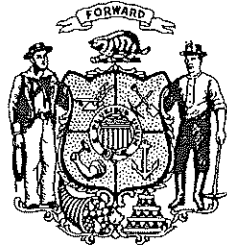


# State of Wisconsin

SENATE CHAIR  
**Howard Marklein**

316 East, State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882  
Phone: (608) 266-0703



ASSEMBLY CHAIR  
**Mark Born**

308 East, State Capitol  
P.O. Box 8592  
Madison, WI 53708-8953  
Phone: (608) 266-2540

## Joint Committee on Finance

### MEMORANDUM

To: Members  
Joint Committee on Finance

From: Senator Howard Marklein  
Representative Mark Born

Date: April 16, 2024

Re: 14-Day Passive Review Approval – DNR

Pursuant to s. 23.0917(6m), Stats., attached is a 14-day passive review request from the Department of Natural Resources, received on April 16, 2024.

Please review the material and notify **Senator Marklein** or **Representative Born** no later than **Friday, May 3, 2024**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

HM:MB:jm

State of Wisconsin  
DEPARTMENT OF NATURAL RESOURCES  
101 S. Webster Street  
Box 7921  
Madison WI 53707-7921

Tony Evers, Governor

Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



APR 16 2024  
*St. Finance*

April 5, 2024

The Honorable Howard Marklein Co-Chair  
Committee on Joint Finance  
Room 317 East  
State Capitol  
PO Box 7882  
Madison WI 53707

The Honorable Mark Born, Co-Chair  
Committee on Joint Finance  
Room 308 East  
State Capitol  
PO Box 8952  
Madison, WI 53707


Dear Senator Marklein and Representative Born:

Pursuant to s. 23.0917(6m), Wis. Stats., the Department is notifying you as co-chairs of the Committee on Joint Finance of a proposed grant of \$1,150,000 from the Knowles-Nelson Stewardship Program to the Outdoor Recreation Alliance of the Seven Rivers Region for land acquisition. The proposed grant award represents 50% of the estimated total project costs. This acquisition is located in the Town of Shelby, La Crosse County.

The proposed grant funds will invest in the protection of 277 acres of naturally formed features with ecological value and an open natural space for public nature-based outdoor activities in proximity to urban development. The property will be developed with a network of shared-use trails and support facilities, allowing recreational access to a wider audience. This will serve as a future trail connection as part of a region-wide system as outlined in the Blufflands Plan. The applicant is not proposing prohibitions of any nature-based outdoor activities, as defined in s. 23.0916(1)(b), Wis. Stats.

As provided in s. 23.0917(6m)(a), Wis. Stats., if the Department does not receive notification of the scheduling of a hearing from either of the Joint Committee on Finance co-chairpersons within 14 working days from submission of this letter, the Department will award this grant.

Thank you for your consideration.

Sincerely,  
DocuSigned by:  
  
7A5DFE3497144B5...  
Steven Little  
Deputy Secretary

**CORRESPONDENCE/MEMORANDUM**

**DATE:** April 5, 2024  
**TO:** Members of the Joint Committee on Finance  
**FROM:** Steven Little, Deputy Secretary

**SUBJECT: Request for approval of a Stewardship grant exceeding \$250,000**

Pursuant to s. 23.0917(6m)(a) and (c), Wis. Stats., the Department of Natural Resources is notifying you of a proposed Knowles-Nelson Stewardship grant of \$1,150,000 to the Outdoor Recreation Alliance of the Seven Rivers Region (ORA Trails) for the acquisition of 277 acres in the Town of Shelby. The Knowles-Nelson Stewardship program is funded under s. 20.866(2)(ta), Wis. Stats.

**I. PROJECT DETAILS:**

**Project Sponsor:** Outdoor Recreation Alliance of the Seven Rivers Region (ORA Trails)  
**Grant Sub-Program:** Urban Green Space

**Location:** The subject property is located in the Town of Shelby, La Crosse County. The property is located on State Highway 33 on the northern boundary, where public access features will be developed.

**Project Description:** The northern area of the property has a topography that is generally level, with Pammel Creek meandering through. The central and southern areas of the property consist of hillside and ridgetop areas that are heavily wooded. Project maps are attached as Appendix A.

**Key Benefits:** The proposed grant project will invest in the protection of 277 acres of ecologically-valuable natural features and will provide open natural space in proximity to urban development. The land is part of a semi-contiguous wooded corridor along the Mississippi River bluffs located close to a major population center in La Crosse County. Planned restoration of Pammel Creek, a Class I trout stream, will also benefit the local watershed.

**Partnerships:** ORA Trails collaborated with the following organizations and individuals to purchase this property:

- ORA Trails budgeted funds and private donations.
- La Crosse County (County Grant).
- The Town of Shelby Board has voted in support of the project and the project is consistent with the region-wide Bluffland Coalition MOU (see Appendix B).

**Consistency With Planning:** The acquisition will advance the objectives of several conservation and recreational plans:

- Protects unique natural features including Mississippi River bluffs with significant geological and ecological value.
- Implements recommendations from the La Crosse County Outdoor Recreation Plan 2019-2024
- Implements recommendations from the Town of Shelby Comprehensive Plan.
- Implements recommendations from the La Crosse County Land and Water Resources Management Plan 2020-2029.
- Implements recommendations from The Bluffs Plan.
- Provides for ecological restoration projects, invasive species management and Pammel Creek Class I trout stream improvements.

**Public Uses:** The property will be available to the public from 5:00 am – 10:00 pm, seven days per week, 365 days per year. The property will be open to the public for low-impact recreational activities. Users will be able to hike, bike, cross-country ski, snowshoe, fish, participate in nature exploration, wildlife viewing, community gardening, and picnicking. The sponsor is not proposing any prohibition of nature-based outdoor activities, as defined in s. 23.0916(1)(b), Wis. Stats.

**Property Management:** The property will be managed by ORA Trails according to a Land Management Plan approved by the Department.

**Timetable:** ORA Trails acquired the property in April of 2023 for \$2,300,000 based on a negotiated offer to purchase agreement. Eligible acquisitions within one year of Stewardship application are eligible for reimbursement funds, per Chapter NR 51.907(1)(b), Wis. Adm. Code. ORA Trails requested a letter of retroactivity for the pending purchase and Department staff authorized the letter effective January 20, 2023, making the project eligible for the May 1, 2023 grant application cycle.

**II. PROJECT FINANCES**

**A. Appraisals**

Per s. 23.0917(7)(e)1., Wis. Stats., two appraisals were used to determine the fair market value of the property. The property value used for grant calculation is based on the lower acceptable appraisal report.


Appraisal 1	\$2,355,000
Appraisal 2	\$2,330,000
<b>Value accepted by Department</b>	<b>\$2,330,000</b>

**B: Funding Sources:**

ORA Trails (budgeted funds and donations):	\$1,000,000
La Crosse County Grant:	\$150,000
Proposed Stewardship Grant:	<u>\$1,150,000</u>
<b>Total project costs:</b>	<b>\$2,300,000</b>

**III. RECOMMENDED:**

DocuSigned by:  
  
F21082F80640404...  
 Terry Bay, Director, Bureau of Facilities and Lands  
 4/4/2024 | 10:27 AM CDT  
 Date

DocuSigned by:  
  
D792C5F7A747460...  
 Tim Cooke, Administrator, Internal Services Division  
 4/10/2024 | 1:45 PM CDT  
 Date

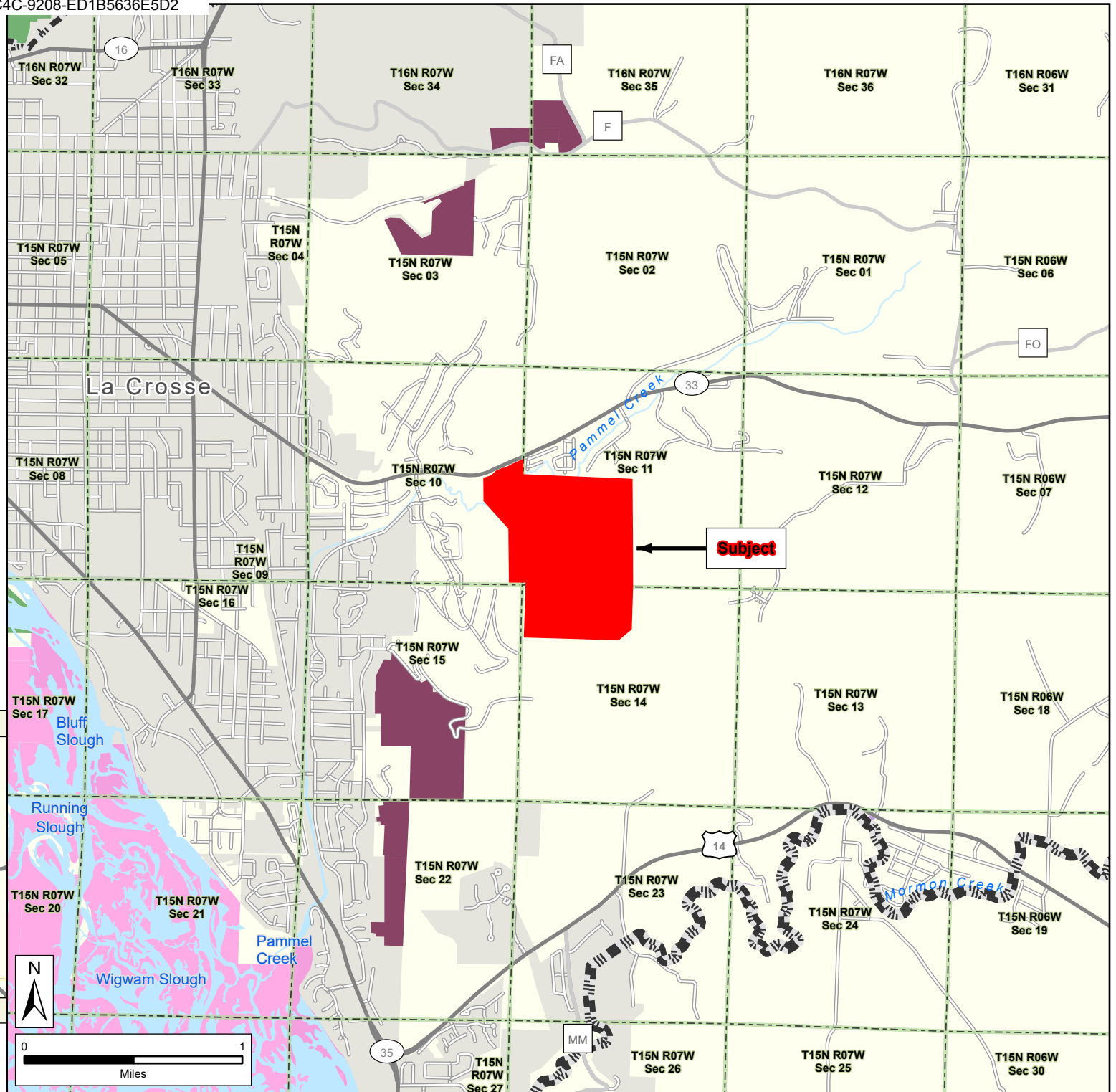
## **Appendix A. Project Maps**


# Five Pines Farm Acquisition


T15N R7E Sec. 10, 11 & 14  
Town of Shelby  
La Crosse County

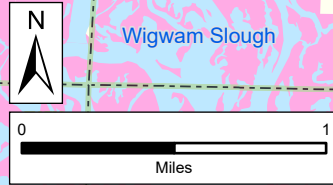
 **Subject**

-  DNR Project Boundary
-  DNR Fee Title
-  DNR Easement
-  Public Land - Funded by Stewardship Grants
-  U.S. Fish & Wildlife Service
-  Section Boundary



 **Location of Property**

 WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
Bureau of Facilities of Lands  
Map Created: Apr 04, 2024 lcc





# Five Pines Farm Acquisition

Proposed Stewardship Grant  
Sponsor: Outdoor Recreation Alliance  
Approximate Total Acreage: 277

T15N R7E Sec. 10, 11 & 14  
Town of Shelby  
County: La Crosse



 Subject

 Section Boundary  
 QQ Section Boundary



Apr 04, 2024 lec  
Real Estate Section  
Bureau of Facilities and Lands

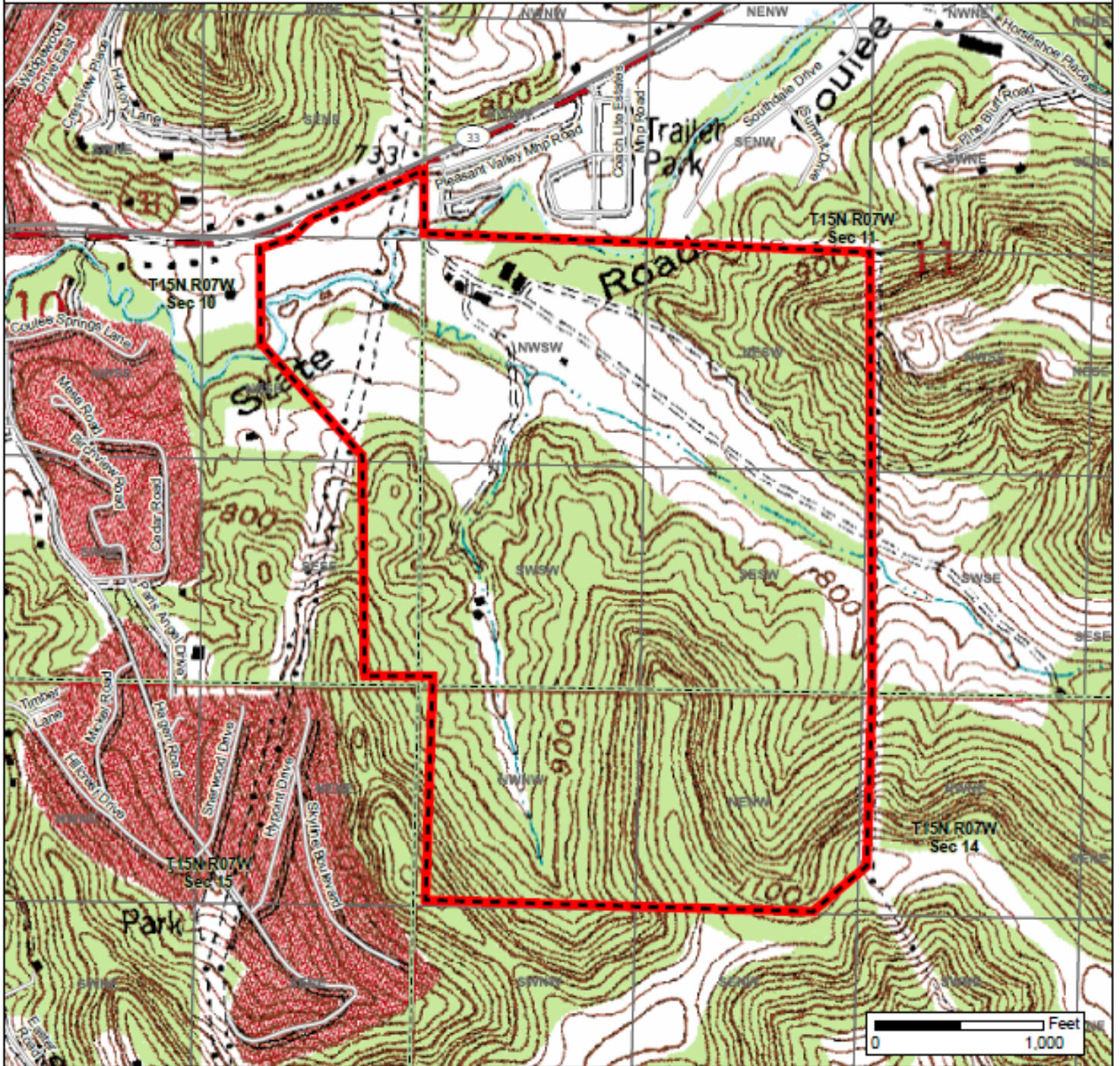
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# Five Pines Farm Acquisition

Proposed Stewardship Grant  
Sponsor: Outdoor Recreation Alliance  
Approximate Total Acreage: 277

T15N R7E Sec. 10, 11 & 14  
Town of Shelby  
County: La Crosse



Subject



Section Boundary



QQ Section Boundary



Apr 04, 2024 lec  
Real Estate Section  
Bureau of Facilities and Lands



## **Appendix B. Project Support**

# TOWN OF SHELBY

County of La Crosse

State of Wisconsin



2800 Ward Ave

La Crosse, WI 54601

Phone: (608)788-1032

Email: [info@townofshelby.com](mailto:info@townofshelby.com)

## Town Board Meeting Minutes

Date: Tuesday, October 25, 2022

Time: 5:00 p.m.

Location: 2800 Ward Ave, La Crosse, WI 54601

**Town Officials Present:** Chairperson Tim Candahl, Supervisors Tim Ehler and Marlene Heal, Assistant Fire Chief Travis Proksch, Clerk Fortune Berg, Administrator Christina Peterson, and Treasurer Sara Jarr.

**Town Officials Excused:** Supervisors Tim Padesky and Renee Knutson.

**Attendance List:** Jon and Ashley Krueger (N442 Ten Mile Circle), James Krueger Sr. (W5186 CTH MM)

1. Town Board Meeting called to order by Chairperson Candahl at 4:58 p.m.
2. Approve Minutes from 10/4/2022. Motion by Heal to approve minutes from 10/4/2022, second by Ehler. Motion carried unanimously.
3. Bills Payable. Motion by Heal to pay open invoices in the amount of \$65,744.12, second by Ehler. Motion by Heal, second by Ehler to approve paid invoices in the amount of \$41,491.53. Motions carried unanimously.
4. Citizen's Concerns. None.
5. ORA Request for Project Support. Peterson explained the need for support of the project concept to receive funding from La Crosse County. At this point, the board is not approving specific plans or ideas. Heal noted she abstained from voting during Bluffland Coalition meeting. Motion by Ehler, second by Heal to support the project concept so that ORA can move forward with requesting funds from La Crosse County. Motion carried unanimously.
6. Conditional Use Permit (CUP) Jonathan & Ashley Krueger (W5186 County Rd MM). Berg gave overview of the request and discussions at the Planning Commission Meeting. Ashley Krueger followed up with updated impact statement and additional information. Discussion on the number of animals, type of facility and location. Motion to recommend approval to La Crosse County by Ehler, second by Heal. Motion carried unanimously. Berg will send Jim Webb's information so the Krueger's can consult him on building and zoning permits.
7. Variance Request Jed Olson (3401 Farnam St). Berg gave overview of request. Motion by Ehler, second by Heal to recommend approval to La Crosse County. Motion carried unanimously.
8. Multiple Dog Applications. Berg reviewed the applications for W5229 Boma Rd, W5873 Rochelt Rd, and W5570 State Road 33. No problems reported. Motion by Heal, second by Ehler to approve the Multiple Dog Applications.
9. 2022 Budget Amendment. Peterson explained the amendment and new budget numbers on upcoming notice. Motion by Ehler, second by Heal to approve amended budget and sign resolution 2022-03. Peterson also noted changes and adjustments.
10. Fire Department Report. Proksch stated that a pump operator class last week qualified (but did not certify) members in attendance to act as pump operators. Proksch noted the new hires will begin fire classes next Saturday. An EMR class will be hosted after January 1st. Proksch noted the call volume is still up from what is normally seen this time of year, and there are still a lot of visits to the same address. Discussion on placing boat at Goose Island. Board and Proksch agree the Fire Department is good on winter storage.

**APPROVED**

11. Stormwater Fee. Peterson noted a stormwater fee ties into the budget and would allow for more revenue without raising the levy limit. Peterson provided information on the options and what the town needs to move forward. Candahl reminded the board that some road projects can be special assessed. Peterson noted there would be a lot to investigate before moving forward with that.
12. Garage Storage Options – East Avenue Storage Garage Lease ends December 31, 2022. Peterson is looking at options for storage as the East Avenue was a temporary solution. One option is to use county building stalls up on St. Joe's ridge, but that option is not yet set in stone. If it works, it will take care of the town's needs for this winter. Another shed can be built to the south of town hall. Candahl mentioned construction in phases, adding until it's a heated, stable, well-built building next to town hall.
13. Memorial at Hillview ball field. Peterson noted request received from Matt Thornton. Peterson stated if this is allowed, there should be an option for more people to purchase memorials. Candahl noted that the plaque shouldn't be any larger than the proposed size and should be metal so it can't be defaced. Plaques could be at the icehouse, Ehler mentioned the hall of fame for the Loggers. Peterson can respond stating the board is in favor of memorials but wants to start a program, and the plaques need to be uniform in size and design. Peterson noted the proposed size is slightly smaller than the home plate size. The fee should cover the cost and installation of the memorial, and should include a small donation to the parks. Candahl stated the program could include a gold, silver and bronze donation that would fall within the cost of the plate and donation. Peterson confirmed the office will work on it.
14. 2023 Budget for November 15<sup>th</sup> Budget Hearing. Peterson noted the budget was sent to the board for discussion, no vote is necessary. The board can approve what is put on the budget hearing notice, the budget hearing on November 15<sup>th</sup> will allow for more discussion and then the board will vote on the budget after the public hearing. Peterson stated that Jarr did all the projection to year end of 2022, and proposed 2023 budget. Peterson overviewed the 2023 proposed budget. Jarr confirmed special assessments remaining. Peterson noted no FEMA funds are expected in 2023. Fire grants budgeted for 2023. Peterson reviewed other revenues. Peterson started reviewing expenses for wages and benefits. Separate agenda item for wages for 2023 will be on December's agenda. Continued review of expenses in the proposed 2023 budget. Police Officer Sean Horton indicated he plans to retire next year, would be off the clock in May but would be paid through October because of the vacation and sick time that he has accrued, nothing in writing yet. Fire Department changes noted. Discussion on the increase in project costs for Public Works. Peterson reminded the board to prioritize projects because of funding constraints. Other options are to get loan for larger projects. \$65,000.00 of the projects budget is for Cliffside Dr, which must be paid because the City of La Crosse already commenced the project. Candahl noted energy savings program that should replace all streetlights to LEDs. Mormon Coulee Lions want another streetlight in Mormon Coulee Park, approximate cost would be \$3,700.00. Lion's stated they would pay for it before the quote, Peterson will confirm the amount. Peterson noted stormwater expenses, when the crew works on ditching and culverts, they list their time as stormwater. Peterson is unsure if that will be separate or moved back into public works budgeting. Parks budget discussed, new budget reflects the amount that was not spent in 2022 and it added to the budget for 2023. Reviewed capital improvement plan. Discussion on assessments and when it is allowed. *Example: Boma Road, the Town could assess Boma Rd residents but not Willow Way East and West residents.* More discussion on options and projects. Boma Rd needs to start, Cedar Rd and Mesa Rd need chipseal, Wedgewood Drive will need

**NOT APPROVED**

to begin and should not need much engineering. Millstream addition will need engineering. Millstream moved to 2024, Skyline Blvd off of CTY MM will need rebuilding in some bad areas. \$150,000.00 for Skyline Blvd and \$600,000.00 for Boma Rd, totaling \$1,200,000.00. Backhoe purchase can wait to 2024, plow truck was already budgeted for and doesn't need to be added. Candahl said order the mower for 2023. Plow truck, mower, and radios total \$1,260,000.00 for Capital Improvements and Major Purchases. Discussion on loan options.

15. 2022 End Balance. Quick overview of the end of 2022 balance of town funds.
16. Christmas Party 2022. Discussion on the Christmas Party. Crew prefers either Boot Hill Pub or Mt. La Crosse. Ehler suggested All Star for an option that's in Shelby and hasn't been done before. Preferably on a Saturday. Discussion on availability of staff and crew. Jarr and Berg will continue the planning.

**Supervisor Heal no longer present. No Quorum. No motions made from this point on. Meeting adjourned at 6:45 p.m.**

17. Maldon Laitinen Property. Peterson noted this property may require an engineering study, which may require clearing, permitting and approval and the Town won't be able to get that done before the family wants the parcel sold. Peterson recommends instead of telling them certain amount or facts about if the land is buildable, the reality is that the Town of Shelby doesn't need the parcel. Peterson will draft a response; this issue is tabled until further notice.
18. Administrator Report.
  - a. Peterson reiterated the electric at Mormon Coulee Park was already mentioned.
  - b. November 10<sup>th</sup> is the next Sanitary District #2 meeting. Tom Madden will be coming in person. Town Board is invited and encouraged to attend.
  - c. Peterson is working with Adoni Networks to update computers and other equipment that is no longer supported.
19. Public Works Report.
  - a. Peterson reported that the crew is cleaning out a sewer line on an easement by Arbor Hills.
  - b. Peterson reported that the crew is working on the landfill area, concrete bins for storage, etc.
  - c. Peterson reported that paving and driveway work on Forest Ridge Drive is complete.
20. Clerk Report.
  - a. Berg noted that in-person absentee voting started today and will continue until Friday November 4th.
21. Treasurer Report.
  - a. Jarr sent out late notices for utility bills. Unpaid balances may be added to the tax bill.
22. Chairperson/Supervisor Reports. None.
23. Adjournment. Meeting already adjourned at 6:45. Discussion and reports ended at 7:17 p.m.

Next regular meeting will take place Tuesday, November 15th, 2022 @ 5:00 p.m.

Respectfully Submitted, Fortune M. Berg, Clerk

**NOT APPROVED**



**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE MEMBERS OF THE BLUFFLAND  
COALITION  
REGARDING BLUFFLAND INITIATIVES**

**I. PARTIES.**

This Memorandum of Understanding (“MOU”) is made and entered into by and between the following members and constitute the Bluffland Coalition:

La Crosse County  
City of La Crescent  
City of La Crosse  
City of Onalaska  
Village of Holmen  
Town of Holland  
Town of Medary  
Town of Shelby  
La Crosse Area Planning Committee  
Explore La Crosse  
Friends of the Blufflands  
Mississippi Valley Conservancy  
Outdoor Recreation Alliance

**II. RECITALS.**

- A. The La Crosse Area Planning Committee adopted the Blufflands Plan on July 15<sup>th</sup>, 2016 (Exhibit A - [la-crosse-area-bluffland-plan-final-draft.pdf](#) ([lacrossecounty.org](#))).
- B. The Blufflands Plan adopted Mission: This plan will be used by public and private stakeholders throughout the region to guide the acquisition of conservation land and easements, coordinate restoration activities and recreation access improvements such as trailheads and trails, and establish an organizational structure for continued regional coordination and action (Exhibit A p. 4).
- C. The Blufflands are defined geologically and geographically within the Blufflands Plan (Exhibit A). (Geographically – Exhibit A p. 31)
- D. This document is not a legally binding document.

**III. VISION.** The Bluffland Coalition will establish an exceptional network of contiguous protected lands, including habitat-designated areas and recreational trails, throughout the La Crosse – La Crescent Region. Our cooperative efforts will enhance the health of residents, visitors, natural ecosystems, and our local economy. The vision will be accomplished by embracing the “Six Big Ideas” outlined in the Bluffland Plan (Exhibit A p. 5).

1. **Commitment to Cooperation.** Bluffland acquisition, restoration, wildlife habitat enhancement, recreation opportunities, and promotion efforts will be cooperatively coordinated by inclusive representation of public property owners, land trusts, and recreation groups.
2. **Land- Protected and Connected.** A network of connected blufflands around the region’s cities and villages, protected from urban development and cooperatively managed.
3. **Trails, Trails, Trails.** A network of interconnected trails through the region catering to a wide variety of uses and abilities. The centerpiece will be “The Blufflands Trail”, a shared use route extending across the region of focus.
4. **Restoration.** Native habitats present in the blufflands prior to European development have largely been lost. Restoration initiatives to prioritize, protect and restore native ecosystems and control invasive species are important to the health and value of these lands.
5. **Many Sites, One Brand.** Seamless, coordinated promotional efforts and signage to increase awareness and use throughout the region.
6. **Dedicated Funding.** Project sustainability is reliant on reliable sources of funding to support coordination efforts, land acquisition, trail, and amenity improvements, maintenance, habitat restoration, and promotion.

**IV. GUIDING PRINCIPLES.** Success of the Bluffland Plan and cooperation of the Bluffland Coalition will be most productive and able to advance when acting under the following guiding principles (Adapted from the SHIFT Principles For Advancing Outdoor Recreation and Conservation, Exhibit B – <https://shiftjh.org/the-principles-for-advancing-outdoor-recreation-and-conservation/>).

- A. **Outdoor recreation and conservation require that a diversity of lands and waters be publicly owned, available for public access, and well-stewarded.** Stewardship of our public lands – including waters and wildlife – is our responsibility.
- B. **Recreation and conservation need each other.** Both are beneficial to local economic well-being, quality of life and personal health. Outdoor recreation helps people understand the importance of healthy, intact ecosystems, which builds support for their protection and stewardship. Conservation protects the natural resources and wild places upon which outdoor recreation depends. Responsible recreation – which fosters and is informed by a conservation ethic while promoting diverse, inclusive, and next-generation engagement – is essential for future protection and use of our public lands.
- C. **The future of our public lands depends on support from all Americans.** Outdoor recreation and conservation must reflect, respect and value the demographic and cultural diversity of our country in order to engage a coalition of stakeholders broad enough to ensure the health and wellbeing of our public lands. This requires that public lands be inclusive, relevant, and accessible to all, regardless of ability, race,

socioeconomic status, gender identity, or sexual orientation, and include the 85% of Americans who live in urban areas as well as the private landowners whose lands provide connectivity and full-landscape solutions.

- D. **Outdoor users are responsible for avoiding and minimizing the impacts of their use across the places they recreate and the larger landscape.** All recreation has impact. Ethical outdoor behavior that demonstrates respect for lands, water, and wildlife and that respects the value of connecting all people to the outdoors is critical and must be developed in all users and in future generations.
- E. **Proactive, professional planning and management, combined with public education, is necessary to care for the land and provide a diversity of quality recreation opportunities.** Active public engagement in crafting solutions is necessary to ensure solutions are fair and can be effectively implemented. To make better decisions about which activities are best suited for which locations and provide a spectrum of opportunities to serve diverse interests, a broad landscape approach is necessary in order to meet both conservation and recreation needs.
- F. **Physical, biological, and social science must inform the management of recreation.** Management decisions should be grounded in the best available scientific information to ensure the protection of wild areas and the sustainability of resources while maintaining and enhancing the quality of outdoor recreation experiences.
- G. **Stable long-term funding and creative management solutions are essential to protect the environment and support outdoor recreation.** Reliable and consistent funding is essential to protect natural resources and manage outdoor recreational experiences. Funding levels must be proportionate to the economic and public health benefits of outdoor recreation and a healthy environment. Land management agencies need adequate funding from federal, state, and local sources. This must be supplemented by (but not replaced by) new and non-traditional funding from private and non-profit sources.

V. **RESPONSIBILITIES OF THE PARTIES.**

- A. Members will participate in the Bluffland Coalition with a true spirit of cooperation, working toward the established goals of the Bluffland Plan (Exhibit A).
- B. The Bluffland Coalition will rely on the strengths of its member organizations to achieve its objectives, and it will facilitate the consolidation of common tasks in the interest of efficiency, consistency, and quality.
- C. Members will actively participate in regularly scheduled meetings, coordinated events, planning sessions, and educational opportunities.
- D. Members will develop and adopt a Bluffland Project Implementation plan as outlined in the Bluffland Plan (Exhibit A). The Bluffland Project Implementation Plan will include a regularly updated 5 Year Action Plan and the development of a detailed multi-use trail plan for the Bluffland Trail as described in Exhibit A.

- E. Funding of the Bluffland Coalition staffing or general expenses and specific project or phase funding will be handled by separate funding agreements.
- F. Members of the Bluffland Coalition may hold additional agreements between themselves and others.
- G. Members will provide timely communications with regard to progress on their bluffland planning process.

**VI. TERM OF THE MOU.** The term of this MOU shall be effective upon signature of the parties and remain in effect until September 15, 2026, unless terminated by a majority of the signing members. Any party may withdraw from the MOU, without cause, upon ninety (90) days written notice, which notice shall be delivered to the Coalition Board President. This MOU may be amended or extended at any time by mutual agreement by all the parties.

**VII. SEVERABILITY.** Any provision of this MOU determined to be invalid as a matter of law is severable from other provisions of this agreement.