Resolution No. 35 - 10/17
Supporting Reform of Wisconsin’s Eminent Domain Laws and Prohibiting the Use of Eminent Domain for Forcible Land Takings by For-Profit Oil Pipeline Companies

Moved/Sponsored by: Executive Committee

WHEREAS, the 5th Amendment of the United States Bill of Rights and the Wisconsin Constitution both specify that “The property of no person shall be taken for public use without just compensation;” and,

WHEREAS, taking private land against a landowner’s will is a power of the State that should be used only rarely and exercised with solemn deliberation; and,

WHEREAS, when the State grants the power of land takings by eminent domain to a business entity, the power granted removes free market forces such that, unlike other transaction between two parties, the landowner is placed in a disadvantaged position, precluding a fair a 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.

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 of oil per day 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; and,

4) Announced plans to start construction on the Line 3 Replacement in Canada in the summer of 2017.

WHEREAS, during the 2015 Wisconsin budget process, Enbridge instigated, drafted and ultimately, inserted an amendment to the State budget to change Wisconsin eminent domain statutes without public hearings and without normal legislative processes; and,

WHEREAS, the change ensures Enbridge’s business structure is fully eligible for the State’s granting of eminent domain power to Enbridge; and,

WHEREAS, Enbridge is a for-profit company intended for the benefit of its investors and as such, the power Enbridge has exercised in the past and plans to exercise in the future for forcible land takings by eminent domain does not meet the United States and Wisconsin constitutional standard of land takings only for public use; and,

WHEREAS, the rights of a landowner to own and control his or her property are the foundation of American democracy and individual liberty; and,

WHEREAS, other states have taken action to protect citizens’ property rights and prohibit the abuse of eminent domain powers by for-profit oil companies. State actions include:

1) South Carolina’s governor signed a three-year moratorium on the use of eminent domain by oil pipeline companies in June 2016;

2) Georgia passed a bill providing additional safeguards to landowners dealing with for-profit pipeline companies in 2017;

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; and,

4) Nebraska, Iowa and Illinois are considering bills to limit the abuses of eminent domain by oil pipeline companies.

WHEREAS, all authority to grant eminent domain power to oil pipeline companies resides solely at the State level, namely the Wisconsin Public Service Commission. Unlike natural gas pipelines, no federal government agencies have authority over land takings by oil pipeline companies. Therefore, the State Legislature possesses the sole power and authority to revise State statutes to limit the abuses of eminent domain and restore property rights to Wisconsin citizens.

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors hereby expresses their 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 Walworth County Board of Supervisors directs the
County Clerk to forward a copy of this resolution to Governor Walker, State Legislators
representing Walworth County, the Public Service Commissioners and the Wisconsin Counties
Association.

Nancy Russell  
County Board Chair

Kimberly S. Bushey  
County Clerk

County Board Meeting Date: October 10, 2017

Action Required: Majority Vote X Two-thirds Vote _____ Other _____

Policy and Fiscal Note is attached. 
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

David A. Bretl  
Date 9/30/17
County Administrator/Corporation Counsel

Nicole Andersen  
Date 9/27/17
Deputy County Administrator - Finance

If unsigned, exceptions shall be so noted by the County Administrator.
I. **Title:** Supporting Reform of Wisconsin’s Eminent Domain Laws and Prohibiting the Use of Eminent Domain for Forcible Land Takings by For-Profit Oil Pipeline Companies

II. **Purpose and Policy Impact Statement:** The purpose of this resolution is to support the reform of Wisconsin’s eminent domain laws to protect the property rights of Wisconsin’s citizens and prohibiting the state from granting the power of eminent domain to for-profit oil pipeline companies.

III. **Budget and Fiscal Impact:** Passage of this resolution will have no fiscal impact on the county budget.

IV. **Referred to the following standing committees for consideration and date of referral:**

   Committee: Executive Committee
   Meeting Date: September 11, 2017
   Vote: 5-0

   County Board Meeting Date: October 10, 2017

Policy and fiscal note has been reviewed and approved as an accurate statement of the probable policy and fiscal impacts associated with passage of the attached resolution.

David A. Bretl 
Date 
County Administrator/Corporation Counsel

Nicole Andersen 
Date 
Deputy County Administrator - Finance