

NATURAL RESOURCES BOARD AGENDA ITEM

SUBJECT: Ratification of Department decision to issue Stewardship grant to Friends of the Fox for acquisition of 0.84 acres with one nature based outdoor activity (NBOA) on non-department land.

FOR: FEBRUARY 2011 BOARD MEETING

TO BE PRESENTED BY: Lavane Hessler, Stewardship Local Assistance Grant Manager

SUMMARY:

The Department proposes to award a grant from the Urban Rivers subprogram of the Stewardship Program totaling \$29,069 to the Friends of the Fox for the acquisition of two parcels along the Fox River, City of Kaukauna. This purchase will increase public access to the Fox River, will connect publicly owned parcels, will allow for the further development of the Fox Locks Navigational Trail, and will allow passive camping to those navigating the river. Review under ch. NR 52 is required and has been undertaken. The Department has made the determination that the prohibition of hunting is necessary to protect public safety because: the parcels are located within the city limits, are adjacent to homes and municipal structures, will become part of an urban trail system, will be visited by users who have an expectation of no hunting on the property, and that there is a city ordinance prohibiting discharge or carrying a weapon.

The proposed property acquisition is strategically situated between Lock #5 and Augustine Street. At present, a narrow access road is the only link between Augustine Street and Lock #5. The entire lock system between Lake Winnebago and Green Bay is being refurbished with the intent of an open system to include a boat transfer station. Lock #5 is scheduled for rehabilitation in the coming year and is unique to the system due to its age. It was built in the 1850s, twenty years before the rest of the locks, and will be restored to its original condition, thus increasing public interest in its recreational, historic, and cultural significance.

The site consists of two lots, both containing dilapidated structures and with an access drive dividing them. Upon acquisition, the old structures will be torn down and removed and the site will be readied for improvements. Planned improvements include: burying overhead power lines; removal of invasives; site clean up; adding parking for visitors; construction of restrooms, picnic area, and campsite; creation of fishing access; stream bank and riverbank stabilization; and addition of historical interpretation displays.

RECOMMENDATION: Ratify Department decision to award a grant to the Friends of the Fox for the acquisition of the Fox-Wisconsin Heritage Parkway parcels in the City of Kaukauna.

LIST OF ATTACHED MATERIALS:

- No Fiscal Estimate Required
- No Environmental Assessment or Impact Statement Required
- No Background Memo

- Yes Attached
- Yes Attached
- Yes Attached

APPROVED:

Mary Madeline
Bureau Director,

Jan 28, 2011
Date

Wen Sam
Administrator,

2/1/11
Date

Matt Mowery
Secretary, Cathy Stepp

2/7/11
Date

cc: NRB Liaison
DNR Rules Coordinator

CORRESPONDENCE/MEMORANDUM

DATE: January 24, 2011

TO: Natural Resources Board

FROM: Cathy Stepp, Secretary

SUBJECT: Stewardship Grant to Friends of the Fox:
Wisconsin Heritage Parkway

FILE REF: NR 51 – UR Grant

The Department requests that the Board ratify the Department's decision to award a Stewardship grant in the amount of \$29,069 to the Friends of the Fox for the purchase of 0.84 acres of land (two parcels) in the City of Kaukauna adjacent to Lock #5 on the Fox River with one nature-based outdoor activity prohibition under ch. NR 52.

Property to be Purchased

Project Sponsor: Friends of the Fox
Seller: Augustine Trust
Financial Information: See page 3.
Timetable: The transaction is scheduled to close as soon as possible. Friends of the Fox will transfer this property to the Fox River Navigation System Authority (FRNSA) after purchase, with long-term management to be jointly handled by FRNSA and the City of Kaukauna.

I. PROJECT DETAILS

A. Property to be Purchased

Location and Size: The property is 0.84 acres in the City of Kaukauna, Outagamie County.

This acquisition serves the following goals:

1. Supports the primary goal of the Urban Rivers subprogram of the Knowles-Nelson Stewardship grant program by assisting with the restoration and preservation of the character of a major urban riverway through the acquisition of land adjacent to the Fox River.
2. Improves outdoor recreational opportunities by increasing access to an urban river for a variety of public uses including, but not limited to: fishing, trapping, wildlife viewing, hiking, photography, cross-county skiing, picnicking, boating, and camping; all within a highly developed urban area.
3. Preserves, restores, and gives access to a significant historical, cultural, and natural area along the Fox River -- specifically the Fox Lock #5.
4. Supports the City of Kaukauna Open Space and Recreation Plan by preserving and maintaining natural drainage ways, forested areas, and other natural resource areas with an emphasis on land acquisition along the Fox River.
5. Supports the Fox-Wisconsin Heritage Parkway Master Plan.

Project Description: Stewardship grant funding will assist with the acquisition of two parcels along the Fox River in the City of Kaukauna. This purchase will increase public access to the Fox River, will connect publicly owned parcels, will allow for the further development of the Fox Locks Navigational Trail, and will provide an opportunity for passive camping to those navigating the river.

The proposed property acquisition is strategically situated between Lock #5 and Augustine Street. At present, a narrow access road is the only link between Augustine Street and Lock #5. The entire lock system between Lake Winnebago and Green Bay is being refurbished with the intent of an open system (to include a boat transfer station). Lock #5 is scheduled for rehabilitation in the coming year and is unique to the system due to its age. It was built in the 1850s, twenty years before the rest of the locks, and will be restored to its original condition, increasing public interest in its recreational, historic, and cultural significance.

This project consists of two lots containing dilapidated structures on each parcel. Upon acquisition, the old structures will be torn down and removed by the City of Kaukauna and the site will be readied for improvements. Planned improvements include: burying overhead power lines; removal of invasives; site clean up; adding parking for visitors; construction of restrooms, picnic area and campsite; creation of fishing access; streambank/riverbank stabilization; and addition of historical interpretation displays.

Prior Use of Property: The property is currently under private ownership and is not open to the public for any recreational activities.

Proposed Public Use: The property will be open to the public year-round. Access to the property is available as follows: (See Appendix A for a map of the area.)

- From Augustine Street
- From the Fox River – for anglers and other sports enthusiasts using the river

Recreational opportunities will include fishing, trapping, hiking, cross country skiing, bird and wildlife watching, photography, canoeing and kayaking, passive camping, picnicking, and the enjoyment of the scenic views. Appendix B shows the Nature-based Outdoor Activities (NBOA) Staff Analysis Checklist prepared by Department staff for this project.

The City of Kaukauna has an ordinance that prohibits the discharge of firearms. The local DNR Recreational Safety Warden and Regional Warden Supervisor have reviewed the following factors: the city's ordinance prohibiting the discharge or carrying of a weapon, the proximity of homes and municipal structures to the parcels, and expectations of those who will use the trail, and have determined that the prohibition of hunting is necessary to protect public safety. (Appendices C & D)

Public Comment on Proposed Acquisition: In accordance with ch. NR 52, Wis. Adm. Code, the Department published a notice regarding the proposed acquisition; comments were collected for 15-business days. During the comment period, the Department received two comments: one comment in support and one comment in opposition. See Appendix E for a summary of the comments.

The one comment in support of the project recognized the increased public access to the river that will be possible. Further, camping opportunities were also noted possible.

The one comment in opposition stated that the state funds should not be spent when the state is in debt and no hunting is allowed.

See Appendix F for a summary of the Department's recommendation to prohibit one nature-based outdoor activity on this project.

Status After Acquisition: Friends of the Fox will transfer this project to the FRNSA; the project site will be operated and maintained in partnership with the City of Kaukauna and in conjunction with the Fox-Wisconsin Heritage Parkway Master Plan. Friends of the Fox, FRNSA, and the City will demolish the old dilapidated and abandoned buildings that are on the properties. Future improvements will include

parking for visitors, a restroom, picnic area, and a campsite. A trail, known as the Fox Locks Navigation Trail, which currently connects to the Tri-County system through the Fox Cities, is planned to traverse the property, travel along Lock #5, terminate at a fishing location north of the lock, and connect to an on-street system. Historical interpretive displays will be placed at the site as indicated in the Fox-Wisconsin Heritage Parkway Interpretation Master Plan.

NBOA Determination under ch. NR 52: The Department has determined that the hunting prohibition is necessary to protect public safety on these parcels because the parcels are located within the City limits which has an ordinance prohibiting the discharge or carrying an weapon, are adjacent to homes and municipal structures, will become part of an urban trail system, and will be visited by users who have a reasonable expectation of no hunting on these parcels.

II. PROJECT FINANCES

A. Partnerships:

- Friends of the Fox
- Fox River Navigation System Authority
- Fox-Wisconsin Heritage Parkway Foundation
- Northeast Wisconsin Land Trust
- City of Kaukauna
- Wisconsin Department of Natural Resources

B. Appraisals

The Friends of the Fox commissioned one appraisal each with values of \$31,000 and \$6,000 for the two parcels. These values were certified by the WDNR.

C. Grant Calculation

Certified appraised value for Augustine Trust Parcels =	\$37,000
Required Phase II Environmental Site Assessment	+\$14,500
Associated costs =	+ \$6,638
Total Project Costs =	\$58,138

D. Funding Sources

Friends of the Fox =	\$ 1,000
Fox River Navigation System Authority =	\$28,069
Stewardship Grant Award =	\$29,069 (50% grant)

III. RECOMMENDED:



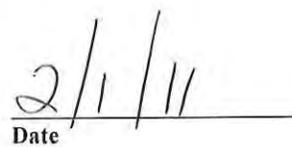
 Mary Rose Teves, Director, Bureau of Community Financial Assistance



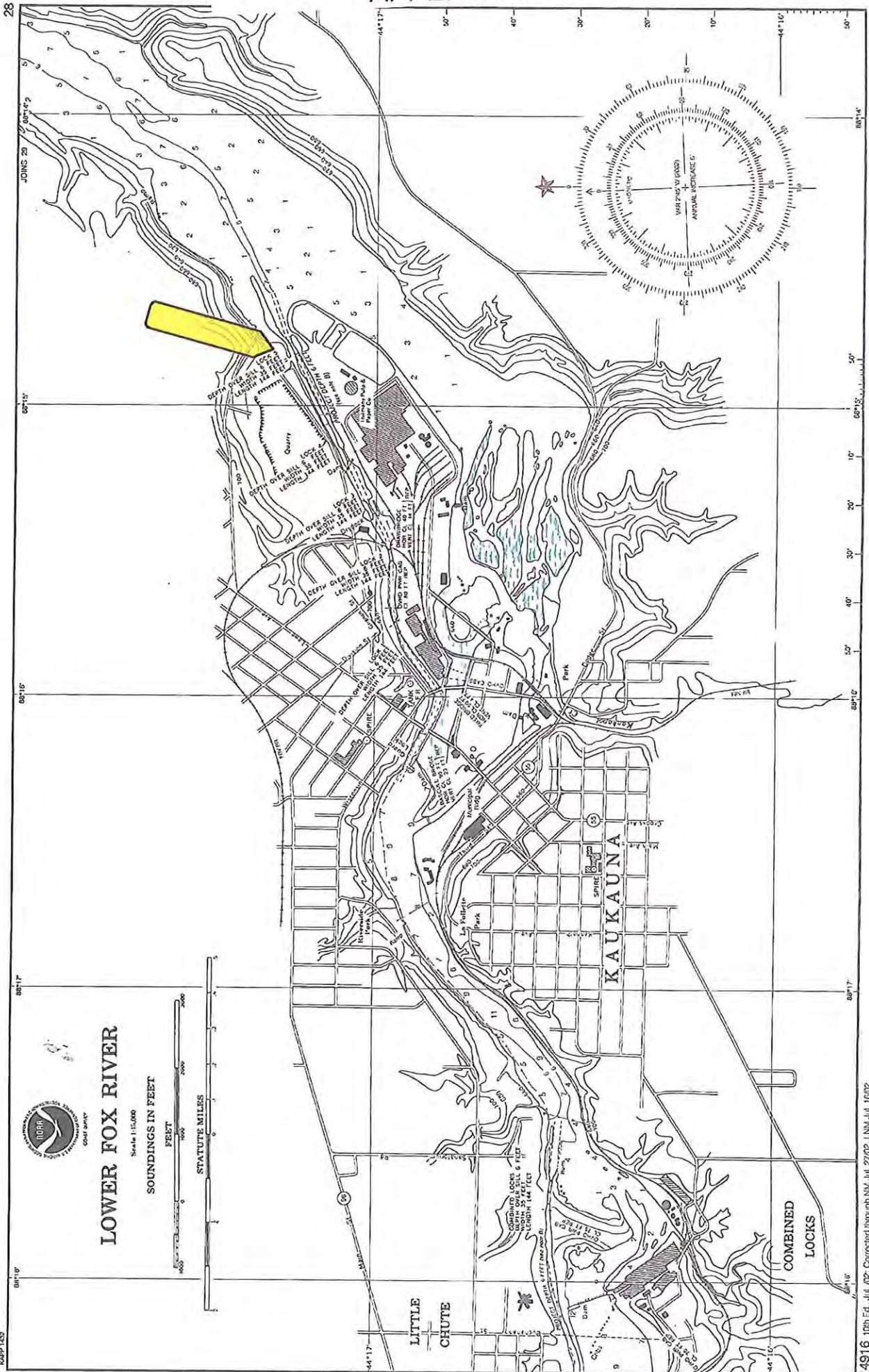
 Date



 Julie Sauer, Administrator, Customer and Employee Services Division

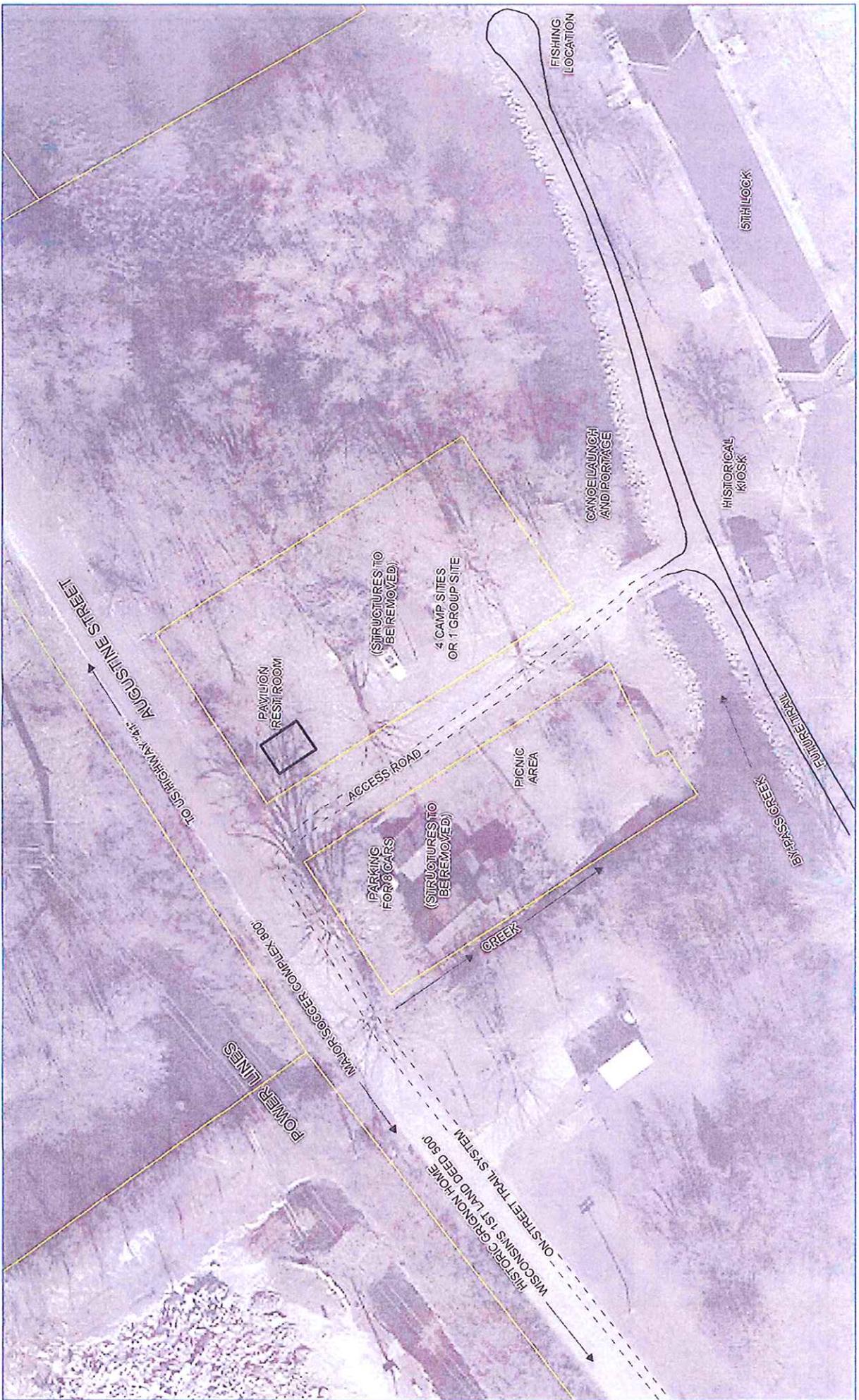


 Date



LOWER FOX RIVER
 SOUNDINGS IN FEET
 Scale 1:10,000
 FEET
 STATUTE MILES





5TH LOCK SITE PLAN

DATE: 11/11/11
SCALE: 1" = 40' PLOT



APPENDIX B

Knowles-Nelson Stewardship Grant Program



DNR Staff Analysis of Nature Based Outdoor Activities on Projects Purchased with Stewardship Grant Funds

(Rev. Sep 2009)

NOTE TO DNR STAFF: This completed form will be attached to the WEPA+NBOA notice that the DNR will publish when considering a request for Stewardship grant funding. Do not list location information for the subject property or the seller's name because WI courts have held that this information is confidential until land ownership has changed hands. In "Staff Narrative" sections below each NBOA, summarize sponsor's reason for prohibition based on the 3 allowable exceptions.

Applicant/ Sponsor: Friends of the Fox		Year of Application: 2010
Project Name and Primary Purpose (after acquisition): Fox-Wisconsin Heritage Parkway Kaukauna Land Acquisition		
Project Description: See News Release	Plan(s) or Reports Identifying Project Area as Priority: <ul style="list-style-type: none"> • Fox River Navigational System Authority Operations & Maintenance Plan • Kaukauna Open Space and Recreation Plan • Fox-Wisconsin Heritage Parkway Feasibility Study 	

Proposed NBOA – Applicant Narrative and Checklist

HUNTING			
DNR Staff Narrative: Hunting is not available on this site for public safety reasons according to state law and City of Kaukauna ordinance 9.02. Please see the Department's initial assessment of the NBOA prohibition conducted by the local recreation safety warden, pursuant to s. NR 52.05 (1) (a), Wis. Adm. Code.			
Categories	Allowable species (Gun)	Allowable species (Bow)	List Dates/Seasons (opening and closing)
Waterfowl	No	No	
Small Game	No	No	
Turkey	No	No	
Large Game	No	No	

TRAPPING		
DNR Staff Narrative: Available as state law permits.		
Location	Allowable Species	List Dates/Seasons (opening and closing)
Upland	Yes	As state law permits
Water	Yes	As state law permits

FISHING		
DNR Staff Narrative: Available as state law permits.		
Method	Allowable Activities	List Dates/Seasons (opening and closing)
Shore	Yes	As state law permits
Boat	Yes	As state law permits

HIKING		
DNR Staff Narrative: Available		
Location	Allowable Activities	List Dates (opening and closing)
On-Trail	Yes	Year 'round
Off-Trail	Yes	Year 'round

CROSS COUNTRY SKIING		
DNR Staff Narrative: Available		
Type of Trail	Allowable Activities	List Dates (opening and closing)
Off-Trail (un-groomed)	Yes	When snow conditions are appropriate
On-Trail (un-groomed)	Yes	When snow conditions are appropriate
On-Trail (groomed)	Yes (though groomed trails do not currently exist)	When snow conditions are appropriate

APPENDIX C

State of Wisconsin

CORRESPONDENCE/MEMORANDUM

DATE: Friday, January 28, 2011 FILE REF: Stewardship Application
TO: Christine Halbur, NER Government Outreach Team Supervisor
FROM: Jeremy Cords, NER Recreational Safety Warden
SUBJECT: Stewardship Grant Application "Public Safety" Review – Friends of the Fox Land Acquisition (City of Kaukauna) – Outagamie County

I have completed my review of the "Public Access and Acceptable Uses" document as part of the Knowles-Nelson Stewardship Grant application submitted by the Friends of the Fox Organization for the proposed acquisition of .84 acres of property located in the City of Kaukauna. Following are my comments and recommendations regarding Nature Based Outdoor Activities (NBOA) which would be prohibited for public safety reasons on this property.

Hunting – The proposed acquisition would be less than one acre and is located within the boundaries of the City of Kaukauna which has a city ordinance restricting discharging or carrying a weapon. The parcel is adjacent to homes and municipal buildings. The grant project access and acceptable uses proposed would accommodate multiple "user group" activities. However, absent the city ordinance, allowance of hunting would create a user conflict and a public safety issue due to the physical characteristics and size of the property, its proximity to a public street and large population, and its proposed improvements. It is also reasonable to assume that the public is accustomed to and would reasonably expect continued and consistent application of this city wide ordinance on parcels, located wholly within the city limits.

Additionally, the property would allow non-motorized watercraft to use the property as an access point to the Fox River. Hunters would be able to navigate the Fox River outside of the incorporated area or city limits to engage lawful hunting activities.

It is clear that the intent of the City of Kaukauna's Ordinance is to provide reasonable safeguards of persons and property and is consistent with other municipalities throughout Wisconsin. Given the factors of proximity of buildings, that it is located within a city boundary, the size of the parcel, and the City Ordinance prohibiting the use of firearms, it is my professional opinion that restricting use and possession of firearms and archery related equipment is necessary to further public safety.

Fishing, trapping, hiking and cross-country skiing – are not prohibited on this property.

Approved: _____

Bryon J. Goetsch, NER Regional Warden



APPENDIX D

2007-2008	PUBLIC PEACE AND GOOD ORDER	9.961.41 (3g)
9.961.41 (3g)	Possession of Marijuana. No person shall possess 25 grams or less of marijuana, as defined in Wisconsin Statutes Section 961.01 (14), subject to the exceptions in Wisconsin Statutes Section 961.41 (3g).	
9.961.573 (1) & (2)	Possession of Drug Paraphernalia	
9.961.574 (1) & (2)	Manufacture or Delivery of Drug Paraphernalia	
9.961.575 (1) & (2)	Delivery of Drug Paraphernalia to a Minor	
9.961.576	Advertisement of Drug Paraphernalia	

9.02 DISCHARGING AND CARRYING DANGEROUS WEAPONS

PROHIBITED. (1) No person, except a sheriff, constable, police officer, or their deputies, shall fire or discharge any firearm, rifle, spring, or air gun of any description, or tipped arrow within the City or have any firearm, rifle, spring, or air gun in his possession or under his control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container, provided this section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges, shooting galleries, or archery ranges, shooting galleries or archery ranges approved by the Chief of Police. In addition to all other penalties herein provided, the firearm, rifle, spring, or air gun or tipped arrow or other weapon discharged in violation of this section may be impounded pending the Court's disposition.

(2) OUTDOOR RIFLE AND PISTOL RANGE RESTRICTIONS.

(a) Hours of permitted use:

1. May through August. 9 a.m. to 8 p.m., except on Saturdays and Sundays closing shall be no later than 6 p.m.
2. September and October. 9 a.m. to 5:30 p.m.
3. November through February. 9 a.m. to 4:30 p.m.
4. March and April. 9 a.m. to 5:30 p.m.

(b) No one under the age of 16 shall be permitted to shoot at a rifle or pistol range without the direct supervision of an adult.

(3) CITY OWNED ARCHERY RANGE RESTRICTIONS. The following rules are applicable at City owned archery ranges:

(a) Hours of permitted use are limited to daylight hours from sunrise to one-half (1/2) hour past sunset.

(b) Bows must be recurve or, if compound, of seventy (70) pounds or less draw and bows shall be cased or unstrung, except when on the firing lane.

CORRESPONDENCE/MEMORANDUM

DATE: January 18, 2011

TO: LUG/NCO Grant Managers, CF/Madison: Lavane Hessler and Pam Foster-Felt

FROM: Chris Halbur, Government Outreach Team Leader, Northeast Region

SUBJECT: NBOA News Release/Announcement Comment Period Closure and Approval

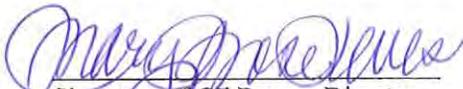
PROJECT NAME: Friends of the Fox, Fox-Wisconsin Heritage Parkway Kaukauna Land Purchase

The fifteen business day public review period for the above proposal has ended. The Department has provided public notification of this proposed action. Number of comments received: 2 (Email comments are attached)


Signature of Contact Person

1/18/11
Date

Certified as NBOA Approved with prohibition:


Signature of CF Bureau Director

JAN 18, 2011
Date

During the NBOA announcement we received a total of two comments. One supported the project and one was against the project.



Wisconsin DNR News Release

Friends of the Fox seeks Stewardship grant for Fox-Wisconsin Heritage Parkway Land Purchase

News Release Published: December 23, 2010 by the Northeast Region

Contact(s): Chris Halbur, DNR Government Outreach Team Supervisor, 920-662-5121

KAUKAUNA, Wis. – Friends of the Fox has applied for a grant from the Knowles-Nelson Stewardship Program to purchase two parcels, totaling 0.84 acres in the City of Kaukauna. The purchase of this land will increase public access along the Fox River, connect two publicly owned parcels, will allow for the further development of the Fox Locks Navigational Trail, and will open up the opportunity for passive camping to those navigating the river.

Friends of the Fox will provide matching funds. The park area will be available for trapping, fishing, hiking, cross-country skiing, snow shoeing, picnicking, camping, canoe/kayak launching, and wildlife viewing.

The public can mail written comments on the proposed acquisition to Carrie Mickelson, Director, Division of Customer and Employee Services, care of Chris Halbur, 2984 Shawano Avenue, Green Bay, WI, 54313, or sent by email to Christine.Halbur@Wisconsin.gov. Persons with questions about the project may call Chris Halbur at 920-662-5121. Written comments will be accepted through January 17, 2011.

In accordance with s. NR 52.04 (2) (b), Wis. Adm. Code, objections about the prohibited activities on this property must show that the proposed prohibition is inconsistent with s. 23.0916 (2) (b), Stats., and s. NR 52.05, Wis. Adm. Code.

Persons can receive email notices about the availability of future Stewardship Grant project news releases by signing-up for electronic notices of proposed grant projects at <http://govdelivery.com/>

CORRESPONDENCE/MEMORANDUM

DATE: January 21, 2011

TO: Natural Resources Board

FROM: Mary Rose Teves, Director
Bureau of Community Financial Assistance

SUBJECT: **Summary of Department Determination to Prohibit one Nature-based Outdoor Activity on the Fox-Wisconsin Heritage Parkway Kaukauna Land Purchase**

APPENDIX F

I recommend that the NRB exercise its authority under s. 23.0916(2)(b) and s. NR 52.05, Wis. Adm. Code, to ratify the Department's decision to award a Stewardship grant of \$29,069 to the Friends of the Fox for the acquisition of 2 parcels (0.84 acres) located within the City of Kaukauna even though the prohibition of hunting will be necessary to protect public safety.

PROJECT BACKGROUND

The Friends of the Fox, a nonprofit conservation organization eligible to receive grant funds from the Knowles-Nelson Stewardship Program, has requested a Stewardship grant of \$29,069 for the acquisition of 0.84 acres located within the City of Kaukauna for the purposes of increasing access along the Fox River, connect two publicly owned land parcels, allow for the further development of the Fox Locks Navigational Trail, and provide for passive camping, fishing, boating (canoe and kayak), trapping, and other outdoor pursuits to those visiting and/or traveling the Fox River.

Friends of the Fox is not proposing to prohibit any of the five nature-based outdoor activities (NBOA – hunting, fishing, trapping, hiking, and cross-country skiing) on these parcels. However, the property is subject to a City ordinance that prohibits the discharge of weapons. Friends of the Fox will transfer this parcel to the Fox River Navigation System Authority (FRNSA) not long after acquiring it; and the Friends of the Fox, FRNSA, and City of Kaukauna will jointly develop, operate, and maintain this recreational and historic site. Since the City has an ordinance that prohibits hunting and regulates trapping within the City limits, review under ch. NR 52 was determined to be necessary and undertaken.

A copy of the City's ordinance is attached to this Green Sheet as Appendix D.

PUBLIC NOTICE AND COMMENTS

I certify that public notice requirements identified in s. NR 52.04, Wis. Adm. Code, have been followed for this Stewardship project. Public notice about this proposed project was first posted on GovDelivery on December 23, 2010. Two comments were received: One in support and one in opposition.

The public notice and comment summary may be found in Appendix E attached to this Green Sheet.

DETERMINATION

The City of Kaukauna has an ordinance that prohibits the carrying or discharge of a dangerous weapon. The DNR regional Recreational Safety Warden determined that a prohibition on hunting was necessary to protect public safety. The warden reviewed the following factors:

1. The primary purpose of the project;
2. An ordinance prohibiting discharging or carrying dangerous weapons;
3. User conflicts;
4. The size of the parcels; and
5. The parcels located completely within municipal boundaries.

We believe that the hunting prohibition is necessary on this parcel because the parcel is located within the City limits and is less than 5 acres, is adjacent to homes and other municipal structures, will become part of an urban trail system, and will be visited by users who have a reasonable expectation of no hunting on a parcel of this type.

We believe that the hunting prohibition is necessary on this parcel because the parcel is located within the City limits and is less than one acre, is adjacent to homes and other municipal structures, will become part of an urban trail system, and will be visited by users who have a reasonable expectation of no hunting on a parcel of this type.

FINAL ACTIONS

Per s. NR 52.04(2)(d), Wis. Adm. Code, a copy of this determination will be provided to the one individual who objected to a Stewardship grant to the Friends of the Fox for purchase of 0.84 acres in the City of Kaukauna for the Fox-Wisconsin Heritage Parkway.

This determination is submitted to the Natural Resources Board as required in s. NR 52.04(2)(e), Wis. Adm. Code.