

RESOLUTION NO. 2017-43

Supporting reform to Wisconsin's eminent domain laws

Executive Summary

Condemnation of real property is the process whereby the government takes title to private property using its power of eminent domain. This authority allows the government to obtain private land for public purposes upon payment of just compensation to the land owner. The power of eminent domain has been extended to private utility companies which give them the authority to take title to private property or obtain an easement on private property for the greater good of the public. This resolution supports a State of Wisconsin legislative amendment which would prohibit for-profit companies in Wisconsin from exercising eminent domain authority to take title to private property or obtain an easement on private property. The Administration and Rules Committee met on October 31, 2017, and recommended forwarding this resolution to the County Board for approval.

WHEREAS, the Executive Summary is incorporated into this resolution, and

WHEREAS, condemnation of real property is the process whereby the government takes title to private land using its power of eminent domain, and

WHEREAS, taking private land against a landowner's will is a power of the state that should be rarely exercised, and

WHEREAS, when the state grants the power of eminent domain to a business entity, the power granted removes free market forces and the landowner is placed in a disadvantaged position, precluding a fair and balanced transaction, and

WHEREAS, when the land taking is for an easement, the threat of eminent domain diminishes not only the landowner's negotiating power for a fair land price, but also diminishes the power to negotiate important easement terms such as the duration of the easement, annual payments for use of the land, whether the easement can be transferred to another business or sovereign entity, plans for pipeline abandonment, responsibilities for negligence and liability, as well as many other easement terms, and

WHEREAS, studies have shown: 1) the threat of eminent domain reduces property values and the tax base, an effect known as "condemnation blight;" 2) for long-term economic growth it is crucial for landowners to trust that their property rights are secure; and 3) government land takings for private development rarely result in a net economic gain (Reference: Somin, 1. 2015. *The Grasping Hand, Kelo v. City of New London & the Limits of Eminent Domain*. The University of Chicago Press, Chicago. 356 pp.), and

WHEREAS, Enbridge is a Canadian oil pipeline company that owns four pipelines that traverse the entire length of Wisconsin from Superior to the Illinois border, and these pipelines carry 2.2 million barrels of oil per day through Wisconsin, which is approximately 15% to 20% of the daily oil demand in the United States, and

WHEREAS, Enbridge plans to acquire more land easements along their pipeline route from Superior to the Illinois border to add an additional pipeline called Twin 61 or Line 66 that could carry an additional 800,000 barrels of oil per day through Wisconsin, and

WHEREAS, in preparation for their pipeline expansion in Wisconsin, Enbridge has: 1) conducted civil, biological, and archaeological surveys along the entire proposed pipeline route; 2) announced to investors in January 2017 that the company is in the early developmental phase of their expansion in Wisconsin; 3) applied for a permit for a new pipeline, the Line 3 Replacement in Minnesota that could carry up to 915,000 barrels per day of oil to the Enbridge terminal in Superior, which, because the current pipeline system in Wisconsin is at capacity, must continue flowing south through Wisconsin in a new pipeline; 4) announced plans to start construction on the Line 3 Replacement in Canada in the summer of 2017, and

WHEREAS, Enbridge is a for-profit company intended for the benefit of its investors, and as such, exercising the power of eminent domain for little to no public benefit does not meet the United States and Wisconsin constitutional standard of land takings only for public use, and

WHEREAS, other states have taken action to protect citizens' property rights and prohibit the abuse of eminent domain powers by for-profit oil pipeline companies. State actions include: 1) South Carolina's governor in June 2016 signed a three-year moratorium on the use of eminent domain by oil pipeline companies; 2) Georgia in 2017 passed a bill providing additional safeguards to landowners dealing with for-profit pipeline companies; 3) North Carolina has proposed a state constitutional amendment limiting the use of eminent domain to only land takings that meet the criterion of public use such as roads; 4) Nebraska, Iowa, and Illinois are considering bills to limit the abuses of eminent domain by oil pipeline companies, and

WHEREAS, the state legislature possesses the sole power and authority to revise state statutes to limit the use of eminent domain and restore property rights to Wisconsin citizens, and

WHEREAS, residents in Jefferson County are threatened with the potential of having their land forcibly taken by companies such as Enbridge for private financial gain with little to no public benefit.

NOW, THEREFORE, THE JEFFERSON COUNTY BOARD OF SUPERVISORS HEREBY RESOLVES to express its desire to the Wisconsin State Legislature and Governor to reform eminent domain laws to protect the property rights of Wisconsin citizens and prohibit the state from granting the power of eminent domain to for-profit oil pipeline companies.

BE IT FURTHER RESOLVED that the County Clerk is directed to forward a copy of this resolution to Governor Scott Walker, the Wisconsin Counties Association, Jefferson County's Legislative Representatives and the Public Service Commissioners with the request that they assist in this endeavor.

Fiscal Note: This resolution will have no fiscal impact.

THIS RESOLUTION WAS REFERRED BACK TO THE ADMINISTRATION & RULES COMMITTEE.

Ayes____ Noes____ Abstain____ Absent____ Vacant____

Requested by
Administration & Rules Committee

11-14-17

J. Blair Ward: 11-06-17

REVIEWED: Administrator; bw; Corp. Counsel; jbw; Finance Director; md

1

RESOLUTION NO. 18-2B-460

AGENDA NO. 12.F.(1)

**RESOLUTION
ROCK COUNTY BOARD OF SUPERVISORS**

Supervisor Wesley Davis
INITIATED BY



Supervisor Wesley Davis
DRAFTED BY

Public Works Committee &
County Board Staff Committee
SUBMITTED BY

October 26, 2017
DATE DRAFTED

In Support of Reforming Wisconsin's Eminent Domain Laws

- 1 WHEREAS, many private property owners in Rock County feel that their private property, under
2 Wisconsin law, is not adequately protected from encroachment by outside entities, be they local, out of
3 state, or international; and
4
5 WHEREAS, eminent domain has historically been used sparingly for ensuring the public good with
6 provable need and just compensation; and
7
8 WHEREAS, public good cannot be construed to mean promotion of projects for private gain by
9 outside corporate entities; and
10
11 WHEREAS, a clearly defined and demonstrated "public good" has historically included things
12 demonstrating a true community need like roadways, schools, public parks, public housing, and
13 community centers; and
14
15 WHEREAS, any other claimed cause for the taking of private property shall be proven to be for a public
16 good in a court of law; and
17
18 WHEREAS, eminent domain shall not be used for any taking which is not for a "public use"; and
19
20 WHEREAS, a moratorium on the use of eminent domain power for private gain would be advisable to
21 allow the public and local communities to voice their concerns over its use for private gain and for the
22 State Legislature to explore revisions and amendments to the current eminent domain requirements in
23 Chapter 32 of the Wisconsin Statutes; and
24
25 WHEREAS, during such moratorium, it may be necessary for units of local government to exercise their
26 power of eminent domain for purposes of completing transportation projects, and that nothing in this
27 resolution should be construed to limit such a use.
28
29 NOW, THEREFORE, BE IT RESOLVED that the Rock County Board of Supervisors duly
30 assembled this 22nd day of February, 2018, does hereby request that the State of
31 Wisconsin impose a three year moratorium on the use of eminent domain for private gain in order to
32 allow the State Legislature to pursue a change of law for the protection of its citizens' property rights.
33
34 BE IT FURTHER RESOLVED that copies of this request be sent to Governor Scott Walker,
35 Wisconsin State Senators and Assembly Representatives, the Public Service Commissioners, County
36 Board Chairs and to the Wisconsin Counties Association.

Respectfully submitted:

PUBLIC WORKS COMMITTEE

Betty Jo Bussie
Betty Jo Bussie, Chair

Brent Fox
Brent Fox, Vice Chair

Eva Arnold
~~Eva Arnold~~

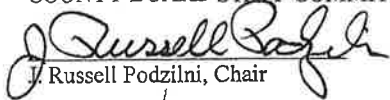
Brenton Driscoll

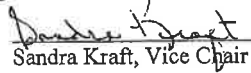
Rick Richard
Rick Richard

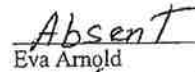
18-2B-460

In Support of Reforming Wisconsin's Eminent Domain Laws
Page 2

COUNTY BOARD STAFF COMMITTEE

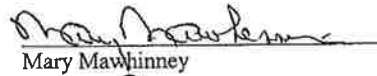

J. Russell Podzilni, Chair

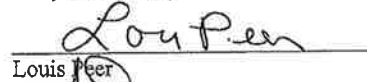

Sandra Kraft, Vice Chair

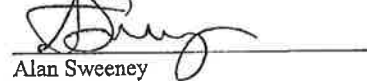

Absent
Eva Arnold

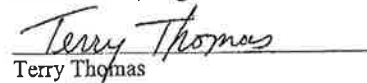

Henry Brill


Betty Jo Bussie


Mary Mawhinney


Louis Peer


Alan Sweeney


Terry Thomas

* FISCAL NOTE:

This resolution is advisory only and has no direct fiscal impact on Rock County operations in and by itself.


Sherry Oja
Finance Director

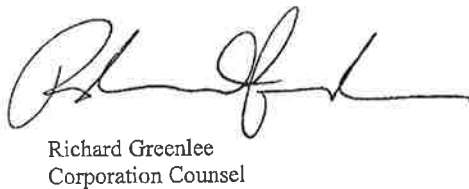
ADMINISTRATIVE NOTE:

Matter of Policy.


Josh Smith
County Administrator

LEGAL NOTE:

Advisory only.


Richard Greenlee
Corporation Counsel

Can get exunctive

Executive Summary

In Support of Reforming Wisconsin's Eminent Domain Laws

This resolution addresses concerns of the citizens of Rock County who are worried that their personal property rights are not clearly protected under current eminent domain law. They worry that private entities seeking private gain could use the law to deprive them of property while serving no real public good or benefit. There is concern that "acquiring authorities", be they local, state, national or international, could take their land through various means such as the misuse of condemnation commissions appointed by circuit courts. The make-up of those commissions is worrisome. There is also a real need to review and revise a law which took effect 47 years ago. Subsequent laws have had an effect on eminent domain law which necessitates a need for review by legislative bodies to ensure that the original intent and protections of private property are upheld.

Jefferson County Position Description

Name:

Department:

Position Title: County Administrator

Pay Grade: 22 **FLSA:** Exempt

Date:

Reports To: County Board

Purpose of Position

As Chief Executive Officer, appointed by a majority vote of the board of supervisors, the purpose of this position is to provide direction for all departments of Jefferson County corporate government within the policy framework established by the County Board. As Director, manages and leads department and staff, oversees budget and planning, supervises department employees and operations, may oversee facilities and grounds, oversees short-and long-term goals, interacts with all stakeholders, department heads, County Administrator, County Supervisors, and resolves citizen issues. The purpose of this position is to oversee and manage the buildings associated with County operations by setting a preventative maintenance schedule, prioritizing requests for services, responding to urgent issues that cannot be delayed related to safety and security of employees and detention detainees.

Essential Duties and Responsibilities

The following duties are normal for this position. These are not to be construed as exclusive or all-inclusive. Other duties may be required and assigned.

- Coordinates and directs all administrative and management functions of the County government not otherwise vested by law in boards or commissions, or in other elected officers.
- Appoints and supervises the heads of all departments of the County except those elected by the people and except where the statutes provide that the appointment shall be made by elected officers.
- Appoints the members of all boards and commissions where the statutes provide that such appointment shall be made by the County Board or by the Chairperson of the County Board, subject to the confirmation of the County Board.
- Develops and submits the annual budget to the County Board, and at minimum, annually communicates to the Board the condition of the County and recommends such matters to the Board for its consideration as considers expedient. Provides guidance to the department heads and assists the Finance Committee in reviewing the annual recommended budget.
- Work with Finance Department and department heads on monitoring the execution of the approved budget. Makes budget adjustments and recommendations for budget amendments based on needs of the County and financial conditions.
- Prepares, plans, and recommends policy and program changes for the County Board's consideration.
- Represents the County's interests when working with other governmental units or other individuals/ business working with the County.
- Prepares the monthly County Board agenda and packet, including writing or reviewing of ordinances, resolutions, and reports.
- Administers and oversees the County's purchasing policies and procedures.

- Signs and approves County documents as authorized or directed by the County Board.
- Understands and remains current with changing and emerging technologies and other advancements to position the County in the best financial and strategic position. Remains current on State and Federal laws as they affect the County.
- Conducts organizational reviews to identify strengths, weaknesses and opportunities and to evaluate operational effectiveness to best implement County values and culture as set forth in the County's strategic plan and long-term goals.
- Ensures the provisions of the Personnel Ordinance, including hiring, promotion, and termination of employees; labor negotiations and grievances. Reviews and recommends changes to County staffing levels.
- ~~Maintains confidentiality and complies with County HIPAA Policies and Procedures, if applicable.~~
- ~~Demonstrates dependable attendance.~~
- Establishes short and long-range plans, strategies, goals and objectives for the department that are in alignment with County strategic plan.
- Design and implement improvements for requests for services.
- Ensures compliance with County rules and regulations, State and Federal laws, regulations, and rules.
- Analyzes information to determine best possible course of action.
- May plan and coordinate staffing and coverage, training; approves leave and payroll.
- Plans, prepares, directs, and manages the department budget. Monitors expenses and revenues, preparing monthly expense and revenue report to State and County. Prepares an annual report that describes operational effectiveness.
- Negotiates, prepares, and monitors agreements and contracts for services with other County departments, vendors, and contractors.
- Responds to inquiries and/or complaints from customers or other parties and takes action steps to resolve issues.
- Assures compliance with performance standards and annual department goals.
- Complies with County HIPAA Policies and Procedures, if applicable.
- Adheres to and promotes safety as a priority in the workplace.
- Performs other duties as assigned or that may develop, or as needed by the County Board.

Additional Tasks and Responsibilities

While the following tasks are necessary for the work of the unit, they are not an essential part of the purpose of this position and may also be performed by other unit members.

- None.

Minimum Training and Experience Required to Perform Essential Job Functions

Minimum of Bachelor's degree in Public or Business Administration or related field, with a minimum of eleven or more years of government administrative management experience required or any combination of education and experience. Progressive supervisory and management experience.

Preferred Training and Experience Required to Perform Essential Job Functions

Master's degree in Public or Business Administration or related field, with a minimum of nine or more years of government administrative management experience required or any combination of education and experience.

Other Requirements – Certificates/Licensures

Valid driver's license.

Knowledge, Skills, Abilities

- Ability to maintain a strong sense of professional and personal integrity, ethics, and standards
- Ability and skills to develop, recommend, and implement effective plans and programs and objectively evaluate progress toward goals and timetables
- Ability to develop and effectively present information clearly and in an interesting manner to elected officials, news media, employees, and the general public
- Ability and skill to establish and maintain effective working relationships with staff personnel, community, and Board officials, other elected officials, State and Federal representatives, and the general public.
- Ability to apply concepts such as fractions, percentages, ratios, and proportions to practical situations.
- Ability to apply principles of logical or scientific thinking to a wide range of intellectual and practical problems.
- Ability to deal with a variety of abstract and concrete variables.
- Ability to deal with nonverbal symbolism (formulas, scientific equations, graphs, etc.,) in its most difficult phases.
- Ability to make effective and persuasive speeches and presentations on controversial or complex topics to top management, public groups, and/or boards.
- Ability to meet stringent deadlines and to accurately perform and complete written and oral procedures applicable to assigned duties.
- Ability to read, analyze, and interpret the most complex documents.
- Ability to reliably and predictably carry out one's duties.
- Ability to respond effectively to the most sensitive inquiries or complaints.
- Ability to work with mathematical concepts such as probability and statistical inference, and fundamentals of plane and solid geometry and trigonometry.
- Ability to write speeches and articles using original or innovative techniques or style.
- Knowledge of accurate record-keeping and accounting and bookkeeping processes in accordance with regulatory mandates and economic practicality.
- Knowledge of current management principles, practices, and techniques as they pertain to local governmental administration including: coordination of varied activities of a large organization and staff; budgeting and budgetary control; fiscal analysis and management; personnel management, public sector labor relations and contract negotiations, and equal employment opportunity principles; strategic and organizational planning; program development and evaluation; management information systems; organizational behavior, psychology, and development; risk management and safety; professional standards of practice and ethics.
- Knowledge of local, State, and Federal legislation affecting county government.
- Knowledge and ability to handle cash management and investment of County funds including bonding and capital outlay.

- Knowledge of funding resources including governmental and private grant availability and procedures.
- Skill in leadership and skills to plan, organize, direct, and coordinate the administration, financial, and operational functions of County government.
- Skill in working sensitively with persons from diverse cultural, socioeconomic, educational, racial, ethnic, and professional backgrounds in public health settings.
- Skill in operating a personal computer, laptop, and other department office equipment using applicable department software, Microsoft products, web-based systems, and performing data entry.

Supervision

Carries out supervisory responsibilities in accordance with the organization's policies and applicable laws. Involves supervisory responsibility for one or more full-time individuals, involvement in the recruitment and selection process of employees, prepares and conducts employees' performance appraisal, disciplinary measures, and assists with the hiring and firing process. Additional responsibilities include supervising direct reports through coaching, interviewing, hiring, and training employees; planning, assigning, and directing work; appraising performance; rewarding and disciplining employees; addressing complaints and resolving problems.

Physical Demands

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential duties and responsibilities of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential duties and responsibilities.

While performing the duties of this position, the employee is regularly required to sit; use hands to finger, grasp, handle, or feel; reach with hands and arms and talk or hear. The employee is occasionally required to stand; walk; climb or balance and stoop, kneel, crouch, or crawl. Lifting, moving, pushing or pulling up to 10 pounds does not generally occur, but may occur when lifting boxes, books or paper. Specific vision abilities required by this job include close vision, color vision, depth perception and ability to adjust focus, distance vision.

Work Environment

The work environment characteristics described here are representative of those an employee encounters while performing the essential duties and responsibilities of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential duties and responsibilities.

While performing the duties of this position, the employee is not regularly exposed to adverse conditions. The noise level in the work environment is usually moderate.

Jefferson County is an Equal Opportunity Employer. In compliance with the Americans with Disabilities Act as Amended, the County will provide reasonable accommodations to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the employer.

I have read and understand the duties of this job description and, by signing below; I agree that I can perform the duties of this position with or without reasonable accommodation.

Employee

Date

Supervisor

Date

Human Resources

Date

Executive Committee

Date of Meeting: 5/29/18

[illegible]