

## Lessard-Sams Outdoor Heritage Council

**MEMO:** Agenda Item within Exec. Director's Report

**DATE:** Nov 16, 2017

**SUBJECT:** Informational: TNC minor conveyances (Swift County, Chippewa Prairie Addition)

**PRESENTER:** Mark Johnson, Executive Director

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### **Suggested Motion:**

No motion necessary. Conveyance granted on behalf of Council in accordance with LSOHC Operating Procedure 8.2.a by Executive Director.

### **Background:**

The Nature Conservancy (TNC) requested permission to convey the right-of-way of a minimum maintenance township road located on OHF purchased property in Swift County. The land was purchase by TNC with Outdoor Heritage Funds (ML 2011, First Special Session, Ch. 6, Art. 1, Sec. 2, Subd. 2(e)). This request was to allow conveyance of the minimum maintenance road right-of-way to the township who will then maintain the road as well as provide enforcement power over the right-of-way.

A summary of the problems that led to this request are as follows:

1. An uncooperative neighbor was farming up to an old roadway/trail that was located fully within the OHF purchased property. Consequently, the neighbor was knowingly encroaching upon the OHF purchased parcel. Unfortunately, the encroaching neighbor was not cooperative with requests or directives to cease his encroaching activities.
2. To eliminate the problem in the most expeditious manner, and without incurring protracted legal maneuvers and fees, TNC, at TNC's expense, constructed a new roadway on the edge of the property. This effectively removed the encroachment issue while providing a travel corridor that the Township and local residents reportedly find advantageous.
3. With conveyance of the right-of-way to the township, the situation will be cleaned up with the obvious definition of the property line. Although now unanticipated, should problems persist the township authority will intervene as legal holder of the right-of-way.

### **LSOHC Staff Action Taken:**

In concordance with procedure and law, staff has appropriately notified Legislative Leadership regarding granting of the conveyance and this inclusion in my report is notification to the Council of same. No further action is necessary by the Council.

Additional information (attachments):

September 26, 2017 letter from Neal Feeken, Grasslands Conservation Program Director, TNC

October 9, 2017 LSOHC letter to Leadership

Appleton Township signed easement

Telford Tossel boundary map and photos depicting the old and new road

**From:** Neal Feeken [<mailto:nfeeken@TNC.ORG>]

**Sent:** Tuesday, September 26, 2017 11:08 AM

**To:** Mark Johnson <[mark.johnson@Isohc.leg.mn](mailto:mark.johnson@Isohc.leg.mn)>; Joe Pavelko <[Joe.Pavelko@Isohc.leg.mn](mailto:Joe.Pavelko@Isohc.leg.mn)>; Sandy Smith <[sandy.smith@Isohc.leg.mn](mailto:sandy.smith@Isohc.leg.mn)>

**Cc:** Rachel C. Hampton <[rhampton@TNC.ORG](mailto:rhampton@TNC.ORG)>; Joe Blastick <[jblastick@TNC.ORG](mailto:jblastick@TNC.ORG)>; Laura Franzen <[laura.franzen@TNC.ORG](mailto:laura.franzen@TNC.ORG)>

**Subject:** Swift county property

Mark, Joe and Sandy,

TNC acquired a property in Swift County with ML 2011 funds (Chippewa Prairie Addition). At the time of acquisition there was a long established, two-track, minimum maintenance road near the north boundary of the parcel, approximately 50 feet onto our property. It was a lightly used "road" utilized primarily by hunters for a few weeks in the fall and by our neighbors to the north who occasionally used it to access their fields.

One neighbor in particular has seized on the change in ownership as a chance to encroach onto the now "public" land with his corn/bean field. We made repeated attempts to work with this neighbor to remove the encroachment, without success. In an attempt to remedy the situation, we worked with the township to move the road to the boundary edge, rather than having it 50 feet into the property. In the process they upgraded the road, also at our request. The road in its original location and condition was causing significant mud/erosion issues and often-times people would drive even further onto our property to get around the mudholes. Upgrading the road from dirt to gravel is designed to keep people on the road and off the prairie.

We would like to memorialize this action with an access easement to the township formally designating it as a minimum maintenance township road. Such an easement would give the township enforcement power over their Right of Way and will encourage them to maintain the road. We recognize that putting an easement on the property serves as an encumbrance and further recognize that we need Council permission to enact that encumbrance. With this email I am hoping to start a conversation with the Council, solicit questions and get your guidance as to next steps.

I have attached a couple of photos. The first shows the new straightened road location. The second shows the old road (for reference it was previously directly against the fence as seen in the first picture) depicting how it meandered around the property as vehicles navigated mud holes. The third is an aerial photo showing how the property fits in to the larger landscape with both the WMA and private holdings. Finally, I have attached a copy of the easement that we have presented to the township. It made sense to us to get the Township's agreement on the easement before bringing it to your attention, in case the Township had any opposition to it. We are holding off on having TNC sign the easement and to have it recorded until we get LSOHC approval. Thanks in advance for your thoughts. –Neal .

**Neal Feeken**

*Grassland Cons. Program*

*Director*

[nfeeken@tnc.org](mailto:nfeeken@tnc.org)

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(651) 357-2161 - Mobile

[nature.org](http://nature.org)

**The Nature**

**Conservancy**

MN/ND/SD Chapter

1101 West River Pkwy

Suite 200

Minneapolis, MN

55415





Lessard-Sams Outdoor Heritage Council  
The State of Minnesota

State Office Building, Room G95 100 Dr. Rev. Martin Luther King Jr. Blvd. Saint Paul, Minnesota 55155

October 9, 2017

Sen. Bill Ingebrigtsen  
Minnesota Senate  
Minnesota Senate Bldg., Room 3207  
95 University Avenue W.  
St. Paul, MN 55155

Rep. Dan Fabian  
Minnesota House of Representatives  
359 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

Sen. Carrie Rudd  
Minnesota Senate  
Minnesota Senate Bldg., Room 3233  
95 University Avenue W.  
St. Paul, MN 55155

Rep. Bob Gunther  
Minnesota House of Representatives  
563 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

Pursuant to M.S. 97A.056, Subdivision 15, this letter notifies you that the Lessard-Sams Outdoor Heritage Council has received notice from The Nature Conservancy (TNC) concerning the requested conveyance of a minimum maintenance township road right-of-way located in Swift County. The state interest in the land was purchased by TNC with Outdoor Heritage Funds (MN Laws 2011, First Special Session, Ch. 6 Art. 1, Sec. 2, Subd. 2(e)).

The attached email correspondence from Neal Feeken, TNC Grassland Conservation Program Director, describes the action. Also attached is the access easement to Appleton Township to maintain the Road as a minimum maintenance township road.

Pursuant to statute and the council's approved operating procedures, and in the absence of disapproval by leadership or the council by October 30, 2017, I will approve the conveyance and forward notification to Mr. Feeken of TNC so the conveyance can take place.

Please contact me if you have questions regarding this matter. I will withhold final notification until October 30, 2017 to hear from you, if you have concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Wm. Johnson".

Mark Wm. Johnson  
Executive Director  
Lessard-Sams Outdoor Heritage Council

cc: Sen. Chris Eaton, Sen. David Tomassoni, Rep. Rick Hansen, Rep. Leon Lille  
Mr. Neal Feeken, Members of the LSOHC

Attachment: Email from Neal Feeken to LSOHC, Appleton Township signed easement, Telford Tossel boundary, old road (photo), new road (photo).

## GRANT OF EASEMENT

**WHEREAS**, The Nature Conservancy, a non-profit corporation of the District of Columbia (**the Conservancy**), whose address is 1101 West River Parkway, Suite 200, Minneapolis, MN 55415 permitted certain neighbors to construct a road (**the Road**) over the following real property owned by the Conservancy: The north 33.00 feet of Section 35, Township 120 North, Range 43 West, Swift County, Minnesota (**the Easement Area**).

WHEREAS, the Road is used by the Conservancy, the neighbors who constructed it, as well as the public.

WHEREAS, the Conservancy would like to grant an easement to Appleton Township (**Grantee**) to maintain the Road as a minimum maintenance township road.

**NOW, THEREFORE**, the Conservancy, for good and valuable consideration, hereby grants and conveys to Grantee a non-exclusive perpetual easement to maintain, repair and replace the Road within the Easement Area.

Grantee shall have no right to widen, expand, or relocate the Road beyond the Easement Area. Grantee shall repair and maintain the Road. The Conservancy shall have no obligation to repair, maintain, or improve the Road.

Grantee, and its successors and assigns, agree to release the Conservancy, its successors and assigns, from any and all expenses, costs, or liability caused by or resulting from its actions or inactions in connection with its use of the Easement Area.

Any recital or preliminary statement in this easement and all exhibits referred to in this easement, if any, are an integral part of and are incorporated by reference into this easement.

SIGNATURE PAGE FOLLOWS

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

THE NATURE CONSERVANCY

By: \_\_\_\_\_

STATE OF MINNESOTA )  
 )ss  
COUNTY OF SWIFT )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by  
the \_\_\_\_\_ of The Nature Conservancy, a non-profit corporation under the laws of the  
District of Columbia on behalf of said non-profit corporation.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

APPLETON TOWNSHIP

By: Gene R. Meyer

STATE OF MINNESOTA )  
 )ss  
COUNTY OF SWIFT )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of September, 2017, by  
Gene R Meyer, the chairperson of Appleton Township a  
governmental agency under the laws of the State of Minnesota on behalf of  
Appleton Township.

Colleen M Toesel  
\_\_\_\_\_  
Notary Public  
My Commission Expires:

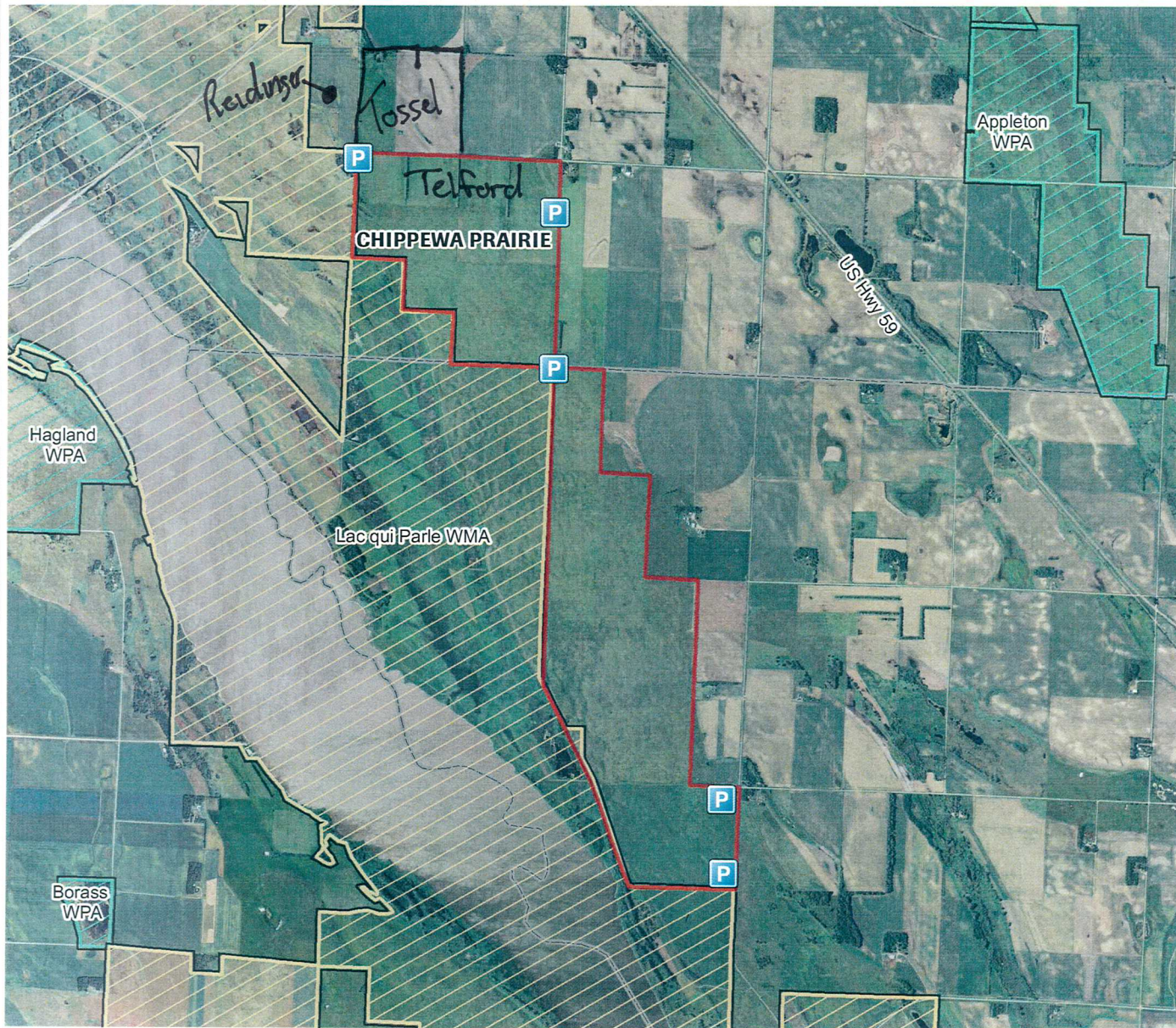


Instrument Drafted by and when recorded return to:  
The Nature Conservancy  
1101 West River Parkway, Suite 200  
Minneapolis, MN 55415

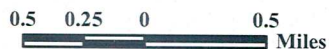
# Chippewa Prairie

Chippewa and Swift Counties, MN

Location: 3.6 miles NW of Milan on US Hwy 59 to Swift County line, then 2 miles W on Chippewa-Swift St NW



1,383 acres



Access Coordinates: 45 9' 7" N 96 0' 3" W

Scale = 1:50,000



Created by: sje, TNC in MN/ND/SD, 2013/7/1  
M:\mxd\Northern Tallgrass Prairie\Chippewa Prairie\Preserve\Chippewa Prairie Preserve map.mxd

*Conserving the lands and waters  
on which all life depends....*

The Nature Conservancy

Protecting nature. Preserving life.™



New road



Old road