



## Legislation Details (With Text)

**File #:** RES PH 16- 387      **Version:** 2

**Type:** Resolution-Public Hearing      **Status:** Passed

**In control:** City Council

**Final action:** 11/2/2016

**Title:** Ratifying the assessment costs for the 2016 Right-of-Way Maintenance Program and 2016 Above-Standard Lighting Operation and Maintenance Program for multiple properties appealed by Matt Looyen o/b/o Minnesota Commercial Railway & MT Properties, Inc. (File No. 16ROW FINAL2, Assessment No. 16032B)

**Sponsors:** Russ Stark

**Indexes:** Right of Way Maintenance Assessment, Ward - 4

**Code sections:**

**Attachments:** 1. MN Commercial Railway & MT Properties.10-4-16, 2. MN Commercial Railway & MT Properties.10-7-16.pdf, 3. John Hoeschler.Response for Above-Standard Lighting districts and rates (LMoser).10-18-16, 4. Hoeschler Summary of Objections 10-14-16, 5. John Hoeschler.Email Response to Mr. Hoeschler's Request for Street Designations & Request Map (JSpah).10-14-16, 6. 16ROW FINAL2 Assmt 16032B, 7. Classification of Streets, 8. Memo to LHO re 2016 ROW hearings (CSisk, CAO), 9. Hoeschler -Moermond.Email.10-24-16, 10. Skally email.pdf

Date	Ver.	Action By	Action	Result
11/3/2016	2	Mayor's Office	Signed	
11/2/2016	2	City Council	Adopted	Pass
10/14/2016	1	Right of Way Hearing	Referred	

Ratifying the assessment costs for the 2016 Right-of-Way Maintenance Program and 2016 Above-Standard Lighting Operation and Maintenance Program for multiple properties appealed by Matt Looyen o/b/o Minnesota Commercial Railway & MT Properties, Inc. (File No. 16ROW FINAL2, Assessment No. 16032B)

**Date of Hearing:** 10/14/16  
**Time of Hearing:** 1:00 PM  
**Date of Council Public Hearing PH:** 10/5/16 & 11/2/16

**Appellant/Owner:** Minnesota Commercial Railway & MT Properties, Inc.

**PIN/PINS:**

Minnesota Commercial Railway  
2071 UNIVERSITY AVENUE WEST      29-29-23-13-0015 (W4)  
0 BERRY STREET      20-29-23-32-0004 (W4)  
0 BERRY STREET      20-29-23-32-0032 (W4)  
0 CAPP ROAD      28-29-23-32-0018 (W4)  
508 CLEVELAND AVENUE NORTH      33-29-23-23-0005 (W4)  
508 CLEVELAND AVENUE NORTH      33-29-23-23-0010 (W4)  
2542 COMO AVENUE      20-29-23-23-0004 (W4)  
0 DOSWELL AVENUE      20-29-23-33-0016 (W4)  
0 ELLIS AVENUE      28-29-23-33-0006 (W4)

0 KASTOTA AVENUE	20-29-23-33-0006 (W4)
0 PIERCE BUTLER ROUTE/TRANSFER ROAD	28-29-23-32-0015 (W4)
601 PRIOR AVENUE NORTH	33-29-23-22-0035 (W4)
0 UNIVERSITY AVENUE WEST	33-29-23-22-0027 (W4)
2071 UNIVERSITY AVENUE WEST	29-29-23-13-0015 (W4)

MT Properties, Inc. is also an appellant for:  
508 CLEVELAND AVENUE NORTH 32-29-23-14-0018 (W4)

WHEREAS, on October 5, 2016, the City Council adopted Council File RES PH 16-287 which ratified the assessments roll for 2016 services in the 2016 Right-of-Way Maintenance Program and 2016 Above-Standard Lighting Operation and Maintenance Program; and

WHEREAS, the Council received all written objections from property owners, either before the hearing or at the hearing, and directed the city clerk to make a record thereof and remove those properties from the assessment roll ("remaining properties") for separate consideration; and

WHEREAS, the Council directed that the remaining properties be laid over from the October 5, 2016 public hearing for separate hearings to consider individual objections, and to return to the Council on November 2, 2016; and

WHEREAS, the Council ratified the assessments roll for those parcels for which property owners did not object, and ratified the balance of the assessment roll; and

WHEREAS, Council File RES PH 16-287 also directed the Legislative Hearing Officer to receive written and oral submissions regarding the remaining properties from the affected property owners, city officials, and other witnesses regarding any non-constitutional objections to the proposed assessment; and

WHEREAS, the Legislative Hearing Officer has the authority to make factual determinations regarding the non-constitutional objections for each proposed assessment and consult with the City Attorney to determine whether an objection is a constitutional objection; and

WHEREAS, on October 14, 2016, the Legislative Hearing Officer conducted a hearing regarding the appeal for Matt Looyen, on behalf of Minnesota Commercial Railway & MT Properties, Inc. at 0 BERRY STREET, 0 BERRY STREET, 0 CLEVELAND AVE NORTH, 508 CLEVELAND AVENUE NORTH, 522 CLEVELAND AVENUE NORTH, 0 DOSWELL AVENUE, 0 ELLIS AVENUE, 0 KASOTA AVENUE, 0 PIERCE BUTLER RTE, 601 PRIOR AVENUE NORTH, 0 UNIVERSITY AVENUE WEST, 2071 UNIVERSITY AVENUE WEST and 0 CLEVELAND AVE NORTH and appellant's representative, Mr. Jack Hoeschler, was granted the opportunity to present oral or written testimony and evidence to support their objections to the proposed assessments; and

WHEREAS, oral testimony and documentation regarding the assessments were provided by City staff; and

WHEREAS, the Legislative Hearing Officer made the following determination(s) and recommendation:

- Appellant did not provide any written, oral testimony or material evidence regarding non-constitutional objections to support a reduction or deletion of the assessments;
- No factual basis was established for modifying the proposed assessments; and therefore the Legislative Hearing Officer is,
- Recommending ratification of assessments; Now, Therefore, Be It

RESOLVED, that pursuant to Minnesota Statute 429, the determination(s) and recommendation enumerated above are adopted by the Council and said assessment are hereby ratified as proposed and made a part of

the assessment roll as ratified by Council File RES PH 16-287; and be it finally

RESOLVED, that the service charges shall be collected using the procedures set forth in Minn. Stat. Sections 429.061 and 429.071, and any appeals shall be made to the district court pursuant to Minn. Stat. Section 429.081.