trust land, permissions to buy and sell, and more.

RELEVANT LINKS:

[Minn. Stat. § 412.211.](#)

[Minn. Stat. § 465.29.](#)

[Minn. Stat. § 412.221, subd. 2.](#) See Part I - I - Contracts for deed.

I. Acquisition of land

All statutory cities have authority to acquire real estate for various purposes. These cities may acquire real property either within or outside their corporate limits. Statutory cities may acquire real estate in any of the following ways:

- Purchase. A city can acquire the title to land by simply buying it.
- Gifts of land. A city can accept gifts of land.
- Dedication. A city can require developers to dedicate land for parks, streets, and utility purposes as a condition of subdivision approval.
- Devise. A city may receive real estate by bequest in a will.
- Eminent domain (condemnation). This is a required sale of land to a government entity for public use or public purpose.
- Tax-Forfeiture. A city may acquire tax-forfeited land through outright purchase for the land's appraised value or may acquire the land at no cost if the city agrees to use the land for a public purpose.

Most often cities acquire real estate through an outright purchase of all the rights and title to a specific parcel. This type of purchase is known as a purchase of fee simple rights and is represented by a deed document. However, cities can also acquire other types of interest in land using:

- Contract for deed. A city can purchase real property using a contract for deed if certain conditions are met.
- Lease-purchase. A city can rent real estate with the option to buy.
- Leases. A city can acquire an interest in real estate through rental agreements.
- Easements. A city may acquire easements over property for such things as streets and utilities. Sometimes these easements are acquired by purchase or condemnation; other times the owner of the property may give them to a city.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

[Minn. Stat. § 410.33.](#)

[Minn. Stat. § 412.211.](#)

[Minn. Stat. § 117.52.](#)
See Part I - E - *Eminent domain*.

[Minn. Stat. § 13D.05, subd. 3.](#)
See Part III – I - *Open Meeting Law*.

[Minn. Stat. § 465.03.](#)

[Minn. Stat. § 465.03.](#) Also see Part III - A – *Environmental, Housing and Redevelopment Authority of City of South St. Paul v. United Stockyards Corp.*, 309 Minn. 331, 332, 244 N.W.2d 275, 276 (1976).

[Minn. Stat. § 500.20, subd. 2a.](#)
Hiller v. County of Anoka, 529 N.W.2d 426 (Minn. Ct. App. 1995).

- **Use Deed.** When a city acquires tax-forfeited property at no cost, the use of the land will be restricted to specific public purposes specified in the deed document for a specified period of time. When a city ceases to use the land for the specified purposes, the land may revert to the state of Minnesota.

Home rule charter cities may have special requirements in their charters related to the acquisition of real property. These cities should check their charters for additional restrictions that may apply to them. If a charter is silent in this area, the city may follow the same rules that apply to statutory cities.

A. Purchase

Statutory cities have the power to purchase real property within or outside of their corporate limits. Home rule charter cities generally have similar authority in their charters.

A city may have a responsibility to pay relocation costs to persons who are displaced from their homes, farms, or businesses as a result of the purchase. Relocation costs may be required apply even when the eminent domain process is not used to acquire a parcel. In recognition of the need to provide relocation benefits, most cities include a waiver in the final contract indicating whether these costs have been included in the price or if the sale is a negotiated one.

If a city is developing an offer or counteroffer to purchase real property, it may close a meeting to discuss the offer or counteroffer.

B. Gifts of land to cities

Any city may accept a grant or devise of real property and maintain such property for the benefit of its citizens in accordance with the terms prescribed by the donor. In order to accept a gift of real property a city council must adopt a resolution by two-thirds majority of the entire council accepting the property and any recognizing any terms of the acceptance.

Before accepting a grant of land, a city should carefully consider whether it can comply with any conditions of the grant. For example, a city could not agree to use the property for religious or sectarian purposes. Additionally, a city should investigate the history of the land to ensure it is not contaminated before accepting such a gift.

The Minnesota Supreme Court has held that the language in a deed that donating property to a city and limiting the use to municipal or park purposes automatically expired 30 years after the date of the conveyance.

RELEVANT LINKS:

[Minn. Stat. § 462.358, subd. 2b.](#)

See LMC information memo
[Subdivision Guide for Cities.](#)

[Minn. Stat. § 462.358, subd. 2b\(a\).](#)

[Minn. Stat. § 462.358, subd. 2c\(a\).](#)

[Minn. Stat. § 462.358, subd. 2b.](#)

See Part III - C - *Land held in trust.*

[Minn. Stat. § 462.358, subd. 2b.](#)

[Minn. Stat. § 462.358, subd. 2b.](#)
See LMC information memo,
[Subdivision Guide for Cities.](#)

[Minn. Stat. § 462.358, subd. 2b.](#)

[Minn. Stat. § 462.358, subd. 2b.](#)

C. Dedication

A city may also acquire an interest in land through dedication for parks, streets, and utility purposes. This is most often done through a city's subdivision regulations. The principle behind such dedications is to ensure that a new development will contain enough space for parks, streets, and utilities as a result of a new development.

There must be an essential nexus or logical connection between the land dedication and the purpose sought to be achieved by the dedication. The dedication must bear a "rough proportionality" to the need created by the proposed subdivision or development. The basis for calculating the amount to be dedicated must be established by ordinance.

If a city adopts an ordinance requiring dedication, it must adopt a capital improvement budget and have a parks and open space plan or have a parks, trails, and open space component in its comprehensive plan.

Cities should keep in mind that land acquired through dedication is often held in trust by the city for a specific purpose. This can sometimes restrict the city from using the land for another purpose or from selling it.

1. Parks, trails and recreational land

Cities may acquire land through park dedication. A city may adopt subdivision regulations that require a reasonable amount of buildable land be set aside for park, recreational facilities, playgrounds, trails, wetlands, and/or open space purposes when land is subdivided.

In determining what amount of land should be dedicated, regulations must give due consideration to the open space, recreational, or common areas and facilities open to the public that a developer proposes to reserve for a subdivision.

2. Streets and rights of way

Cities may adopt subdivision regulations that require a reasonable portion of the buildable land in a proposed subdivision be dedicated to the public for streets and roads.

3. Utilities

A city's subdivision regulations may also require a reasonable portion of the buildable land of a proposed subdivision be dedicated to the public for the following type of utilities:

- Sewers.
- Electric facilities.

RELEVANT LINKS:

[Minn. Stat. § 412.211, Minn. Stat. § 465.03.](#)

[Minn. Stat. § 465.01, Minn. Stat. ch. 117.](#)

[Kelo v. City of New London, 545 U.S. 469 \(2005\).](#)

[Minn. Stat. § 117.012, subd. 2.](#)

[Minn. Stat. § 117.025, subd. 11.](#)

[Minn. Stat. § 315.42, City of Jordan v. Church of St John the Baptist, 764 N.W. 2d 71 \(Minn. Ct. App. 2009\).](#)

- Gas facilities.
- Storm water drainage areas or ponds.
- Other similar utilities and improvements.

D. Devise

Sometimes people will leave real property to cities in their wills. Every city has authority to accept real property that is devised to it. As with gifts of land, a city should be certain it can comply with any deed restrictions or conditions attached to the land before accepting the property. It is also important to consider the appropriate environmental aspects that could be a concern. A city should consult its attorney if real property is devised to it.

E. Eminent domain (condemnation)

Cities can acquire real property or easements through eminent domain (also known as condemnation). Essentially, eminent domain is a means to require an owner to sell land to a city to be used for a public purpose. This procedure requires a formal court action, and a city must pay an owner for the value of the land or the damages to the land - if the city is taking only part of it, such as for an easement.

In *Kelo v. City of New London, Conn.*, the United States Supreme Court held that taking property for economic development is a valid public purpose and that if a city seeks to exercise its power of eminent domain for economic development purposes, it should do so in conjunction with a well thought out economic development plan.

In response to the *Kelo* decision, the Minnesota Legislature limited a city's power of eminent domain to a defined public use or public purpose including:

- the possession, occupation, ownership, and enjoyment of the land by the general public, or by public agencies.
- the creation or functioning of a public service corporation.
- the mitigation of a blighted area, remediation of an environmentally contaminated area, reduction of abandoned property, or removal of public nuisances.

The public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health, do not by themselves constitute a public use or public purpose.

State law prohibits cities from condemning land owned by non-profit corporation for road and street purposes without the consent of the governing board of the corporation.

RELEVANT LINKS:

U. S. Const. Amend. V.
Minn. Const. art. I § 13.
Lucas v. South Carolina Coastal Council, 505 U.S. 1003, (1992). *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, (1978).
Wensmann Realty, Inc. v. City of Eagan, 734 N.W.2d 623 (Minn. 2007).

See Handbook,
Comprehensive Planning, Land Use, and City-Owned Land.

42 U.S.C. §§ 4601-4655.

Minn. Stat. § 117.52.
49 C.F.R. § 24.304.

Minn. Stat. § 117.52.

A city can also be compelled to condemn land by a court order in an inverse condemnation action. A property owner can bring this claim when a city's action has had the effect of depriving the property owner of some or all of their interest in the property without compensation.

The eminent domain procedure is rather complex and will not be discussed in detail in this document. A city council that is considering using eminent domain to acquire land or an easement should consult with its city attorney for guidance.

1. Relocation assistance

Both state and federal law protect property owners and tenants who are required to move because of an eminent domain proceeding. Relocated persons must be paid relocation costs when they are forced to leave their land.

Federal law provides that the condemning authority must pay certain benefits to people who are displaced from their homes, farms, or businesses as a result of a federally funded project.

Minnesota law also requires the payment of relocation benefits when eminent domain is used, even if no federal funding is involved. The nature and amount of these benefits is the same as if federal funds were involved.

For purposes of relocation benefits paid by a city under state law, federal law is applicable to the reimbursement of reestablishment expenses for nonresidential moves, except that a city must reimburse the displaced business for expenses actually incurred up to a maximum of \$50,000.

Even if the sale of real estate to a city is negotiated, a city may have a responsibility to pay relocation benefits. In such situations, most contracts include a specific waiver of additional relocation costs, because these costs are usually already included in the contract price or specify the amount of the relocation benefits to be paid.

2. Land values

The value of real estate is not always obvious. When considering a land purchase, a city may want to check the following:

- The property's value for the most recent property tax levy.
- The property's value for the most recent special assessment.
- The value that the land and its buildings (if any) are insured for fire damage, etc.

RELEVANT LINKS:

See Part IV - *Real estate professionals*.

[Minn. Stat. § 282.01, subd. 1.](#)

- Any recent occurrences that could affect the land's value, such as new neighboring land developments or contamination.

In addition to considering these elements, a city should also have the land professionally appraised. (Section IV of this memo discusses appraisers).

F. Tax Forfeiture

Land held by private parties may be forfeited to the state due to failure to pay property taxes. When this occurs, state law recognizes that some lands in public ownership should be retained for the benefit of the public while other lands should be returned to private ownership. Reflecting this understanding, tax-forfeited land is classified in two ways – either as conservation land or non-conservation land when it is obtained by the state.

1. Land classified as non-conservation land

Cities may obtain tax-forfeited land classified as non-conservation land in two ways. Cities may:

- Pay the appraised value of the land and receive full, clear title to the land.
- Receive the land for free for certain specified uses with an agreement that the lands may only be used for a specified public use for a certain amount of time.

Cities may obtain land for free land designated as non-conservation land for the following specified uses:

- a road, or right-of-way for a road.
- a park that is both available to, and accessible by, the public that contains amenities such as campgrounds, playgrounds, athletic fields, trails, or shelters.
- trails for walking, bicycling, snowmobiling, or other recreational purposes, along with a reasonable amount of surrounding land maintained in its natural state.
- transit facilities for buses, light rail transit, commuter rail or passenger rail, including transit ways, park-and-ride lots, transit stations, maintenance and garage facilities, and other facilities related to a public transit system.
- public beaches or boat launches.
- public parking.
- civic recreation or conference facilities.
- public service facilities such as fire halls, police stations, lift stations, water towers, sanitation facilities, water treatment facilities, and administrative offices.

RELEVANT LINKS:

[Minn. Stat. § 282.01, subd. 1c.](#)

[Minn. Stat. § 282.01, subd. 1d.](#) *City of St Paul v State*, 754 N.W. 2d 386 (Minn. Ct. App. 2008). A.G. Op. 425-c-11 (May 27, 1964).

[Minn. Stat. § 282.01, subd. 1d.](#)

When a city receives non-conservation land without payment, the city will receive a specialized type of deed that specifies the uses for which the city may use the land for a certain period of time. This is known as a use deed. For example, if the city wishes to use the land for park land, the use deed will state that the land may only be used for park purposes.

When the city has acquired land under a use deed, it must put the land to its specified use within three years or the land will revert to the state. If the city later abandons the specified use before the time periods discussed below, the land will also revert to the state. If the city abandons the public use for which it holds only a use deed, it may not convey the land to private parties.

State statute allows cities to petition to change specified uses in a use deed. Cities that wish to convert public uses from one use to another (for example from park land to parking land) must seek approval for the change from the commissioner of revenue and the county board in which the land is located. If the change is approved, the city will be issued a new use deed stating the changed use.

Non-conservation land obtained by a use deed on or after January 1, 2007, may be acquired outright by the city after 15 years from the date of the conveyance when certain conditions are met. To acquire the property without use restriction, the city must:

- make an application to the Commissioner of Revenue.
- demonstrate that the property has been put to the use for which it was originally conveyed by use deed.
- demonstrate that the city has no current intention to change the use for which the property was conveyed by the original use deed.
- demonstrate that the county wherein the property is located has not filed any objection to the issuance of a new deed after 60 days notice.

Non-conservation land obtained by a use deed before January 1, 2007, may be released from the use restriction and possibility of reversion on January 1, 2022, if the county board wherein the property is located records a resolution requesting release on behalf of the city.

The county board may authorize the county treasurer to deduct the amount of the recording fees from future settlements of property taxes to the city.

In the alternative, where county consent is not forthcoming, all non-conservation lands obtained by a use deed before January 1, 2007 are automatically released from the use restriction and reverter on the later of:

- January 1, 2015.
- 30 years from the date the deed was acknowledged.

RELEVANT LINKS:

[Minn. Stat. § 282.01.](#)

[Minn. Stat. § 412.211.](#)

[Minn. Stat. § 410.33.](#)

[Minn. Stat. § 471.64, subd. 1.](#)

See Part II - B - 3 *Liability issues.*

- final resolution of any appeal to district court where a lis pendens has been recorded in the office of the county recorder or registrar of titles, prior to January 1, 2015 pursuant to Minn. Stat. 282.01.

2. Land classified as conservation land

Cities may obtain land designated as conservation land for free for the following specified uses:

- creation or preservation of wetlands.
- drainage or storage of storm water under a storm water management plan.
- preservation, or restoration and preservation, of the land in its natural state.

When a city receives land designated as conservation land for these purposes the deed must contain a restrictive covenant limiting the use of the land to one of these purposes for 30 years or until the property is reconveyed back to the state in trust. At any time, the governmental subdivision may reconvey the property to the state in trust for the taxing districts.

G. Leases

Statutory cities may also acquire an interest in real estate through rental agreements. Although a city will not have ownership of the land in this case, it will have temporary possession of the land for use in accordance with the lease.

Home rule charter cities often have similar provisions in their charters. These cities should check their charters for authority. If the charter does not address the matter, a home rule city may use the authority given to statutory cities.

Any city may enter into a contract with the United States government for lease, sale, or purchase of real property. Cities contracting under this statute need not follow any procedure that is normally required by charter provision or state statute. However, the United States government may have special procedures that must be followed.

Cities should carefully consider liability elements when leasing land and buildings from or to another entity. These issues are discussed in more detail in a later section of this memo.

RELEVANT LINKS:

[Minn. Stat. § 465.71.](#)

[Minn. Stat. § 465.71.](#)

[Minn. Stat. § 465.71.](#) Also see Part III - F - *Competitive bidding* and Part II - B – *Leases*.

[Minn. Stat. § 412.221, subd. 2.](#)

[Minn. Stat. § 412.221, subd. 2.](#)

H. Lease-purchase agreements

All cities have the power to use a lease-purchase agreement to lease real property with an option to buy. With a lease-purchase agreement, the title is retained by the seller or assigned to a third party as security for the purchase price.

If the amount of the contract is less than \$1 million, this obligation is neither included in the calculation of net debt for the purpose of the bond laws nor shall it constitute debt under any other statute.

If a city competitively bids a contract subject to a lease purchase agreement it must do so in a manner to include the total of all the lease payments for the entire term of the lease. A city must have the right to terminate the lease purchase agreement at the end of any fiscal year during its term.

Although not specifically required by statute, cities should include a non-appropriation clause in the contract. Such a clause allows a city to terminate the lease-purchase agreement if the council does not appropriate sufficient money to make the required payments. This ability may be important because if a city is required to make lease payments without regard to an annual (or biannual) appropriation, the lease might appear to be a debt of a city and it could be required to meet the statutory requirements for debt instruments.

A city should consult with its attorney before entering into any lease-purchase agreement to ensure that all of the city's concerns have been addressed.

I. Contracts for deed

Statutory cities may purchase real property under a contract for deed. The payments must be payable over a period not to exceed five years. Under the contract, the seller must be limited to the remedy of the recovery of the property in the case of nonpayment of all or part of the purchase price.

If the purchase price of a contract for deed exceeds 0.24177 percent of the estimated market value of the city, the city must do ALL of the following in order to purchase the land using a contract for deed:

- Publish a resolution. The city must publish a council resolution in its official paper. The resolution must indicate that the city intends to purchase the property using a contract for deed.
- Wait for 10 days. The city cannot enter into the contract until at least 10 days after it publishes the council resolution. If a petition is submitted during these 10 days, there are additional requirements, which are discussed below.

RELEVANT LINKS:

[Minn. Stat. § 412.221, subd. 2.](#)

Also see LMC information memo [City Special Elections](#).

[Minn. Stat. § 410.33.](#)

[Minn. Stat. § 507.235.](#)

See LMC information memo [Subdivision Guide for Cities](#) for more information on dedication.
[Minn. Stat. § 412.221.](#)
[Minn. Stat. ch. 117.](#)
[Minn. Stat. § 465.03.](#)

Also see LMC information memo, [Acquisition and Maintenance of City Streets](#).

See Part I - F – [Tax Forfeited Lands](#).

- Make the contract for deed. If no petitions are submitted, the council may enter the contract for deed. But if a petition is submitted, there are other additional requirements.

A city has other responsibilities if it receives a valid petition from its citizens during the 10 days after the resolution is published. A “valid” petition must meet ALL of the following criteria:

- It must be a petition that asks for an election on whether the purchase should be made.
- It must be signed by registered voters.
- It must have at least the number of signatures that is equal to 10 percent of the total number of people who voted in the last regular city election.

A city must hold an election in order to purchase land using a contract for deed if a valid petition is submitted asking for an election on whether the purchase should be made. A city cannot purchase the real estate using a contract for deed until a majority of the voters give it permission to do so.

Home rule charter cities should check their charters for authority to purchase land using a contract for deed. If the charter is silent on the matter, the city may use the authority of statutory cities.

A contract for deed must be recorded with the county recorder’s or county registrar of title’s office. It must be recorded within four months of being signed. The buyer is responsible for the filing.

J. Easements

A city can acquire an interest in land when it acquires an easement. A city can obtain easements in a variety of ways. The more common ways are:

- Dedication.
- Purchase.
- Eminent domain, if the property owner does not want to relinquish the easement.
- Gift.

Easements are often used for streets or for city public utilities, including sewer and water.

K. Use Deeds

When a city acquires tax-forfeited land without paying full value, the city is granted a use deed for the property. Use deeds specify the uses for which the city may use the land. If the city changes or abandons the use specified in the use deed, the land may revert to the state.

RELEVANT LINKS:

[Minn. Stat. § 412.211.](#)

[Minn. Stats. § 412.211.](#)
[Minn. Stat. § 410.33.](#)
[Minn. Stat. § 15.054.](#)

See Part III – *Common issues in land sales and purchases*, sections B, C, F, and G.

[Minn. Stat. § 471.64.](#)

See Part III - G - *Getting permission to buy or sell land*.

[Minn. Stat. § 13D.05, subd. 3\(c\).](#)

The city may not sell land held by only a use deed to private parties. After using the property for the use specified in the use deed for a certain period of time, the city may obtain the property without restriction if it meets certain requirements.

II. Disposition of land

Statutory cities may dispose of land that it does not hold in trust for a specified public use. Such disposition may be done in any of the following ways:

- Sale. A city can sell land it does not need.
- Lease. A city can rent land or building space that it no longer needs for city use.
- In limited situations, a city may gift or sell for nominal consideration.

A. Sale

Statutory cities have the power to sell land or buildings they no longer need to anyone, other than public officials and certain employees. Home rule charter cities generally have similar authority in their charters. If a city's charter is silent with regard to the matter, it may use the authority that statutory cities have.

Generally, a city does not need to get permission from the public in order to sell land. In some instances, however, a city may need to notify people or get approval prior to the sale. Sales of land are usually not required to use the competitive bidding process.

All cities have the power to contract to sell real property to any of the following public entities:

- The United States.
- Any United States agency.
- Any state agency.
- Any other political subdivision of Minnesota.

Housing Redevelopment Authorities and Economic Development Authorities must hold a public hearing before selling most land.

A public body may close a public meeting to determine the asking price for real or personal property to be sold by the city, to review confidential or nonpublic appraisal data, and to consider offers or counteroffers for the sale of real property.

RELEVANT LINKS:

Contact the [League research department](#) for sample community center use policies.

[Minn. Stat. § 412.211](#), [Minn. Stat. § 410.33](#).

Anderson v. City of Montevideo, 137 Minn. 179, 162 N.W. 1073 (1917).

Penn-O-Tex Oil Co. v. City of Minneapolis, 207 Minn. 307, 291 N.W. 131 (1940).

See Part III - G - *Getting permission to buy or sell land*.

[Minn. Stat. § 471.64](#).

[Minn. Stat. § 272.01](#), subds. 2(a) and (c).

See LMC information memos, [Park and Recreation Loss Control Guide](#), Section VIII-C-1, Community center programs, use by outside groups, model documents.

[LMCIT Liability Coverage Guide](#), Section III-T-2, *Events sponsored by private groups*.

B. Leases

Cities often lease unneeded property and buildings to others for their use. Sometimes these agreements are long-term leases. Other times it may be an afternoon rental of a room in a community center. Many cities have adopted policies regarding the rental and use of their community centers.

1. Authority

Statutory cities have the power to lease land and buildings that are no longer needed for city purposes. Home rule charter cities often have similar authority in their city charters. Home rule cities whose charters are silent on this matter may use the authority given for statutory cities.

A city has the right to let outside parties use city buildings so long as the use does not interfere with the city's purposes.

A city can charge rent for the use of unneeded facilities because the income can "lighten the burden of the taxpayers."

Housing Redevelopment Authorities and some Economic Development Authorities must hold a public hearing before leasing most land.

All cities can lease land to the United States, its agencies, any state agency, and other political subdivisions of the state.

2. Property Taxes

Although city property is generally exempt from property taxes, it loses its exemption when it is leased to a private individual, association, or organization that is in business to make a profit. Even though state law makes those who lease land from a city responsible for paying the property tax, cities should address the responsibility for paying the property taxes in the lease.

3. Liability issues

Whether a long-term lease or an afternoon rental, a city should consider the liability exposure that it may have through a lease agreement.

Ownership of a building is one basis for possible liability if a person has a claim related to the building.

RELEVANT LINKS:

See LMC information memos, [Park and Recreation Loss Control Guide](#), Section VIII-C-1, Community center programs, use by outside groups, model documents.

[LMCIT Liability Coverage Guide](#), Section III-T-2, Events sponsored by private groups.

If a city leases a building to someone for an extended period of time, it should have a written lease outlining the responsibilities of the parties. Similarly, if a city is renting a room or location to someone for a short term, such as a day or several hours, it should have a permit application procedure with rules regarding the use of the facility and a formal written agreement.

The following elements should be considered in any written lease or rental agreement:

- **Repairs.** The agreement should address who will be responsible for making repairs and who will pay for the cost of repairs.
- **Maintenance.** The agreement should address who will maintain the building and the surrounding areas such as sidewalks and parking lots.
- **Supervision of activities.** The agreement should address who will be responsible for supervising the activities that will be occurring in the building.
- **Cancellation.** The agreement should allow the city to end the lease, with reasonable notice, if the building or land is needed for a public purpose.
- **Liability.** The agreement should spell out how liability will be handled and include a defense and indemnification provision to reflect the relationship. The lessor should be required to defend the city for any claims against the city arising from rental of the building.
- **Insurance.** The agreement should address whose insurance will cover the different risks involved. There are a number of different types of insurance that could be involved, including the following:
 - **Property.** This addresses damage to the building.
 - **Personal property.** This addresses damage to the contents of the building.
 - **Liability.** This addresses personal injuries.
 - **Workers' compensation.** This addresses injuries to employees.

A city should require the renter to name it as an additional insured. Additionally, a city should require a copy of the certificate of insurance to verify this has been done and the amount of insurance coverage.

4. Policies on use of a city building

Cities often have policies regarding use of their buildings or facilities. However, it is important that a policy not unlawfully discriminate against whom it allows to use the building or facility.

The following are some common areas of concern for use of a city building:

RELEVANT LINKS:

[Lemon v. Kurtzman](#), 403 U.S. 602, 91 S. Ct. 2125 (1971).

Also see LMC information memo, [Public Purpose Expenditures](#).

[Good News Club v. Milford Central School](#), 533 U.S. 98, 121 S. Ct. 2093 (2001).

5 McQuillin Municipal Corporations § 19.25 (3rd ed. Revised 1995).

[Minn. Stat. § 465.025](#).

[Minn. Stat. § 465.035](#).

- Religious use. A city should allow religious groups access to city buildings on the same basis as other types of groups. If religious groups are not allowed to rent these facilities in the same manner as non-religious groups, a city could be accused of religious discrimination. Moreover, a city should also be careful not to support one religion over another (i.e., endorse a particular religion) by either having too many connections with a particular religious group or charging lower rent to a religious group than it does to another group.
- Commercial use. A city can allow a commercial organization to use a city building that is not needed for city purposes. If a city lets commercial organizations use the building for free, such free use might constitute an unlawful “gift” by the city.
- Free speech use. Once a city allows non-city use of a public building, it cannot refuse to allow a group to use it because of the content of the speech or activity.
- Resident and non-resident use. Generally speaking, a city may charge higher fees for non-residents to use city buildings and facilities so long as there is a rational basis to support the different treatment, such as that the residents also pay other taxes that support the facility. Some cities may give residents first choice in the use of the building. A complete ban of non-residents could be problematic if it has an unlawful discriminatory effect.
- Financial responsibility. A city may use this as a basis for restricting use of a city building if the financial criteria are reasonably related to the city’s costs or liabilities for the building or activity. For instance, the city may require a user to show proof of dram shop insurance if liquor will be served and refuse to rent the facility to a person who does not show proof of this insurance.

C. Gifts or sale for nominal considerations

Generally, a city may not give away land or sell it for a nominal amount. However, there are a few limited exceptions to this general rule.

Any city may give lands to the state if the land meets the following criteria:

- The land is no longer needed for municipal purposes.
- The land is owned by the city in fee simple.
- The land is not restricted by a grant or dedication.

Any city, county, school district, or town may lease or convey land without consideration or for nominal consideration or any agreed upon consideration to any of the following:

RELEVANT LINKS:

A.G. Op. 469-a-9 (May 5, 1967).

[Minn. Stat. § 469.185.](#)

[Minn. Stat. §§ 116J.993.](#)
[Minn. Stat. § 116J.994.](#)

[Minn. Stat. § 116J.993, subd. 3.](#)

[Minn. Stat. § 116J.994, subd. 5.](#)

A.G. Op. 476-b-2 (Mar. 2, 1961).

[Minn. Stat. § 469.012, subd. 1\(e\).](#) [Minn. Stat. § 469.026.](#)

- The state of Minnesota.
- Any governmental subdivision.
- The United States.
- Any federal government agency.
- Any other public corporation.
- The Minnesota state armory building.

The Attorney General has determined that a city was not permitted to give or lease land for a nominal consideration to a nonprofit corporation.

To encourage and promote industry and to provide employment opportunities for its citizens, cities may convey real property for nominal consideration. A city must own the land in fee simple and not otherwise be restricted by grant or dedication.

“Business subsidies,” including the sale of real property, may not be awarded until the grantor city has adopted eligibility criteria (including a specific wage floor) after a public hearing.

Pursuant to statute, a conveyance for redevelopment, when the recipient’s investment in the purchase of the site and site development is 70 percent or more of the assessor’s current estimated market value, is not considered a business subsidy.

Before granting a specific business subsidy that exceeds \$100,000, a city must provide notice and hold a public hearing.

The Attorney General has determined that the “promotion of industry” requires more than the construction of a nonprofit athletic facility.

A Housing and Redevelopment Authority (HRA) may give, sell, transfer, convey, or otherwise dispose of real property. This power, however, is subject to the provisions of another statute that deals with the acquisition of buildings for the purpose of low-rent housing.

III. Common issues in land sales and purchases

There are many things for cities to consider when buying or selling land. This section addresses some of the more common issues.

A. Environmental

If a city acquires real estate that is contaminated, it can end up being responsible for all or part of the cost of cleaning up the land.

RELEVANT LINKS:

[42 U.S.C. §§ 9601-9675.](#)

[Minn. Stat. ch. 115B.](#)

Likewise, if a city buys a building that contains hazardous materials such as asbestos, it, as the owner, could have additional costs in order to remove the asbestos before the building is remodeled or torn down.

Both federal and state laws impose liability for the cost of cleaning contaminated property. The federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) contains the statutes that deal with responsibility to clean up contaminated property – also known as the “Superfund” Act. These laws were later amended in the Superfund Amendments and Re-Authorization Act (SARA).

Minnesota’s “Superfund” law is the Minnesota Environmental Response and Liability Act (MERLA). It gives the Minnesota Pollution Control Agency (MPCA) the power to clean up hazardous waste sites and to make responsible parties pay for the associated clean-up costs.

Generally, both CERCLA AND MERLA impose liability for clean-up costs of contaminated land upon the following people:

- Owner/operator liability. Anyone who owned or operated a facility that dealt with a contaminant or hazardous substance can be held responsible for the cost of cleaning up the land if it is contaminated.
- Generator liability. Anyone who owned or possessed a hazardous substance, pollutant, or contaminant and arranged for disposal or treatment can be held responsible for the cost of cleanup.
- Transporter liability. Anyone who knew or should have known that waste accepted for transport contained a hazardous substance, pollutant, or contaminant and either selected the facility to which it was transported or disposed of it in a manner contrary to law can be held responsible for the cost of clean-up.

Because of this possible responsibility, cities should check carefully to determine if land has been contaminated before acquisition. Although it is not always apparent that a piece of real estate has been polluted, a great deal can be learned by investigating the land’s chain of title.

A quick check of the county land records can reveal who has owned the land in the past.

If a business once owned the land, the land may have been exposed to any chemicals that were used by the business. Similarly, a history of old railroad sites, gasoline stations, underground storage tanks, and electrical transformers can indicate a possibility of exposure to contamination.

A city that will be acquiring land, whether by purchase or gift, may want to consider hiring a consultant to conduct an environmental property assessment. There are two types of assessments. The first, a Phase I Audit, consists of a site history and walk-over inspection.

RELEVANT LINKS:

[Minn. Stat. § 115B.03, subds. 3-9.](#)

[A.G. Op. 425c-11 \(April 18, 2013\).](#)

[Minn. Stat. ch. 462.](#)

[A.G. Op. 469-a-15 \(Feb. 18, 1955\).](#)

If any questions are raised as a result of the Phase I Audit, a Phase II audit can be arranged. A Phase II Audit consists of soil borings and other tests for chemicals.

Although there are some limited circumstances under state law where a city will not be held responsible for clean-up costs, these are exceptions to the general rule that an owner of property is responsible for clean-up costs. Further, an exemption from responsibility under state law does not mean a city would be exempt from these costs under federal law. A city should consult its attorney to verify any exemption from clean-up costs before acquiring title to any contaminated property.

B. Deed restrictions

Deed restrictions, also known as restrictive covenants, are conditions placed on the use of land by a previous owner. These restrictions are imposed on the future owners of the property and if a new owner does not meet the conditions, the previous owner can pursue court action to enforce the condition or recover the land.

A city should carefully consider whether a deed restriction that the seller will impose is one with which the city could comply. A city should also investigate the county land records to see if there are any prior deed restrictions from previous owners before acquiring the property. Deed restrictions are usually uncovered during the title search.

Deed restrictions generally run with the land. This means once a deed restriction is in place, the only person who can remove it is the person who imposed the restrictions. For instance, if a city wants to build a new city hall on property with a deed restriction that prohibits this type of use, the city must find the previous owner and request that the restriction be removed. While this may be possible if the city is buying the land from the person who imposed the deed restriction, it can be difficult if the person who created the restriction is not available or cannot be located. Likewise, if there are several deed restrictions that have been imposed by different owners, it may be difficult to track down all of the previous owners.

Cities do not enforce deed restrictions that exist on property owned by others. Generally, a deed restriction is a private contractual matter between the buyer and the seller of a piece of property.

The Attorney General has determined that a city could not place a restrictive covenant in a deed to require that any home built on the land be of a certain value.

RELEVANT LINKS:

[Minn. Stat. § 505.01.](#)

[Larson v. Sando](#), 508 N.W.2d 782 (Minn. Ct. App. 1993).

[Headley v. City of Northfield](#), 227 Minn. 458, 35 N.W.2d 606 (1949). [Kronschnabel v. City of St. Paul](#), 272 Minn. 256, 137 N.W.2d 200 (1965). [Buck v. City of Winona](#), 271 Minn. 145, 135 N.W.2d 190 (1965).

[In re Everett's Trust](#), 116 N.W. 2d 601 (Minn. 1962).

[Buck v. City of Winona](#), 135 N.W.2d 190 (Minn. 1965).

[City of Zumbrota v. Strafford Western Emigration Co.](#), 290 N.W.2d 621 (Minn. 1980).

C. Land held in trust

It is somewhat unclear whether a city can sell land that it holds in trust for a specific purpose. The answer depends upon the specific facts of a given situation. A city should check with its attorney before attempting to sell any land held in trust.

Land that is held in trust is designated for a particular use. A common example is when land is given or dedicated to a city for park purposes. Generally, a city that holds park land in trust must use it for park purposes. If the city uses it for some other purpose, the previous owner can pursue a court action to regain ownership of the land or prohibit the city from using it for a different purpose.

Under Minnesota law, land that has been donated to the public on a plat that is recorded must be held in trust for its intended purpose.

Dedication occurs when a private party transfers land to a government entity for a particular purpose. Once land is formally dedicated with a condition, the government does not own the land in fee simple with the right to sell it.

The general rule regarding dedications of land for park purposes is that the city holds the property in trust for the public and has no power to divert the land from the uses and purposes of the original dedication.

Neighboring property owners can also pursue court action to prohibit a city from using land for purposes other than those for which it was dedicated. In a 1962 decision, the Minnesota Supreme Court found that abutting property owners own appurtenant rights and have a right to enforce public uses of land dedicated to a specific public use.

The Supreme Court also found that taxpayers have standing to object to a city's attempt to relinquish an easement for park purposes. In this case, however, the city had failed to comply with the requirements of its city charter.

In a more recent decision, the Minnesota Supreme Court looked at a similar situation. In this instance, a city tried to sell dedicated land that it held in trust to a developer to build a senior citizen residence, but the land was dedicated for use as a public square. The abutting homeowners sought to stop the sale to the developer, claiming the development would make it impossible to maintain the public square and also result in the general public being excluded from the land. The court found the city could not sell land that it held in trust because the city had only such use of the property as was needed to fulfill the property's use as a public square.

RELEVANT LINKS:

A.G. Op. 59-a-40 (June. 15, 1950). A.G. Op. 59-a-40 (Nov. 8, 1955). A.G. Op. 59-a-40 (Dec. 16, 1947). A.G. Op. 59-b-11 (Nov. 20, 1957). A.G. Op. 469-a-15 (Jul. 30, 1945). A.G. Op. 469-a-15 (Nov. 18, 1948).

[Minn. Stat. § 15.054.](#)
[Minn. Stat. § 471.87-.89.](#)
See also LMC information memo [Official Conflict of Interest](#).

[Minn. Stat. § 471.88, subd. 5.](#)
[Minn. Stats. § 471.345, subd. 2.](#) Also see Part I - H - [Lease-purchase agreements](#).

A.G. Op. 469-a-12 (Aug. 30, 1961). A.G. Op. 90-a-1 (Sep. 28, 1955).

See Part I - E - [Eminent domain](#).

[Minn. Stat. § 471.345, subd. 2.](#)

A.G. Op. 469-a-15 (Feb. 18, 1955). A.G. Op. 469-a-15 (Jul. 16, 1947). A.G. Op. 59-a-40 (Nov. 19, 1946). A.G. Op. 59-a-40 (Nov. 26, 1946). A.G. Op. 622-j-3 (Jun. 3, 1975). A.G. Op. 59-b-14 (May 1, 1967).

The Attorney General has repeatedly found that cities that hold land in trust that was dedicated for park purposes may not use the land for other purposes or sell the land.

D. Real estate contracts with a city official

A city is specifically prohibited from selling city land to one of its officials. Likewise, conflict of interest statutes do not appear to allow a city council to contract for the purchase land from one of its council members.

One exception to the conflict of interest law is for contracts that are not required to be competitively bid. This exception applies only to contracts for goods and services, and real estate does not fall into these categories. Therefore, this exception does not apply.

The attorney general has also concluded that cities may NOT contract to purchase land from or sell land to their city council members.

If a city must acquire land from one of its council members, it may need to exercise its power of eminent domain. Cities should contact the League and their city attorneys for further information on eminent domain.

E. Title encumbrances

A city should thoroughly investigate land it will be acquiring for any possible title encumbrances (such as liens, deed restrictions, special assessments, unpaid taxes, etc.). A title search or title opinion will usually uncover these encumbrances.

F. Competitive bidding

Real estate sales and purchases are not included in the definition of “contract” for the purpose of the competitive bidding law. Accordingly, buying and selling real estate usually does not require competitive bidding.

The Attorney General has repeatedly concluded that competitive bidding is not required for the sale of real property but has not considered the issue of land purchases.

Some home rule charters may have competitive bidding requirements for land transactions. These cities may need to follow these provisions in order to sell real property.

RELEVANT LINKS:

[Minn. Stat. § 475.58, subd.1.](#)

[Minn. Stat. § 462.356, subd. 2.](#)

[Minn. Stat. § 412.221, subd. 2.](#) Also see Part I - I - *Contracts for deed.*

[Minn. Stat. § 469.029, subd. 2.](#) [Minn. Stat. § 469.065, subd. 2.](#) [Minn. Stat. § 469.105, subd. 2.](#)

[Minn. Stat. § 475.58, subd. 1.](#)

[Minn. Stat. § 475.52, subds. 1 and 2.](#)

Home rule charter cities should check their city charters for such requirements.

G. Getting permission to buy or sell land

Generally, a city does not have to get permission from anyone, including residents, in order to buy or sell land. However, there are a few exceptions to this general rule.

In some instances, a city may need to consider notifying people or getting approval before making the purchase. Such situations include the following:

- **Bond issues.** If the city will be issuing general obligation bonds for the purchase, it must hold a special election to get permission to borrow money, except in specific situations.
- **Comprehensive plans.** If the city has a comprehensive plan, the planning commission must review the transaction to determine if it is consistent with the plan.
- **Contracts for deed.** If a statutory city will be buying land using a contract for deed, it must publish a resolution indicating the intent to purchase land. If voters submit a petition, the city must hold a special election to get permission to buy the land.
- **Lease or sale of HRA, EDA, or Port Authority land.** A Housing and Redevelopment Authority (HRA), Economic Development Authority (EDA), and some Port Authorities must hold a public hearing before selling or leasing most land.
- **Charter provisions.** Some city charters may contain provisions restricting the council's authority to buy or sell land.

These situations are discussed in further detail below.

1. Bond issues

If the city will be issuing general obligation bonds to raise money for the land purchase, it must hold a special election to get permission from the voters.

This permission gives the city the ability to borrow money for the purchase.

Any statutory city may issue revenue bonds or other obligations for the acquisition of buildings, parks, playgrounds, stadiums, sewers, streets, and sidewalks. Home rule charter cities may also issue bonds for these purposes if not restricted by their charters.

RELEVANT LINKS:

[Minn. Stat. § 469.060, subds. 1 and 5.](#)

See LMC information memo, [City Special Elections](#).

[Minn. Stat. § 462.356, subd. 2.](#)

For more information on the role of the planning commission in purchase and sale of city property see the LMC information memo [Planning Commission Guide](#).

[Minn. Stat. § 462.356, subd. 2.](#)

See Part I - I - *Contracts for deed*.

[Minn. Stat. § 469.029, subd. 2.](#) [Minn. Stat. § 469.065, subd. 2.](#) [Minn. Stat. § 469.105, subd. 2.](#)

[Minn. Stat. § 469.029, subd. 2.](#)

There are some limited circumstances where a Port Authority may issue bonds with prior council approval.

The League has a research memo that discusses special elections in further detail, as well as information on municipal bonds.

2. Cities with comprehensive plans

If a city has a comprehensive plan, it may not acquire or dispose of any property until the city's planning commission has reviewed the proposed acquisition and reported on whether it will comply with the city's comprehensive plan. The planning commission's report must be in writing.

If the planning commission fails to provide the written report within 45 days, the council need not wait any longer to make the purchase. The city council does not need to follow this requirement if it passes a resolution finding that the acquisition has no relationship to the comprehensive municipal plan. However, the resolution must be passed by a two-thirds vote of the council.

3. Contracts for deed

If a city is purchasing land using a contract for deed and the cost will exceed a certain amount, it must publish a resolution stating it will be making the purchase using a contract for deed. In addition, it must hold a special election to get permission from voters if a proper petition is submitted. Contracts for deed are discussed in detail at Part I-I.

4. Lease or sale of HRA, EDA, or Port Authority land

A Housing and Redevelopment Authority (HRA), Economic Development Authority (EDA), or Port Authority must hold a public hearing before selling or leasing most land.

A city should also check an authority's bylaws and enabling resolutions for any additional requirements, such as prior council approval of land sales or other notice and hearing requirements.

a. HRAs

Land belonging to a Housing Redevelopment Authority (HRA) may be sold or leased without public bidding, but only after holding a public hearing. Notice of the public hearing must be published at least once. The notice must be published at least 10 days, but not more than 30 days, before the hearing.

RELEVANT LINKS:

[Minn. Stat. § 469.105, subds. 2 and 3.](#)

[Minn. Stat. § 469.065, subd. 1.](#)

[Minn. Stat. § 469.065, subd. 2.](#)

[Minn. Stat. § 469.065, subd. 3.](#)

[Minn. Stat. § 469.065, subds. 4 and 5.](#)

[Minn. Stat. § 469.065, subd. 5 and 6.](#)

b. EDAs

An Economic Development Authority (EDA) may also sell its property after holding a public hearing on the sale. The EDA must publish notice of the hearing in a newspaper with general circulation within the EDA's county and city.

The notice must be published at least 10 days, but no more than 20 days, before the hearing. The notice must include the following:

- A description of the property to be sold.
- The time and place of the hearing.
- A statement allowing the public to see the terms and conditions of the sale at the EDA's office.
- A statement that the EDA will meet to decide if the sale is advisable.

c. Port Authorities

A Port Authority may sell or convey property it owns within a port or industrial district but must hold a public hearing on the proposed sale. The Port Authority must publish notice of the hearing in a newspaper with general circulation within the Port Authority's county and port district. Notice must be published at least 10, but no more than 20 days, before the hearing. The notice must include the following:

- A description of the property to be sold.
- The time and place of the hearing.
- A statement allowing the public to see the terms and condition of the sale at the authority's office.
- A statement that at the hearing the authority will meet to decide if the sale is advisable.

A Port Authority must make a decision on whether the sale is advisable and enter its decision on its records within 30 days of the hearing. A taxpayer may appeal the decision in district court by serving legal notice on the secretary of the Port Authority. Such service must occur within 20 days after the Port Authority enters its decision on its records. The only basis for appeal, however, is that the action of the Port Authority was arbitrary, capricious, or contrary to law.

The terms and conditions of the sale of the property must include its intended and allowable use. A Port Authority may require the buyer to file a security to ensure the property will be given that use.

The purchaser must devote the property to its intended use or begin work on improvements to the property to devote it to that use.

RELEVANT LINKS:

[Minn. Stat. § 469.065, subd. 7.](#)

See Handbook, *The Home Rule Charter City*.

[Minn. Stat. § 287.21, subd. 1.](#)

[Minn. Stat. § 287.24.](#)

See LMC information memo *Meetings of City Councils*.
[Minn. Stat. § 13D.01.](#)

[Minn. Stat. § 13D.05, subd. 3\(c\).](#)

If the purchaser fails to do this, a Port Authority may cancel the sale and the title of the property will return to the Port Authority. It may extend the period of time to comply with a condition if the buyer has good cause.

A conveyance must not be made until the purchaser submits plans and specifications to develop the property that is being sold.

A Port Authority must approve the plans and specifications in writing, and may require preparation of final plans and specifications before the hearing is held on the sale.

A city should also check an authority's bylaws and enabling resolutions for any additional requirements, such as prior council approval of land sales or other notice and hearing requirements.

d. Charter provisions

Some city charters may contain provisions restricting the council's authority to buy or sell land. State law does not require bids or approval of the voters to sell land, but a charter may impose such restrictions.

H. State deed tax

The state deed tax applies to every grant, assignment, transfer, or other conveyance of land by deed. Cities are not exempt from this tax and are responsible for paying it to the same extent as any other individual making a land transaction. The tax must be paid before the county will record the property transfer.

The seller is usually responsible for paying the state deed tax, although sometimes the buyer may contractually agree to pay the tax in exchange for other concessions by the seller.

I. The Open Meeting Law

The Minnesota open meeting law generally requires that all meetings of public bodies be open to the public. The open meeting law applies to all governing bodies of any school district, unorganized territory, county, city, town or other public body, and to any committee, sub-committee, board, department or commission of a public body.

Under the Open Meeting Law, a public body may close a meeting to: determine the asking price for real or personal property to be sold by the public body; review confidential or protected nonpublic appraisal data; develop or consider offers or counteroffers for the purchase or sale of real or personal property.

To close a meeting for these purposes, the following procedure should be done:

RELEVANT LINKS:

[Minn. Stat. § 82.81.](#) [Minn. Stat. § 82.641.](#)

[Minn. Stat. § 82B.03.](#)

Call the [Minnesota Department of Commerce](#) at (651) 296-6319 or 800-657-3978.

- Before closing the meeting, the public body must state on the record the specific grounds for closing the meeting, describe the subject to be discussed, and identify the particular property that is the subject of the meeting.
- The meeting must be tape-recorded and the property must be identified on the tape. The recording must be preserved for eight years, and must be made available to the public after all property discussed at the meeting has been purchased or sold or after the public body has abandoned the purchase or sale.
- A list of council members and all other persons present at the closed meeting must be made available to the public after the closed meeting.
- The actual purchase or sale of the property must be approved at an open meeting, and the purchase or sale price is public data.

IV. Real estate professionals

Real estate brokers, salespersons, and closing agents are licensed by the state. Although there is no specific statutory authority for use of these professionals by cities, it is probably permissible for cities to retain such professionals if needed.

Real estate appraisers are licensed by the state. Only a licensed appraiser is allowed to do real estate appraisals. When choosing an appraiser, a city should ask for references. In addition, a city should request that the appraiser supply the following information:

- The appraiser's full name.
- The appraiser's license number.
- Whether the appraiser is exempt from licensing.
- The length of time the appraiser has been in business.

After getting the above information, a city should contact the Minnesota Department of Commerce. The Department of Commerce can verify the level at which the appraiser is licensed, and sometimes provide additional information on the appraiser's past performance.