



## Legislative Fiscal Bureau

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February 1, 2024

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Stewardship Grant for Kreher Park Boat Launch in the City of Ashland -- Agenda Item III

### REQUEST

On October 12, 2023, the Department of Natural Resources (DNR) requested approval under s. 23.0917(6m) of the statutes to provide a grant of \$1,020,000 from the recreational boating subprogram of the Warren Knowles-Gaylord Nelson Stewardship program to the City of Ashland to develop a boat launch site located at Kreher Park on the former Ashland/Northern States Power Lakefront Superfund site.

### BACKGROUND

#### Recreational Boating Grant Program

DNR administers the recreational boating grant program under s. 30.92 of the statutes. The recreational boating subprogram is annually authorized: (a) \$3.0 million in bonding within the Warren Knowles-Gaylord Nelson Stewardship program; and (b) \$400,000 from the segregated (SEG) water resources account of the conservation fund, funded primarily from motorboat fuel tax revenues.

Under the program, DNR provides grants to municipalities, counties, town sanitary districts, public inland lake protection and rehabilitation districts, qualified lake associations, and the Lower Wisconsin State Riverway Board to support the development of recreational boating facilities projects approved by the Waterways Commission. The Waterways Commission is a five-member board appointed by the Governor with the advice and consent of the Senate for staggered, five-year terms. The Waterways Commission determines the rate of cost-sharing for recreational boating projects and approves projects found to be feasible and supported by the local municipality or qualified sponsor. Eligible applicants may submit an application at any time, which the Commission

considers at quarterly meetings.

Eligible recreational boating projects include public access facilities such as boat ramps and related parking facilities, navigational aids or markers, dredging, weed removal, chemical treatment for Eurasian milfoil, structures such as bulkheads and breakwaters necessary to provide safe water conditions (harbors of refuge), feasibility studies, improvement and repair of locks, and capital equipment used for trash or debris removal. The following restrictions apply to the distribution of grants: (a) no more than 10% of state funding may be expended for feasibility studies in any year, and no more than 1% may be provided for any one feasibility study; (b) at least 40% of state funding must be expended for Great Lakes projects, 40% must be expended for inland lakes projects, and 20% may be expended for projects deemed necessary by the Waterways Commission without regard to location; and (c) no state funds may be used for the acquisition of land or for the construction of berths.

Grants are generally provided for up to 50% of eligible project costs. However, the Department may provide grants for up to 80% of the costs of developing recreational boating facilities if the project is deemed to be of regional or statewide importance by the Waterways Commission, according to criteria established in administrative code Chapter NR 7. In either case, a grant may be increased by an additional 10%, to 60% or 90%, if the sponsor conducts a boating safety enforcement and education program approved by DNR. Chapter NR 7 of the administrative code also limits funding for individual projects to no more than 30% of the total program allocation for the year, equal to \$1,020,000 for a project under current program funding levels.

The statutes specify that the following factors be considered in establishing priorities for recreational boating projects: (a) the distance of the project from other recreational boating facilities, or the scarcity of recreational boating facilities in the area; (b) demand for safe recreational boating facilities; (c) expression of support by the governmental unit or qualified lake association; (d) existing recreational boating projects; (e) projects underway; (f) commitment of funds; and (g) whether the proposed project is located within a 16-county region southeast of a line running generally from Rock to Outagamie to Manitowoc Counties identified in s. 25.29(7)(a) of the statutes. If the Waterways Commission finds that a project is "feasible," meaning the project is eligible for the grant, has a complete grant application, and is supported by the municipality or qualified sponsor, the project is placed on a priority list establishing the order of each project's scheduled receipt of funds. The priority list is prepared by the Department for each Waterways Commission meeting and available on DNR's website.

### **Ashland/Northern States Power Lakefront Superfund Site**

The proposed boat launch would be located at a site previously remedied under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also known as a Superfund site. Historically, the site has been used as a lumber yard, coal gasification plant, landfill, and municipal wastewater treatment facility. Cleanup has been primarily the responsibility of Northern States Power Company (NSP, which does business as a subsidiary of Xcel Energy), the owner of the former manufactured gas plant at the site.

Contaminants at the site were associated primarily with a manufactured gas plant that operated at the site from the 1880s to 1947. Manufactured gas was a predecessor fuel to natural gas and was used for power and heating purposes. Manufactured gas is created by heating coal with other ingredients to produce a combustible gas, and its production results in waste products such as tars, oils, cinders, coke and ash. These may contain chemicals such as volatile organic compounds (VOCs) and polycyclic aromatic hydrocarbons (PAH), both of which have been found to be hazardous to human health. The Environmental Protection Agency (EPA) notes that other previous activities at the site also likely contributed to the distribution of contamination.

Cleanup of the site has included dredging of material from Chequamegon Bay, removal of contaminated soil, cover of soil with a 60-inch cap of clean material, construction of a breakwater, installation of pavement to limit rain and snowmelt seepage into groundwater, construction of barriers to limit groundwater flow from the site, and construction of a treatment system for groundwater at the site. EPA is required to conduct periodic reviews to determine if the site's cleanup continues to be sufficient to protect human health and the environment. The first review, completed in 2019, determined the site was meeting these standards. A subsequent review will occur in 2024.

Most recently prior to the cleanup, the property was used as a park area for special events, a boat storage area, and an overflow camping site. The site is adjacent to the Ashland Marina, a city-owned enterprise that operates independently. Prior to cleanup commencing at the site, the marina generated revenue using the site for boat storage.

## **ANALYSIS**

On March 5, 2019, the Joint Committee on Finance approved a \$500,000 recreational boating grant for a proposed redevelopment project in Kreher Park. The project was originally intended to consist of a boat launch, parking lot, restroom, and boat wash station, including lighting and electrical infrastructure and a sewer connection. The project was proposed to be funded by recreational boating grant funding of \$500,000 (50%), City of Ashland funding of \$194,600 (19%), a loan from the adjacent marina of \$186,600 (19%), and federal Sport Fish Restoration grant funding of \$125,100 (12%).

Subsequent to the approval of the project and the \$500,000 grant, modifications to the remediation project plans were made by EPA. The most significant change increased the required cap of fill material on top of the site from two feet to five feet. Additional costs associated with site remediation are a liability of the responsible party (NSP) and are not eligible costs under the recreational boating facilities grant program.

Changes to the recreational boating project under the modified site conditions included: (a) raising the boat launch ramp above the shoreline containment structure, rather than cutting into it, as well as structuring the shoreline containment to allow for safe access by vehicles and boat trailers; (b) addressing additional storm water management and drainage issues associated with a thicker cap; and (c) additional design and engineering costs associated with a thicker cap. Ashland modified the project by removing plans to install the boat wash station, restrooms, lighting, and electrical and sewer utility connections to compensate for the increased cost of following EPA requirements.

In February of 2020, the City of Ashland submitted a request to amend the original grant and request additional funding of \$780,000 to cover the increased costs of the project. The request was subsequently objected to by the Joint Committee on Finance in March of 2020 and withdrawn by Ashland in July of 2020. At the time of the withdrawal, Ashland indicated its intent to reapply with revised cost estimates, and a proposal was submitted to the Committee in December of 2020 for \$601,000 in recreational boating grant funding. That proposal was objected to the Committee in December of 2020 and withdrawn by Ashland in September of 2021.

Ashland has used the \$500,000 grant provided in 2019 to: (a) pave a 42-stall parking lot for boat trailers and vehicles; (b) pave a boat launch approach space and path between roads; (c) install six pilings for the construction of a future boat launch; and (d) install bio retention basins in the park. The paving and bio retention basins were completed in 2022, according to the Wisconsin Waterways Commission. The project's final cost was approximately \$1,103,200, comprising: (a) the \$500,000 recreational boating grant; (b) \$87,000 in contributions from NSP; and (c) \$516,200 from the City of Ashland, supported in part by a loan taken out by the Ashland marina.

The current request if approved would provide funding in addition to the grant provided in 2019, as \$500,000 was insufficient to complete the originally intended boat launch. The City of Ashland reports that since 2020, the timber boat launch has deteriorated further and the cost of construction has increased. Ashland estimates that within two years, the boat launch will be inoperative. The Wisconsin Waterways Commission included the Kreher Park boat launch on its priority project ranking list on August 8, 2023. The Commission reports that the current launch has disintegrating ramps, is not compliant with the Americans with Disabilities Act (ADA), and cannot be used by larger boats due to sedimentation issues caused by lake currents.

Recreational boating grants are typically provided at a 50% cost share, unless a project is determined to be of statewide or regional significance. The Kreher Park redevelopment was designated to be of statewide or regional significance by the Waterways Commission because it is located on a lake of over 1,000 acres (Lake Superior) and because the project will provide a boating facility that can provide Great Lakes access to boats of various sizes, weights, and drafts. By designating the project to be of statewide or regional significance, DNR is allowed to offer up to 80% in grant funding.

The project is proposed to be funded by a stewardship grant of \$1,020,000 (73%) and a city match of \$380,000 (27%). The City of Ashland intends to fund its matching requirement with: (a) \$100,000 allocated for the project in the City of Ashland 2024 Capital Improvement Plan; (b) \$100,000 in funding received by Ashland from the American Rescue Plan Act (ARPA); and (c) \$80,000 in local donations and grants. Ashland also intends to seek a federal Sport Fish Restoration grant which would be awarded later in 2024. Funding would be used to build a two-bay boat launch. Ashland reports that a boat wash station would be built if any funding remained after the boat launch was built.

As part of the original project approval process, Ashland suggested that construction of a boat launch would increase tourism activity by providing public boating access to Lake Superior. Given the increased costs under EPA's remediation requirements, the project's designation of significance,

and the potential economic benefits and increase in public use under the redevelopment, the Committee could consider approving the request for \$1,020,000, or 73% of project costs [Alternative 1].

On August 8, 2023, the Waterways Commission voted to approve Ashland for 50% of project costs, or \$700,000, instead of the original 73% that was requested. The Commission cited concerns with fairness to other applicants and having enough funding to support all projects. The Commission later rescinded that decision on September 27, 2023, reasoning that the decision to reduce Ashland's award was inconsistent with previous awards made regarding public facilities on the Great Lakes. The Commission subsequently voted to provide Ashland \$1,020,000, the maximum a project can receive in one fiscal year under current program rules. The Committee could consider providing Ashland with \$700,000, or 50% of project costs [Alternative 2].

The Committee could also consider denying the request [Alternative 3]. Ashland officials report that the City does not have funding to complete the project without a grant, and that the City would also struggle to reach a 50% match under such a modification. Thus, if the updated grant request were denied or modified, Ashland officials expect the project would be canceled.

## **ALTERNATIVES**

1. Approve the Department of Natural Resources request to provide a Knowles-Nelson stewardship grant of \$1,020,000 to the City of Ashland to develop a boat launch site located at the former Ashland/Northern States Power Lakefront Superfund Site. (This would represent a cost-share rate of approximately 73% of project costs.)
2. Modify the Department of Natural Resources request and provide a Knowles-Nelson stewardship grant of \$700,000 to the City of Ashland to develop a boat launch site located at the former Ashland/Northern States Power Lakefront Superfund Site. (This would represent a cost-share of approximately 50% of project costs.)
3. Deny the request.

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