



Date of Council Meeting: April 22, 2014

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: Authorizing a settlement for the acquisition of permanent and temporary easements on PINs 151-37-7403, 151-36-2959, 152-36-1675, and 151-16-0598 needed for the Lower Sycolin Creek Sewage Conveyance System – Sycolin Branch Sewer project, from the Luck Stone Corporation.

Staff Contact: Jeanette A. Irby, Town Attorney
Keith Wilson, Land Acquisition Manager, Capital Projects

Recommendation: To authorize settlement for the acquisition of permanent and temporary easements needed for the Lower Sycolin Creek Sewage Conveyance System – Sycolin Branch Sewer project on PINs 151-37-7403, 151-36-2959, 152-36-1675, and 151-16-0598, parcels owned by Luck Stone Corporation.

Issue: Should the Town Council authorize a settlement for the acquisition of permanent and temporary easements needed for the Lower Sycolin Creek Sewage Conveyance System – Sycolin Branch Sewer project on PINs 151-37-7403, 151-36-2959, 152-36-1675, and 151-16-0598, parcels owned by Luck Stone Corporation?

Fiscal Impacts: Land acquisition costs are included in the project budget.

Background: The Lower Sycolin Creek Sewage Conveyance System – Sycolin Branch Sewer project will serve areas south of the Town's incorporated boundary between the Dulles Greenway and the W&OD Trail that are within the Urban Growth Area (UGA) / Joint Land Management Area (JLMA).

A bona fide offer but ineffectual offer in the amount of \$21,030.00 was made to the landowner (Luck Stone Corp.) for the acquisition of necessary land rights for the project. By Resolution No. 2012-130, Council authorized and directed the filing of a Certificate of Take for the acquisition of the necessary land rights and to institute appropriate condemnation proceedings in the Circuit Court of Loudoun County for the acquisition of permanent and temporary easements by eminent domain proceeding if the land rights could not be acquired by voluntary acquisition. A Certificate of Take was recorded in the land records of the Loudoun County Circuit Court Clerk's Office on December 18th, 2012, for the acquisition of the necessary land rights for the Lower Sycolin Creek Sewage Conveyance System – Sycolin Branch Sewer project. A petition in condemnation was also filed by the Town in the Loudoun County Circuit Court.

Virginia Code provides for acquisitions with an estimate value of less than \$25,000.00 that an appraisal of the land rights is not required. However, for acquisitions with an estimated value of between \$10,000.00 and \$25,000.00, the landowner may request an appraisal be prepared and used as the basis for establishing just compensation. A valuation of the land rights was completed using the assessment records and other available information and an offer was made to the landowner for the acquisition of the necessary land rights in the amount of \$21,030.00.

Authorizing a settlement for the acquisition of permanent and temporary easements on the Lower Sycolin Creek Sewage Conveyance System – Sycolin Branch Sewer project.

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The landowner requested that an appraisal be prepared since the estimated fair market value of the land rights was more than \$10,000.00.

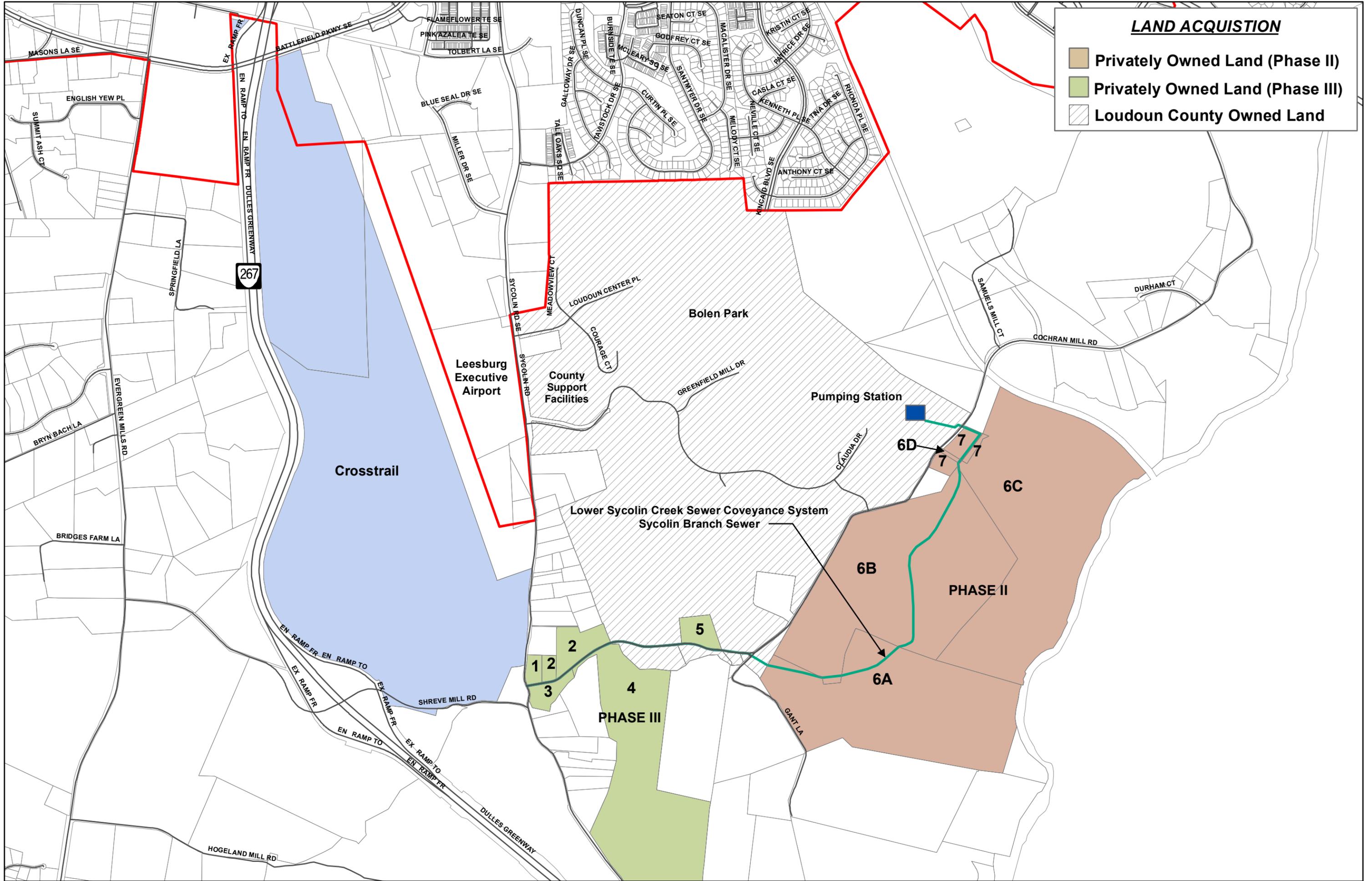
An appraisal of the land rights on the subject property was secured using the appraisal services of a licensed appraiser. The estimated fair market value of the land rights based upon an appraisal report of the subject property was in the amount of \$56,000.00

The landowner, upon consultation and advice of its legal counsel, is willing to accept the \$56,000.00 appraisal amount as settlement for the acquisition of the necessary land rights. Virginia Code provides that the landowner may request that an appraisal be prepared and used as the basis for establishing just compensation.

Attachments: Proposed Resolution
Site Map

LAND ACQUISITION

-  Privately Owned Land (Phase II)
-  Privately Owned Land (Phase III)
-  Loudoun County Owned Land



PRESENTED April 22, 2014

RESOLUTION NO. _____

ADOPTED _____

A RESOLUTION: AUTHORIZING THE SETTLEMENT OF THE CONDEMNATION ACTION OF TOWN COUNCIL OF TOWN OF LEESBURG, VIRGINIA V. LUCK STONE CORPORATION

WHEREAS, as part of the Lower Sycolin Creek Sewage Conveyance System – Sycolin Branch Sewer Project (“Project”), the Town needed to acquire land rights from Luck Stone Corporation (“landowner”) in order to construct a sanitary sewer and reclaimed water lines through and across the property owned by the landowner; and

WHEREAS, the landowner and the Town could not agree upon the value of the necessary land rights to be acquired and therefore the Town filed a Certificate of Take and Petition in Condemnation in the Loudoun County Circuit Court to acquire the land rights by eminent domain; and

WHEREAS, subsequent to the initiation of eminent domain proceedings, the landowner, who is represented by counsel, and the Town agreed upon the amount of just compensation for the land rights needed for the Project; and

WHEREAS, it is the opinion of the Town Attorney after consultation with staff and the experts retained in this matter that the settlement amount is a fair and reasonable amount to compensate the landowner for the necessary land rights, and the landowner is in agreement with the settlement amount.

THEREFORE, RESOLVED, by the Council of the Town of Leesburg in Virginia:

The Town Manager is authorized to execute a Settlement Agreement in a form approved by the Town Attorney; for the Town Attorney to settle and dismiss the condemnation action of Town Council of the Town of Leesburg, Virginia v. Luck Stone Corporation consistent with the terms in

A RESOLUTION: AUTHORIZING THE SETTLEMENT OF THE CONDEMNATION ACTION OF TOWN COUNCIL OF TOWN OF LEESBURG, VIRGINIA V. LUCK STONE CORPORATION

the Agreement; and for the Town Attorney to take any and all necessary steps to end the litigation.

PASSED this _____ day of _____, 2014.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council