

ENROLLED ORDINANCE 165-42

WAUKESHA LAND CONSERVANCY PARTNERSHIP ACQUISITION -
RON DEPPERT PROPERTY

WHEREAS the Waukesha County Development Plan, which incorporated the Waukesha County Park and Open Space Plan, was adopted by the Waukesha County Board of Supervisors on November 26, 1996, and

WHEREAS the plan identifies the property known as the 51-acre Ron Deppert Property located in Section 30 of the Village of Summit for preservation through acquisition, and

WHEREAS the Waukesha Land Conservancy, a non-profit conservation organization, has requested Waukesha County's assistance to acquire the above mentioned property, and

WHEREAS the selling price of the property is \$500,000, and

WHEREAS the Waukesha Land Conservancy has requested the County contribute \$75,000 of the total acquisition cost while the Waukesha Land Conservancy will provide \$75,000, and the State of Wisconsin \$350,000, and

WHEREAS the Waukesha Land Conservancy has agreed to execute a Buyout Option with Waukesha County, and

WHEREAS the Waukesha Land Conservancy would be responsible for maintenance of the site, and

WHEREAS the Walter J. Tarmann Parkland Acquisition Fund was created in Enrolled Ordinance 150-28 for the purpose of acquiring park and open space lands consistent with the Waukesha County Board Adopted Park and Open Space Plan.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Department of Parks and Land Use is authorized to make a land acquisition grant to the Waukesha Land Conservancy in an amount not to exceed \$75,000, using available funds from the 2010 Walter J. Tarmann Parkland Acquisition Fund budget for the acquisition of the Ron Deppert Property for land preservation purposes.

BE IT FURTHER ORDAINED that the Buyout Option between the Waukesha Land Conservancy and Waukesha County are hereby approved.

BE IT FURTHER ORDAINED that the Waukesha County Clerk and the Waukesha County Executive are authorized to execute the Buyout Option.

FISCAL NOTE

WAUKESHA LAND CONSERVANCY PARTNERSHIP ACQUISITION – RON DEPERT PROPERTY

This ordinance authorizes the County Parks and Land Use Department to provide a grant to the Waukesha Land Conservancy of \$75,000 from the Walter J. Tarmann Parkland Acquisition Fund. This grant provides a portion (15%) of the \$500,000 necessary for the Conservancy to purchase approximately 51 acres in the Village of Summit. The remaining land acquisition costs will be funded with \$75,000 from the Conservancy, and a financial contribution from the State of Wisconsin Department of Natural Resources (DNR) of \$350,000. Department management indicate that the county's contribution is not eligible for DNR Stewardship Grant reimbursement (typically for approximately 50% of the estimated land value). Rather the Stewardship Reimbursement is included in a portion of the State's contribution, above. According to Department Management, the Conservancy incurs land acquisition transaction costs (e.g., appraisals) totaling \$4,600 for this transaction, not the County.

This ordinance authorizes a Buyout Option that allows the County to purchase the 51-acre parcel if the Land Conservancy seeks to sell the property at a future date. The buyout price of \$77,300 would include the Conservancy's original contribution of \$75,000 and half of the Conservancy's land acquisition transaction costs of \$2,300, mentioned above.

There currently is available expenditure appropriation authority in the 2010 Tarmann Fund expenditure budget to fund this purchase. However, to make the grant payment to the Waukesha Land Conservancy, \$75,000 of fixed asset appropriation will be transferred to the operating expense appropriation unit to properly account for this transaction.



Lawrence M. Dahl
Accounting Services Manager
9/7/2010

BD
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WAUKESHA LAND CONSERVANCY PARTNERSHIP ACQUISITION -
RON DEPPERT PROPERTY

Presented by:
Land Use, Parks and
Environment Committee

Approved by:
Finance Committee

Absent
Fritz Ruf, Chair

Patricia A. Haukohl
Patricia A. Haukohl, Chair

Absent
Robert Hutton

Dave Falstad
Dave Falstad

Michael J. Inda
Michael J. Inda

James A. Heinrich
James A. Heinrich

James Jeskewitz
James Jeskewitz

Robert Hutton (NO)
Robert Hutton

Walter L. Kolb
Walter L. Kolb

Pamela Meyer
Pamela Meyer

Absent
Ted Rolfs

absent
Ted Rolfs

Thomas J. Schellinger
Thomas J. Schellinger

William J. Zaborowski
William J. Zaborowski

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 10/1/10, Kathy Nickolaus
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: _____

Date: 10/6/10, Daniel P. Vrakas
Daniel P. Vrakas, County Executive

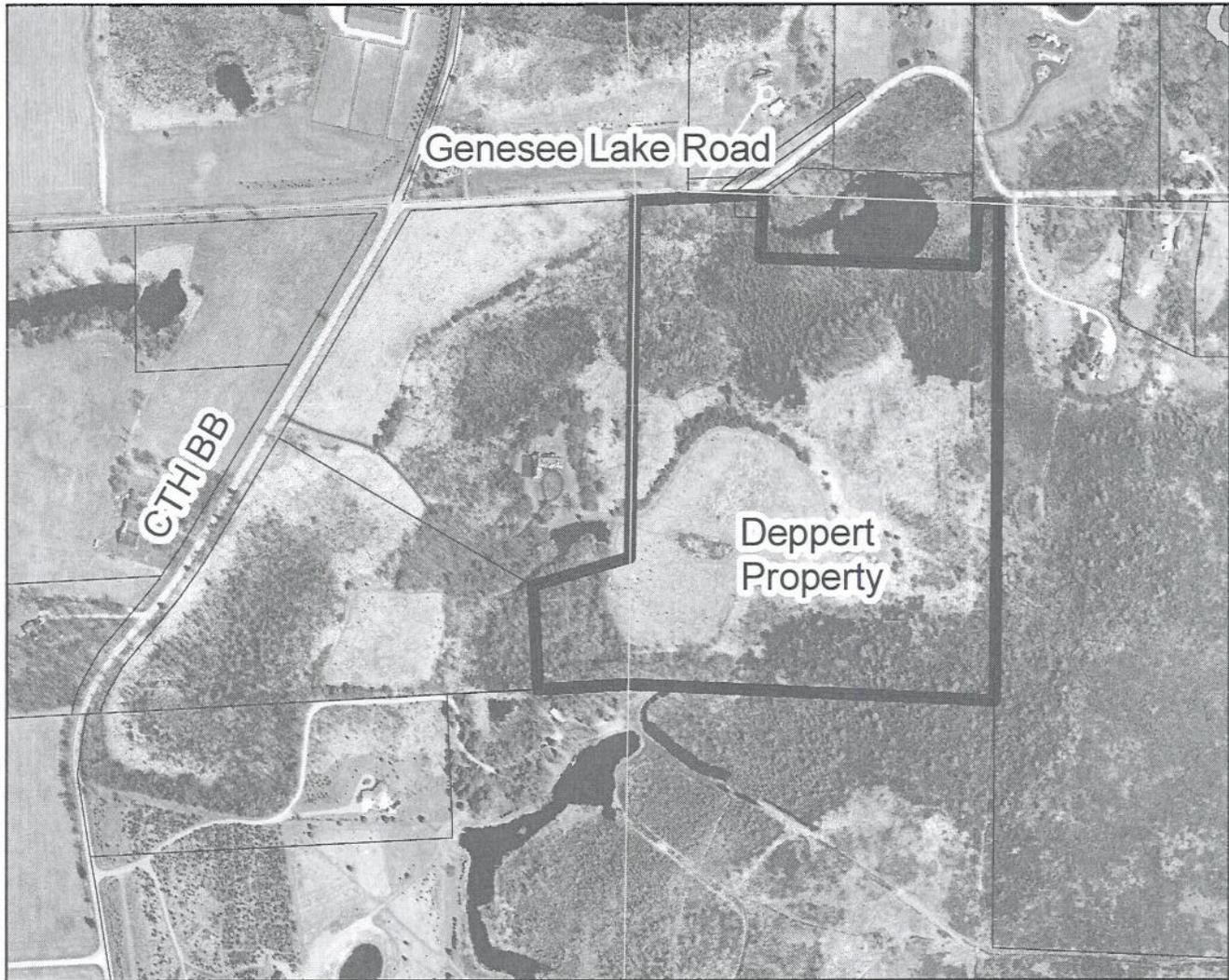
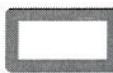
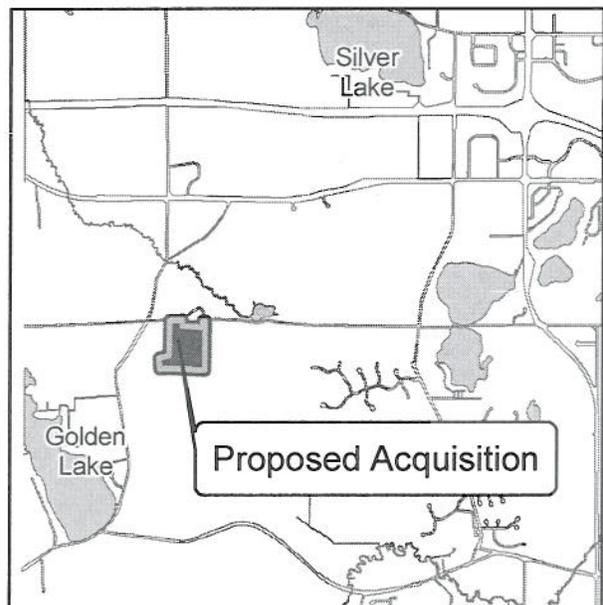


EXHIBIT "A"
Deppert Property

-  Deppert Property
-  Waukesha County



Prepared By: Waukesha County Department of Parks and Land Use August 2010

BUYOUT OPTION

With the written approval of the Wisconsin Department of Natural Resources, hereafter "Department", the undersigned Ellen Gennrich as President for the Waukesha Land Conservancy, a non-profit organization, hereinafter "Grantor", does hereby grant to the County of Waukesha, a political subdivision of the State of Wisconsin, hereinafter "County", this day of an option to purchase Grantor's "property" being approximately 54 acres in the Town of Summit as further described in Exhibit "A" attached hereto and made a part hereof.

WITNESSETH

WHEREAS Grantor and County wish to address the disposition of said property,

NOW, THEREFORE, in consideration of the mutual agreements and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties do hereby agree to the Buyout Option upon the terms and conditions as set forth below.

If Grantor, with prior written approval from the Department, intends to sell, transfer, convey or enters into a bona fide offer to purchase for the sale of the property, or any part thereof; or agrees to the lease, exchange, dedication or other transfer, (hereinafter "offer") then Grantor shall give the County written notice of such, including a copy of said offer setting forth the material terms and conditions.

Upon receipt of the above notice, the County shall have 60 days to exercise its Buyout Option. If the County elects to exercise the Buyout, it shall give written notice to the Grantor of its intention to close upon the terms and conditions as set forth below. Further, closing shall be 90 days from receipt of Grantor's notice.

The purchase price shall be \$77,300.25. Closing shall be held at the Waukesha County Administration Center.

Grantor states that this is a conveyance at an agreed price and that Wis. Stats. Chap. 32 is not applicable to this property.

Grantor shall obtain an ALTA owners policy in the amount of the purchase price, together with GAP coverage, at Grantor's expense, by an insurer licensed in Wisconsin. Grantor to provide title commitment to County, by actual delivery, within 10 days of Grantor's notice of offer/intent to sell. If Grantor fails to comply with this provision, the closing date may be delayed, at County's sole discretion, by the same number of days the title commitment is late. The property shall remain subject to the terms, conditions and requirements of the recorded Stewardship Grant and Management Contract in perpetuity. Prior to the conveyance of the property by the Grantor to the County, the Grantor, the County and the Department shall execute an Assignment of Stewardship Grant and Management Contract that shall be recorded against the property.

Upon payment of the purchase price, Grantor shall convey the property by warranty deed, free and clear of all liens or encumbrances, except the recorded Stewardship Grant and Management Contract, the recorded Assignment of Stewardship Grant and Management Contract to Waukesha County, municipal and zoning ordinances, recorded easements for the distribution of utility and municipal services and general taxes levied in the year of closing, (provided none of the foregoing prohibit present use of the property), which constitutes merchantable title for purposes of this transaction. Notwithstanding the foregoing, the County shall only use the property for its original conservation purposes. The County's further sale of the property for other than open space preservation, or other like conservation purposes shall be prohibited.

This Buyout Option is contingent upon obtaining the written approval of the Department, Waukesha County Executive and Waukesha County Board of Supervisors for the purchase of the property contained in Exhibit "A", prior to closing.

Grantor shall notify County in writing of any condition affecting the property or defect not previously disclosed, through the closing of this transaction. Grantor shall cure said defect(s) by closing, or County may, at County's option declare this Offer null and void. Said defects to include any and all waste or debris, including but not limited to abandoned vehicles, machinery, scrap metal, cylinders, drums, tires and all other materials not occurring naturally on the property.

The County may obtain, at its expense, written environmental assessments (phase I and/or phase II) of the Property from independent environmental consultants of County's choice, confirming that (i) the Property complies with all Environmental Laws; (ii) there are no liabilities (contingent or otherwise) affecting the Property arising under any Environmental Laws; (iii) there are no underground or above ground storage tanks, associated pipes or equipment located on or at the Property; and (iv) there are no Hazardous Substances on, under, at, in or migrating to or from the Property. If the assessment(s) reveal any condition that demonstrates a violation of applicable environmental laws, triggers reporting responsibilities, or other condition affecting the property in County's sole discretion, County may declare this option null and void.

The term "Environmental Laws" shall mean all federal, state and local laws including statutes, rules, regulations, common law doctrines and remedies and other governmental restrictions, codes, standards and requirements relating to the disposal, release, emission, dispersal, spilling, leaking, burial, migration, seeping, movement or discharge of air pollutants, chemicals, gases, vapors, waste pollutants, groundwater, effluents, storm water or surface water runoff, process wastewater, solid wastes or hazardous waste or otherwise relating to the protection of the environment. The term "Hazardous Substances" shall mean all hazardous or toxic substances, fumes, smoke, soot, acids, alkalis, chemicals, liquids, gases, vapors, fill, soils, wastes and materials; any pollutants, particulate matter, effluents or contaminants (including, without limitation, petroleum products, asbestos and raw materials which include hazardous or toxic constituents); and any other similar substances or materials which are regulated under Environmental Laws.

If the County fails or elects not to exercise its Buyout Option hereunder, and the Grantor, with the prior written approval of the Department, sells the property, or portion thereof, to a party, then, in such instance, the County's Buyout Option shall terminate as to that portion of the property so transferred. If the Buyout is not exercised, and the Grantor fails to close within 90 days of the time set to close upon the terms and conditions as set forth in the offer, the County's Buyout shall be reinstated and be applicable to any subsequent offer.

The rights granted herein may not be assigned by the County without the written consent of the Grantor and the Department. The covenants and agreements contained herein shall bind and benefit the parties and their respective successors and, to the extent allowed, their assigns. This document represents the entire agreement of the parties and may not be modified except in writing signed by all parties. This document may be recorded.

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-09/28/10

(ORD) NUMBER-1650043

1 D. FALSTAD.....AYE
3 R. HUTTON.....NAY
5 J. JESKEWITZ.....AYE
7 P. HAUKOHL.....AYE
9 J. HEINRICH.....AYE
11 F. RUF.....AYE
13 P. DECKER.....AYE
15 P. MEYERS.....AYE
17 J. TORTOMASI.....AYE
19 S. WIMMER.....AYE
21 W. ZABOROWSKI.....AYE
23 K. CHIAVEROTTI....AYE
25 G. YERKE.....AYE

2 T. ROLFS.....
4 J. DWYER.....AYE
6 J. BRANDTJEN.....AYE
8 T. SCHELLINGER....AYE
10 D. SWAN.....AYE
12 P. WOLFF.....AYE
14 M. INDA.....AYE
16 D. PAULSON.....AYE
18 K. CUMMINGS.....AYE
20 P. JASKE.....AYE
22 P. GUNDRUM.....AYE
24 W. KOLB.....AYE

TOTAL AYES-23

TOTAL NAYS-01

CARRIED X

DEFEATED _____

UNANIMOUS _____

TOTAL VOTES-24