



Legislative Fiscal Bureau

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September 4, 2019

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Stewardship Ice Age Trail Acquisition (Schur Acquisition) --
Agenda Item IV

REQUEST

On June 27, 2019, the Department of Natural Resources (DNR) requested approval under s. 23.0917(6m) of the statutes to acquire 62.81 acres for \$415,800 from the land acquisition subprogram of the Warren Knowles-Gaylord Nelson Stewardship program in the Town of Rhine, Sheboygan County, using fiscal year 2018-19 funds. The project would be used to develop a four-mile segment of the Ice Age Trail. Notice of an objection was raised on July 18, 2019.

BACKGROUND

Ice Age Trail Acquisitions

The Ice Age Trail, which was established as a national scenic trail by Congress in 1980, is intended to preserve and protect glacially created features of the state. The 1,200-mile trail runs a serpentine path through the state, running along the Niagara Escarpment and the Kettle Moraine from Potawatomi State Park in Door County to Rock County, where it turns north toward Devil's Lake State Park. From there, the trail continues north by northeast to Langlade County. The trail then turns west and crosses the Wisconsin, Eau Claire, and Chippewa Rivers before its western terminus at the Minnesota state line in Interstate State Park in Polk County. DNR has established a goal to acquire 9,673 acres within the Ice Age Trail project boundary, of which it has acquired 7,740.69 (approximately 80%) to date.

1987 Wisconsin Act 98 made the acquisition, development, and operation of the Ice Age Trail a state priority, directing all state agencies to "consider the Ice Age Trail in the long-range plans for property owned by the state agency" [s. 23.17(5)(b)], and authorizing DNR to acquire land and easements and to coordinate with local governments, nonprofit conservation organizations (NCOs),

and property owners to create a continuous trail across the state. The trail is maintained by the Ice Age Trail Alliance, a collection of several NCOs that coordinate trail maintenance.

Under the original stewardship program, established by 1989 Wisconsin Act 31, DNR was provided \$5 million in bonding authority, with an annual allotment of \$500,000 through 1999-2000, to acquire land and provide grants for the development of the Ice Age Trail. 2001 Wisconsin Act 16 increased annual bonding authority for DNR to acquire land for the Ice Age Trail to \$3 million from the land acquisition subprogram. This was reduced to \$1 million by 2015 Wisconsin Act 55, where it stands today.

Schur Property

The Schur property consists of approximately 75 acres, which has been owned by George and Margaret Schur since 1983. DNR would use \$408,000 to acquire 62.81 acres in fee title from the Schurs. In addition to the acquisition cost, DNR reports appraisal fees and closing costs total \$7,800, which would be paid from stewardship bonding authority. The remaining property, which includes the Schurs' house and an outbuilding, would continue as the couple's private residence.

The Schur property lies entirely within the Ice Age Trail project boundary and contains the headwaters of LaBudde Creek, a Class I trout stream. The stream is habitat to brook trout, creek chub, and other cold-water species. The property cover contains approximately 20 acres of wetlands and lowland woodlands with the remaining acreage split between grassland and upland woodlands. The acreage also contains approximately 2,000 feet of stream frontage. DNR notes that LaBudde Creek is one of few trout streams in the southeastern portion of the state.

The Schurs do not allow public access on their property. The DNR acquisition would provide public access and establish approximately four miles of off-road hiking trail. While acquisitions for the Ice Age Trail are not necessarily subject to the limit on prohibitions of nature-based outdoor activities, DNR reports that the property would be open to all traditional forms of public outdoor recreation, including hunting, trapping, fishing, and hiking, excluding a 300-foot buffer provided around the trail where hunting would be prohibited. Maintenance and upkeep of the trail would be conducted by the Ice Age Trail Alliance. DNR would be required to pay an estimated \$9,378 in aids in lieu of property taxes on the property beginning in fiscal year 2020-21. This value would change in future years based on the change in the value of all land, excluding improvements, in the Town of Rhine. Since 2014, the equalized value in the town has increased by between 1.4% and 7.46% from year to year, according to the Department of Revenue.

ANALYSIS

The Schur property extends between County Highway MM in the north to Ridge Creek Road in the south. The property has an irregular "L" shape. Under the project proposal, the Schurs would keep a 12.63-acre parcel for their private residence. The residential parcel is in a panhandle in the northwest corner of the property and connects to Highway MM. DNR would acquire a narrow strip of land along the eastern edge of the residential panhandle to provide road access for the trail corridor. Additionally, DNR would acquire the southern portion of the property with access to Ridge

Creek Road, which would allow access on the parcel. DNR indicates that the Schurs did not offer to sell DNR a trail easement, preferring to divide the property and sell the 62.81-acre parcel to the Department in fee title.

The Schur property is zoned as a resource conservation district, which is intended to preserve and protect woodlands, scenic areas, and wildlife habitats. This zoning classification limits property uses to recreation, single-family residences, and forestry. Residential lots must be a minimum of 12 acres. The property is subject to wetlands regulation on approximately 20 acres.

Appraisals determined the highest and best use of the Schur property to be residential and recreational. Appraisals noted that the Schur property is located in an area that has gradually been transitioning from a primarily agricultural, rural area with large lots to a residential area. The property is within 25 miles of both Fond du Lac and Sheboygan and within 50 miles of Appleton, Green Bay, Manitowoc, and Milwaukee. Many large parcels near the Schur property have been subdivided for single-family residences. Appraisals noted that the Schur property could be subdivided between two to five parcels with recreational or residential uses.

Appraisals compared the Schur property to five similar sales ranging in price between \$6,013 and \$8,330 per acre. The appraisals estimated the fair market value of the Schur property at \$408,000, or \$6,500 per acre, and \$458,500, or \$7,300 per acre. The value of the Schur property is in large part due to the proximity to several urban centers as well as desirable land attributes, including LaBudde Creek. Reviews of each appraisal noted that the estimated values of the Schur property were reasonable and supported by market conditions.

Currently, much of the existing Ice Age Trail near the Schur property is on roadways. The Schur acquisition would add four miles of off-road trail, replacing 1.5 miles of on-road hiking. It should be noted that the Schur property would not connect to existing trail segments. Rather, the trail would terminate on the public roads on either end of the property. A proposed route for the trail would follow an oxbow shape to avoid wetlands and to provide scenic views through the property. The route would also allow the Ice Age Trail to use an existing bridge over LaBudde Creek.

While the trail through the Schur property would not connect to other off-road trail segments, DNR is working with other landowners in the area to pursue trail easements and fee-simple acquisitions to extend and connect the trail. According to the Department, initial trail development in an area may spur interest among others in the area, including among landowners who may provide trail access. Furthermore, DNR prioritizes development of connecting trail segments when pursuing development projects. DNR reports that both the Department and the Ice Age Trail Alliance have historically seen increased interest in trail developments after an initial property in an area is acquired, and that landowners in the vicinity of the Schur property have expressed interest in helping with future trail development. Under this perspective, the Schur acquisition could be considered a strategic development to expand and connect the Ice Age Trail in the future. DNR prioritizes acquisition of lands that are in unique landscapes and face the potential to be developed and closed to public access. Given the state's longstanding goal of building a continuous Ice Age Trail, as well as the possibility of future development, the Committee could consider approving the DNR request [Alternative 1].

It should be noted that the per-acre cost of the Schur property (\$6,500) is higher than certain recent stewardship-funded land acquisitions that have been subject to Committee review. County forests and other undeveloped conservation lands, for example, may be acquired in some cases for less than \$2,000 per acre. Appraisals noted that the ability to subdivide the Schur property for residential development, as well as the property's proximity to several of the state's largest cities, increased the fair market value of the parcel. Appraisals noted that the property is within commuting distance of Milwaukee, which makes the property attractive as a prospective residential parcel to many potential buyers. Compared to other regions in the state, market conditions elevate the fair market price of land in southeastern Wisconsin. DNR's reviews of the appraisals reported that the estimated market price of the Schur property was justified by market conditions and several recent sales.

It could be argued that failing to offer fair market value for a parcel would have the effect of the state putting downward pressure on market prices in the area. Although the Schur acquisition involves a willing seller not under any duress, as opposed to an eminent domain acquisition requiring just compensation, some may question the fairness of a state acquisition affecting the local market in that manner. On the other hand, a single sale involving a unit of government may not be determinative for future sales in the area. Further, given that the sale is from a willing seller, others may argue the sellers are free to abandon the sale if the buyer's terms were not to their liking.

DNR reports that land acquisition in the southeastern region of the state and further development of off-road trail routes have been hindered by high market prices and development pressures. This has limited the ability of DNR to expand recreational opportunities to the heavily developed southeastern region of the state. In addition to the paucity of trail development opportunities, DNR has generally been unable to acquire forest and park properties in the region.

Additionally, DNR has less flexibility with regard to acquisition price in southeastern Wisconsin. Appraisals of the Schur property considered comparable sales of recreational and residential properties within Sheboygan County to use in estimating the fair market value of the Schur property. In comparison, DNR is typically one of few purchasers of large tracts of productive timberland primarily in northern Wisconsin, as well as the only purchaser of large forestry easements in the state. In these instances, DNR has a greater ability to influence market prices as many comparable purchases were sold to the Department.

Many recent stewardship acquisitions have taken place in sparsely populated areas of the state, including northern and western Wisconsin where land values tend to be lower. According to Department of Revenue property tax year 2018 records, the average assessed value of an acre of undeveloped land is approximately \$1,200 in the counties that constitute the DNR Southeast Region (Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha Counties). As shown in the following table, this is significantly higher than the assessed value per acre in other parts of the state for land similarly classified.

However, a principle of determining a parcel's fair market value holds that a valuation is based on the best and highest use to a potential buyer, and not the likelihood that a property would be put to some other use. As noted above, appraisals determined the best and highest use of the Schur

property to be residential. As shown in the table, the assessed value per acre of residential land, excluding improvements, is highest in southeast Wisconsin. In Sheboygan County, the average assessed value of an acre of residential land, excluding improvements, totals approximately \$41,400 across all municipalities. In the Town of Rhine, the assessed value per acre of residential land, excluding improvements, is \$33,800. The fair market value of the Schur property is, therefore, elevated by the potential for future development on the parcel.

Assessed Land Values by DNR Region, 2018(19) Tax Year

<u>DNR Region</u>	<u>Undeveloped Land</u>		<u>Residential Land</u>	
	<u>Value per Acre</u>	<u>Average Parcel Size</u>	<u>Value per Acre</u>	<u>Average Parcel Size</u>
Northeast	\$786	6.68	\$29,443	1.12
Northern	377	9.72	25,899	1.76
South Central	809	5.06	65,250	0.75
Southeast	1,168	5.87	97,162	0.50
West Central	627	6.48	36,844	1.15
Statewide Average	\$644	6.82	\$43,400	1.00

Source: Department of Revenue

Given the cost per acre of the Schur property, the Committee could consider denying the request [Alternative 2]. While DNR has typically underspent its annual land acquisition allotment, the relatively high price per acre of the Schur acquisition could preclude DNR from purchasing larger tracts of land or productive forest land from which the Department could derive timber sale revenue. Additionally, DNR would be required to pay aids in lieu of taxes on the property. As the equalized value in the region has generally increased at a faster rate than the state average, the property could incur greater ongoing costs to the state. If the state were not to acquire the property, DNR notes that the property is likely to be developed, which could leave the area unavailable for public recreation. Additionally, the Ice Age Trail would continue to extend along roads near the Schur property and through much of the surrounding area if the request is denied.

ALTERNATIVES

1. Approve the DNR request to acquire the 62.81 acres of the Schur property for \$408,000, plus closing costs and appraisal fees of \$7,800, paid from DNR's 2018-19 stewardship bonding authority allotment.
2. Deny the request.

Prepared by: Eric Hepler