

Lessard-Sams Outdoor Heritage Council

MEMO: Agenda Item #8
DATE: July 30, 2024
SUBJECT: Prairie Recovery Program Phase III Minor Conveyance
ML 2012, Ch. 264, Art. 1, Sec. 2, Subd. 2(b) Prairie Recovery Program
PRESENTER: Chris McGrath, Habitat Protection Manager, The Nature Conservancy

Suggested Process:

Motion by Member XX to approve TNC's request to provide an access easement from the town road, across TNC's OHF acquired property, to the western half of the adjacent landowner's property, as presented.

Background:

The Nature Conservancy has received a request for an access easement from a neighbor (Quam) that owns a 9-acre inholding at Lake Johanna Esker Preserve in Pope County. The requested easement is for access via an existing drive that crosses over a small portion of land TNC acquired in 2014 with an ML 2012, Ch. 264, Art. 1, Sec. 2, Subd. 2(b) Prairie Recovery Program OHF appropriation. The landowner (Quam) has been allowed to use this existing drive for several decades to access the western portion of her tract but is asking to formalize legal access as part of her estate planning. TNC has an access easement across the existing drive from Quam allowing TNC to access and manage the TNC tracts south & west of the Quam parcel that are part of the Johanna Esker Preserve.

Details of the easement, square footage and parcels affected, are described in the attachments. No compensatory lands have been offered.

The estimated payment back to the OHF is the appraised value of the easement: \$56.26.

Applicable Statute: M.S. 97A.056, Subd. 15 requires that all conversions and conveyances of OHF interests in acquired lands must be approved by the Council and "shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the outdoor heritage fund at least 15 business days before approval."

From 97A.056, Subd. 15. **Land acquisition restrictions.**

(a) An interest in real property, including, but not limited to, an easement or fee title, that is acquired with money appropriated from the outdoor heritage fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made. The ownership of the interest in real property transfers to the state if:

(1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or

(2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation.

(b) A recipient of funding that acquires an interest in real property subject to this subdivision may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the Lessard-Sams Outdoor Heritage Council or its successor. The council shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the outdoor heritage fund at least 15 business days before approval under this paragraph. The council shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

(1) the interest must be at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest must be in a reasonably equivalent location and have a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

(1) a legal description of the interest in real property covered by the funding agreement;

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement: "This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage Council or its successor. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."

Attachments:

- Quam Access Easement Summary & Map
- Proposed Easement Aerial Map
- Restricted Appraisal Report
- Easement Land Description