



Meeting Date: 5/23/2011
Agenda Item: #6a

Mission Statement
Delivering quality services in a courteous, cost-effective and efficient manner

VILLAGE BOARD MEETING STAFF REPORT

REPORT TO: President Burt McIntyre and Village Board of Trustees

REPORT FROM: Dave Wiese, Director of Community Development

AGENDA ITEM: Review and take action on options for anticipated impacts related to Alternatives D and E in the Gordon Nauman Conservation Area, Wietor Wharf Park and Deerfield Docks (4(f) and/or 6(f) properties).

ACTION REQUESTED: Ordinance Resolution Motion Receive/File

POLICY ISSUE

Does the Village Board want to take action on the proposed mitigation options for the impacts to the Gordon Nauman Conservation Area, Wietor Wharf Park and Deerfield Docks?

RECOMMENDED ACTION BY VILLAGE BOARD

Village staff recommends the Village Board review the proposed alternatives to the US 41 Memorial to County M project and mitigation options and approve written correspondence to the DOT. If the Village Board is in favor of this policy action, the following motion may be made:

"Motion to approve an updated letter (Attachment II) to the Department of Transportation for approval of the proposed mitigation alternatives for the anticipated impacts related to Alternatives D and E in the Gordon Nauman Conservation Area, Wietor Wharf Park and Deerfield Docks (4(f) and/or 6(f) properties)."

POLICY ALTERNATIVE(S)

The Village Board could take the following action:

- Amend the mitigation requests and/or amend the letter
- Choose not to support the proposed alternatives
- Table the item and request additional information

FINANCIAL INFORMATION

FISCAL IMPACT:

1. Is There A Fiscal Impact? Yes
2. Is it Currently Budgeted? No
3. If Budgeted, Which Line? N/A

FISCAL SYNOPSIS:

The agreement letter for the mitigation request will give the Village an opportunity in the future to cost share and construct all the improvements shown in Attachments I.

BACKGROUND INFORMATION

On April 23, 2011 the Village Board reviewed the current proposal below. The Village Board tabled any action and asked staff to review with DOT other alternatives. Staff met with the DOT on May 13, 2011 to discuss the following:

1. Monetary compensation in lieu of improvements
2. Additional or other improvements in the area such as fixing up the boat landing at the end of West Deerfield Drive
3. The possibility of improving other Village Parks not within the immediate vicinity.

The DOT responded by letter (Attachment VII). It does indicate monetary compensation is an option. An appraisal would need to be completed of the 1.12 acre property, and Federal Highway Administration (FHWA) would have to agree the appraised value is equitable. Use would be restricted to enhancing the remaining Gordon Nauman Conservation area or used in a manner that would benefit the remaining park system. FHWA would have the decision-making authority on this option. DOT did indicate to us at our May 13 meeting that fixing up the boat landing could be looked at but the nature of the improvements and associated costs would have to be determined. The DOT has expressed the urgency to move forward with an agreement in order not to hold up their processes.

The mitigation discussions with DOT have been going on for some time. The Village Board took action in September 2009 and in November 2010 regarding possible mitigation options (Attachment V and Attachment VI.)

CURRENT PROPOSAL

6(f) Impacts and Mitigation

The proposed 6(f) impacts for Alternative D are 375 feet of boardwalk (Wietor Wharf Park and Deerfield Docks). There are currently no 6(f) impacts anticipated for Alternative E. The Village concurs with the following Section 6(f) mitigation for either Alternative D and/or E:

All boardwalk impacted at Wietor Wharf Park and/or Deerfield Docks Park to be replaced by WisDOT in kind.

4(f) Impacts and Mitigation

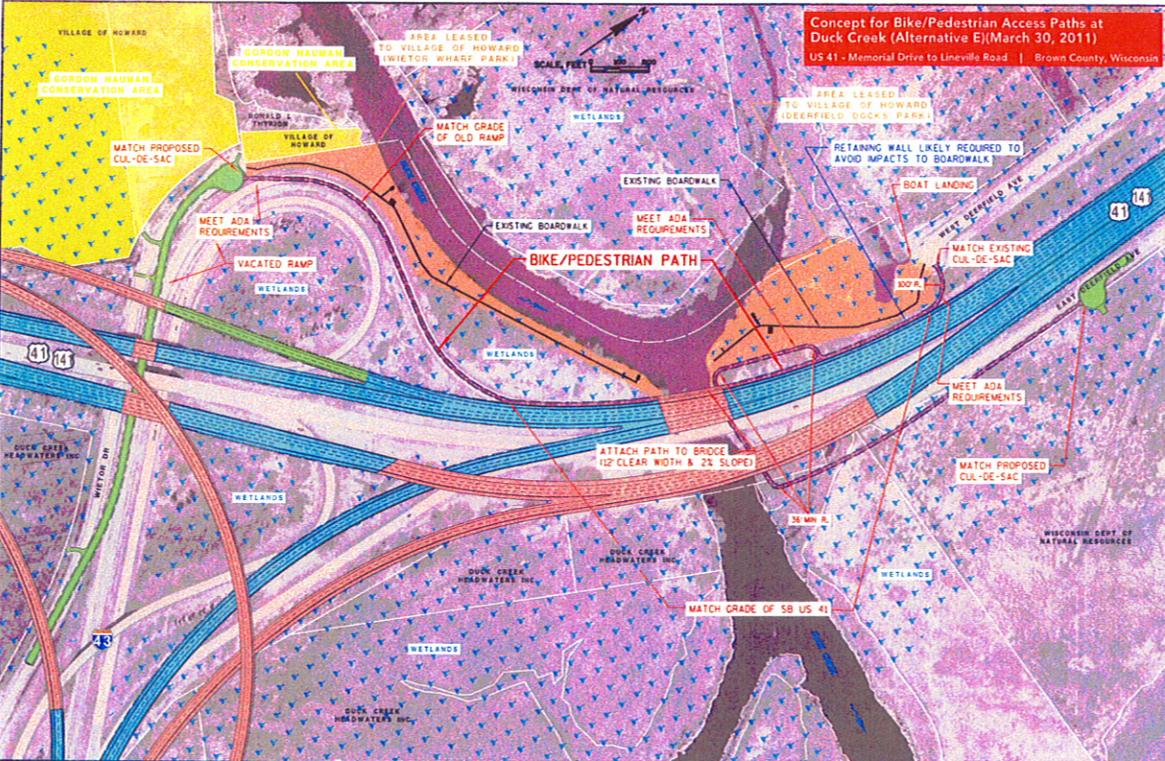
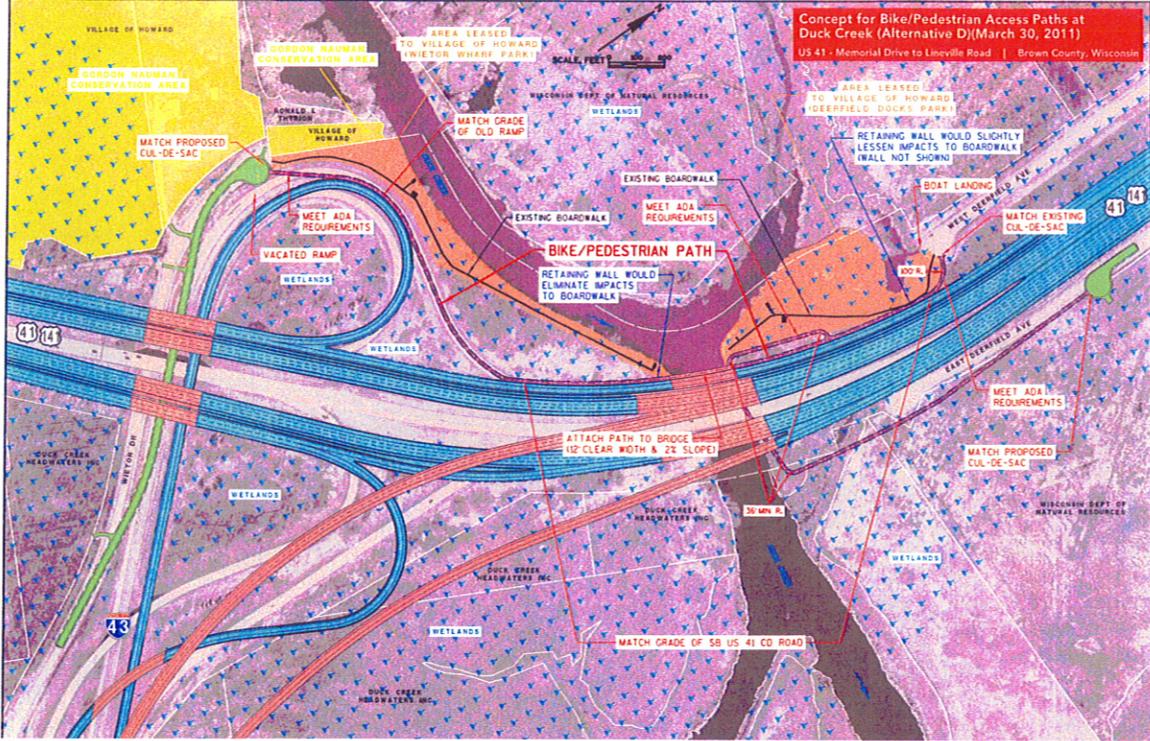
The proposed Section 4(f) impacts to the Gordon Nauman Conservation Area are estimated at 0.55 acres for Alternative D and 1.12 acres for Alternative E.

- 1) Construction of bike/pedestrian path running parallel to US 41:** This would extend from Wietor Drive cul-de-sac, across US 41, to West Deerfield cul-de-sac, and would include the widening of the US 41 structure required to accommodate the bike/pedestrian path. WisDOT would fund 100% of both the structure widening and remainder of the bike/ped path. The Village would have no cost share.
- 2) Lengthening of US 41 structure over Duck Creek and right-of-way clearance for future construction of path/access under US 41 along north side of Duck Creek:** This pertains to the path/access that is proposed by the Village to connect the Deerfield Docks area (west side of US 41) to the East Deerfield Avenue area (east side of US 41). As part of WisDOT's project, DOT would provide the lengthening of the US 41 structure over Duck Creek and secure right-of way required for the path, but would not construct the path itself. The Village of Howard would be responsible for funding and constructing the path at a future date.

ATTACHED INFORMATION

- I. Alternative D& E – US 41 Memorial to County M Project
- II. Proposed Letter to the Department of Transportation
- III. May 18, 2011 Letter from DOT (Re: Additional information request)
- IV. Meeting Handout from May 13th meeting of Village Staff and DOT
- V. Mitigation Request Letter from Robert Bartelt to DOT November 19, 2010
- VI. December 16, 2010 Letter from DOT in response to Village Letter from November 19, 2010
- VII. Minutes from November, 2010 Village Board Meeting
- VIII. Minutes from September, 2009 Village Board Meeting
- IX. Letter from Marianne Pigeon to DOT (2007)

ATTACHMENT I



ATTACHMENT II

May 24, 2011

Natasha Gwidt
Corridor Design Supervisor
Wisconsin Department of Transportation
US 41 Brown County Project Office
1940 West Mason Street
Green Bay, WI 54303

RE: US 41 Memorial to County M (#1133-10-01)
Village of Howard approval of Section 4(f) and 6(f) mitigation

Dear Ms. Gwidt:

As outlined in previous correspondence and discussed at the meeting on May 13th, 2011, the Village of Howard is willing to work with WisDOT on the Section 4(f) and 6(f) mitigation options for Alternatives D and E. We understand that Alternative E is WisDOT's preferred alternative, however, both Alternatives D and E remain under consideration at this time.

6(f) Impacts and Mitigation

The proposed 6(f) impacts for Alternative D are 375 ft. of boardwalk (Wietor Wharf Park and Deerfield Docks). There are currently no 6(f) impacts anticipated for Alternative E. The Village concurs with the following Section 6(f) mitigation for either Alternative D and/or E:

All boardwalk impacted at Wietor Wharf Park and/or Deerfield Docks Park to be replaced by WisDOT in kind.

4(f) Impacts and Mitigation

The proposed Section 4(f) impacts to the Gordon Nauman Conservation Area are estimated at 0.55 acres for Alternative D and 1.12 acres for Alternative E. The Village concurs with the Section 4(f) mitigation option described below. These concepts are also shown on the attached display dated March 30th 2011, and were also referred to as "Option B" during the May 13th meeting:

Construction of bike/pedestrian path running parallel to US 41: This would extend from Wietor Drive cul-de-sac, across US 41, to West Deerfield cul-de-sac, and would include the widening of the US 41 structure required to accommodate the bike/ped path. WisDOT would fund 100% of both the structure widening and remainder of the bike/ped path. The Village would have no cost share.

Lengthening of US 41 structure over Duck Creek and right-of-way clearance for future construction of path/access under US 41 along north side of Duck Creek: This pertains to the path/access that is proposed by the Village to connect the Deerfield Docks area (west side of US 41) to the East Deerfield Avenue area (east side of US 41). As part of WisDOT's project, we would provide the lengthening of the US 41 structure over Duck Creek and secure right-of-way required for the path, but would not construct the path itself. The Village of Howard would be responsible for funding and constructing the path at a future date.

We understand that mitigation request #2 identified in the December 16, 2010 letter for the paving of Wietor Drive from west of US 41 to the cul-de-sac is no longer applicable. Due to the realignment required for Wietor Drive to accommodate the proposed bridge construction in this area, Wietor Drive will be completely reconstructed west of US 41 and no existing pavement will remain that would require resurfacing.

Respectfully,

Robert Bartelt
Village Administrator
Village of Howard, Wisconsin

Cc: Colleen Harris, US 41 Corridor Manager
Danielle Block, Project Manager
Mindy Gardner, Deputy Project Engineer
Village Board of Trustees

ATTACHMENT III



**Division of Transportation
System Development**
US 41 Project – Brown County Office
1940 West Mason Street
Green Bay, WI 54303



Scott Walker, Governor
Mark Gottlieb, P.E., Secretary
Internet web site: www.dot.wisconsin.gov

Telephone: (920)492-2222
Facsimile (FAX): (920)492-5807
E-mail: greenbay.dtsd@dot.wi.gov

May 18, 2011

Mr. Dave Wiese
Director of Community Development
2456 Glendale Ave
PO Box 12207
Green Bay, WI 54313

RE: Additional 4(f) mitigation information per request Village of Howard
US 41 Memorial to County M, Project #1133-10-01

Dear Mr. Wiese –

Per your request during our meeting on May 13, 2011, this letter contains additional information on Section 4(f) policies for use/review by the Village Board. WisDOT is requesting that following the May 23rd Village Board Meeting, (on May 24th or soon thereafter), the Village of Howard send WisDOT a letter stating their concurrence/agreement to 4(f) and 6(f) mitigation concepts for purposes of inclusion in the Final Environmental Impact Statement (FEIS).

Need/urgency of 4(f) and 6 (f) mitigation agreements

WisDOT and Village of Howard reaching an agreement on 4(f) and 6(f) mitigation according to project schedule is crucial in keeping the overall project on schedule, which is a very tight/aggressive project schedule. This written agreement that needs to be included in the FEIS is currently “holding up” the NEPA/FEIS process. Until WisDOT obtains this, we cannot move forward to the next step of agency review and approval of the FEIS, and ultimately the Record of Decision (ROD) which marks the final approval of the FEIS by the Federal Highway Administration (FHWA). In turn, delay of obtaining the “ROD” delays the remainder of the project schedule. Certain project milestones cannot occur until the ROD is obtained, such as funding for utilities to relocate, final design and completion/approval of PS&E (Project Specifications and Estimates), recording of project plat, buying of real estate, letting of project to bidders, project construction, ultimately placing the funding of the project in jeopardy if construction does not begin within scheduled timeframe.

Upcoming Project Milestones/Schedule

Date	Milestone/Activity	Notes
May 23, 2011	Village of Howard Board Meeting – review and arrive at decision/agreement 4(f) and 6(f)	

	mitigation	
May 24, 2011	Village of Howard send WisDOT letter stating concurrence of conceptual 4(f) and 6(f) mitigation concepts	
May 25, 2011	WisDOT submit preliminary FEIS to FHWA for review	Inclusion of written agreement on 4(f)/6(f) mitigation concepts from Village of Howard required! Delay of this milestone will have "domino" effect/delay of overall project schedule
June – July, 2011	FEIS reviews, comments, revisions per FHWA and resource agencies	
Late July 2011	Publication of Notice of Availability of FEIs in Federal Register – beginning of public comment period (min 30 days)	
Late August 2011	End of FEIS public comment period	
Aug, Sept 2011	Public and agency comment received during public comment period incorporated into FEIS, submittal and review of preliminary ROD	
Mid October 2011	ROD approved by FHWA	
Nov 2011	Continue with design of selected alternative, record plats, real estate buyouts, utility relocations	Cannot begin any of these activities until have the approved ROD!
Feb 2012	First project letting/bidding – I-43 early steel fabrication; following shortly thereafter would be letting/bidding for other/various project tasks/segments	
2013 – 2017	Construction	

Section 4(f) information per 23 CFR (Code of Federal Regulations) 774.17 (revised 2009)

Per 23 CFR 774.17, Definitions, All possible planning. All possible planning means that all reasonable measures identified in the Section 4(f) evaluation to minimize harm or mitigate for adverse impacts and effects must be included in the project. (1) With regard to public parks, recreation areas, and wildlife and waterfowl refuges, the measures may include (but are not limited to): design modifications or design goals, replacement of land or facilities of comparable

value and function; or monetary compensation to enhance the remaining property or to mitigate the adverse impacts of the project in other ways.

Additional Section 4(f) information per FHWA's Section 4(f) Policy Paper (revised 2005)

This paper explains how Section 4(f) applies generally and to specific situations where resources meeting the Section 4(f) criteria may be involved. It is based on court decisions, experience and on policies developed by FHWA and USDOT over the years. This paper serves as a guide for the applicability of Section 4(f) for common project situations often encountered by FHWA Division Offices, State Departments of Transportation and other partners. For specific projects that do not completely fit the situations or parameters described in this paper, it is advisable to contact the FHWA Division Office. Following is some information contained in this paper.

- **Section 4(f) Authority and Responsibility:** Section 4(f) applies only to the actions of agencies within the USDOT. While other agencies may have an interest in Section 4(f), the agencies within the USDOT are responsible for applicability determinations, evaluations, findings and overall compliance.
- **Section 4(f) Applicability:** Section 4(f) applies to any significant publicly owned public park, recreation area, or wildlife and waterfowl refuge and any land from an historic site of national, state or local significance.
- **Measures to Minimize Harm and Mitigation**
 - Minimization and mitigation measures should be determined through consultation with the official of the agency owning or administering the resource. Neither the Section 4(f) statute nor regulation requires the replacement of 4(f) resources used for highway projects, but this option is appropriate under 23 C.F.R. 710.509 as a mitigation measure for direct project impacts. (C.F.R. – Code of Federal Regulations)
 - Mitigation measures involving public parks, recreation areas, or wildlife and waterfowl refuges may involve a replacement of land and/or facilities of comparable value and function, or monetary compensation, which could be used to enhance the remaining land. In any case, the cost of mitigation should be a reasonable public expenditure in light of the severity of the impact on the 4(f) resource in accordance with 23 C.F.R. 771.105(d).
- **Coordination**
 - Preliminary coordination prior to the circulation of the draft Section 4(f) evaluation should be accomplished with the official(s) of the agency owning or administering the resource, the Department of Interior (DOI) and, as appropriate, the Departments of Agriculture (USDA) and Housing and Urban Development (HUD).
 - If any issues are raised by these agencies resulting from the circulation of the draft Section 4(f) evaluation, follow up coordination must be undertaken to resolve the issues. In most cases the agency's response will indicate a contact point for the follow up coordination. However, case law indicates that if reasonable efforts to resolve the issues are not successful (one of these agencies

is not satisfied with the way its concerns were addressed) and the issues were disclosed and received good-faith attention from the decision maker, FHWA has met the procedural obligation under Section 4(f) to consult with and obtain the agency's comments. Section 4(f) does not require more.

Monetary compensation for 4(f) impacts

During the May 13th meeting that WisDOT held with the Village of Howard, in addition to reviewing/discussing the two most recent mitigation options (Options A and Options B) the Village also indicated potential interest in monetary compensation for 4(f) impacts as an alternative to Option A and/or Option B. WisDOT's initial response was that monetary compensation for the 4(f) impacts would likely not be an option. Per Village of Howard's request, WisDOT has obtained further information on this issue. See reference to monetary compensation per 23 CFR 774.17 referenced above. Applying the monetary compensation guidelines found in 23 CFR 774.17 to this specific project would result in the following:

- Amount of the compensation would need to be comparable to the value of the 4(f) land/resource impacted (in this case 1.12 acres of the Gordon Nauman Conservation area). An appraisal of the property would need to be completed to determine this value, and FHWA would need to confirm the appraised value is equitable.
- Use of the money would be restricted to enhancing the remaining 4(f) resource/land (in this case, the Gordon Nauman Conservation area), or used in a manner that would provide benefit to the remaining park system of the Village of Howard.
- This mitigation measure would require a Memorandum of Agreement (MOA) to define exactly how the money would be used to enhance another portion of the Village of Howard's park system. Again, FHWA would have the ultimate decision on acceptance of this agreement.

4(f) and 6(f) coordination to date

The goal has been to reach a reasonable mitigation agreement between WisDOT and the Village of Howard that is a reasonable public expenditure in light of the severity of impact of the 4(f) and 6(f) resources. WisDOT began coordination with the Village of Howard (and other agencies as appropriate) for 4(f) and 6(f) impacts and potential mitigation options in 2007. Since then, WisDOT has provided on-going coordination, including updates to 4(f)/6(f) impacts as alternatives have been refined, and review and consideration of various mitigation options requested by the Village of Howard. The Draft EIS (DEIS) was signed in January 2011, which included correspondence letters between the Village of Howard and WisDOT regarding conceptual 4(f) and 6(f) mitigation concepts (letters dated Nov. 2010 and Dec. 2010), indicating agency approval of the mitigation concepts to date, pending the final concurrence letter from the Village of Howard. During WisDOT's May 13th meeting with the Village of Howard, they indicated that between the two most recent 4(f) mitigation options discussed (Options A and Options B), that Option B (no cost option to Village at this time) would likely be their preferred option, pending approval from the Village Board. See attached copy of the "Discussion Items"

from the May 13th meeting for descriptions of Options A and B. As far as 6(f) mitigation WisDOT and the Village of Howard have already agreed that any boardwalk impacted by project would be replaced in kind by WisDOT. However, we need both the 4(f) and 6(f) statements/agreements included in the concurrence letter. Attached are related correspondence letters to date.

Future 4(f) and 6(f) correspondence needed from Village of Howard

As mentioned previously, WisDOT is requesting that following the May 23rd Village Board Meeting, (on May 24th or soon thereafter), the Village of Howard send WisDOT a letter their concurrence/agreement to 4(f) and 6(f) mitigation concepts for purposes of inclusion in the Final Environmental Impact Statement (FEIS).

Please let us know if there is any other information that would be helpful for you in reaching this decision/agreement.

Sincerely,

Danielle Block
Project Manager
Wisconsin Department of Transportation
US 41 Brown County Project Office
1940 West Mason Street
Green Bay, WI 54303

Cc: Will Dorsey, WisDOT NE Regional Director
Colleen Harris, WisDOT NE Region Corridor Program Manager
Natasha Gwidt, WisDOT NE Region – Corridor Program Supervisor
Mindy Gardner, WisDOT NE Region – Deputy Project Manager
Mike Helmrick, WisDOT NE Region – Environmental Coordinator
Bob Bartelt, Village of Howard, Village Administrator

ATTACHMENT IV



Division of Transportation
System Development
US 41 Project – Brown County Office
1940 West Mason Street
Green Bay, WI 54303



Discussion Items – 4f/6f Mitigation Meeting with Village of Howard – May 13th, 2011 US 41 – Memorial to County M

6(f) MITIGATION

Summary of Section 6(f) impacts to Village of Howard property

Under Alternative E (preferred alternative), we do not anticipate any 6(f) impacts.

Under Alternative D, approximately 375 L.F. of boardwalk would be impacted (50 L.F. at Wietor Wharf Park and 350 L.F. at Deerfield Docks Park).

6(f) Mitigation

WisDOT and the Village of Howard have agreed that all boardwalk impacted by the proposed improvements will be replaced in kind by WisDOT as part of the project. However, WisDOT is still in need of Village of Howard "sign-off".

4(f) MITIGATION

Summary of Section 4(f) impacts to Village of Howard property

1.12 acres (Gordon Nauman Conservation Area) – Assuming Alternative E (preferred alternative)*

*Note: The only other remaining alternative in the EIS is Alternative D, which involves an impact of 0.55 acres to Gordon Nauman Conservation Area, less than preferred Alternative E. Therefore, to be conservative, we will assume preferred Alternative E impacts to evaluate appropriate 4(f) mitigation.

Project impacts in areas of Weitor Warf and Deerfield Docks are NOT section 4(f) impacts since these are properties that are owned by WisDOT and leased to the Village of Howard.

4(f) Mitigation options

Although certain concepts have been discussed, WisDOT and Village of Howard have not yet come to an agreement on the level and type of 4(f) mitigation appropriate. As part of the NEPA process and completing the Final Environmental Impact Statement, and keeping the project on schedule, it is vital that WisDOT and the Village of Howard come to an agreement on the 4(f) mitigation concept. Below are some options that have been discussed.

Option A (see separate spreadsheet for associated costs estimates)

- 1) Construction of bike/pedestrian path running parallel to US 41:** This would extend from Wietor Drive cul-de-sac, across US 41, to West Deerfield cul-de-sac, and would include the widening of the US 41 structure required to accommodate the bike/ped path. WisDOT would fund 100% of the structure widening and 80% of the remainder of the bike/ped path. The Village would be responsible for a cost share of 20% of the path portion.
- 2) Construction of path/access under US 41 along north side of Duck Creek:** This path would connect the Deerfield Docks area (west side of US 41) to the East Deerfield Avenue area (east side of US 41). Additional US 41 structure length would be required to accommodate this path/access. WisDOT would fund 100% of the additional structure length required, secure necessary right-of-way, and fund 80% of the path/access. The Village would be responsible for funding 20% of the path.

AGENDA
Meeting with Village of Howard – May 13th, 2011
US 41 – Memorial to County M
6f/4f mitigation

Option B *(see separate spreadsheet for associated costs estimates)*

- 1) **Construction of bike/pedestrian path running parallel to US 41:** This would extend from Wietor Drive cul-de-sac, across US 41, to West Deerfield cul-de-sac, and would include the widening of the US 41 structure required to accommodate the bike/ped path. WisDOT would fund 100% of both the structure widening and remainder of the bike/ped path. The Village would have no cost share.
- 2) **Lengthening of US 41 structure over Duck Creek and right-of-way clearance for future construction of path/access under US 41 along north side of Duck Creek:** This pertains to the path/access that is proposed by the Village to connect the Deerfield Docks area (west side of US 41) to the East Deerfield Avenue area (east side of US 41). As part of WisDOT's project, we would provide the lengthening of the US 41 structure over Duck Creek and secure right-of way required for the path, but would not construct the path itself. The Village of Howard would be responsible for funding and constructing the path at a future date.

Other options requested/discussed

- 1) **Monetary compensation** – The Village of Howard posed a question to WisDOT as to whether or not monetary compensation was a possibility (instead of improvements). Per WisDOT policy, monetary compensation is NOT an option for 4f mitigation.
- 2) **Fixing boat landing at end of West Deerfield Drive** - The Village of Howard posed a question to WisDOT as to whether or not this is an option. WisDOT would need additional information on what improvements would be needed, costs associated, etc.
- 3) **Other?**

4(f)/6(f) MITIGATION AGREEMENT/"SIGN-OFF" BY VILLAGE OF HOWARD

As part of the NEPA process and completing the Final Environmental Impact Statement, and keeping the project on schedule, it is vital that WisDOT and the Village of Howard come to an agreement on the 4(f) and 6(f) mitigation concept, and this formal agreement be included in the FEIS.

Village of Howard Board Meeting May 23rd

WisDOT understands Village of Howard will be holding a board meeting on May 23rd at which time the 4(f)/6(f) mitigation concept will be discussed/voted on.

How soon after this meeting can WisDOT receive formal "sign-off" from Village of Howard?

WisDOT draft a letter?

ATTACHMENT V



2456 Glendale Avenue • P.O. Box 12207 • Green Bay, Wisconsin 54313

November 19, 2010

Mr. Mike Berg
WisDOT Northeast Regional Director
944 Vanderperren Way
Green Bay, WI 54304

Re: US 41 Memorial to County M Project (#1133-10-01) - Village of Howard approval of Alternatives D and E, and Mitigation Requests

Dear Mr. Berg:

Please accept this letter on behalf of the Village of Howard indicating our approval of the current proposed Alternatives D and E (see attached displays) for the US 41 Memorial to County M Project (#1133-10-01) as provided to our staff on Friday, November 5, 2010.

WisDOT has informed us that after the November 5, 2010 meeting, FHWA made a determination that the Wietor Wharf and Deerfield Docks areas being leased to the Village of Howard (owned by WisDOT) are NOT considered to be 4(f) properties. Therefore, the impact summaries at the bottom right-hand corner of the displays mentioned will need to be updated to reflect this. All 4(f) impact acreages to the Wietor Wharf and Deerfield Docks areas would be omitted/subtracted for both Alternatives D and E.

The Village is excited to endorse the proposed improvements in alternatives D and E, particularly in the areas of the following 4(f) and/or 6(f) properties:

- The Gordon Nauman Conservation Area (owned by the Village of Howard) – (4(f) impacts under Alts D and E)
- Wietor Wharf Park (owned by WisDOT-currently leased to the Village of Howard) – 6(f)/boardwalk impacts under Alt D only
- Deerfield Docks (owned by WisDot-currently leased to the Village of Howard) – 6(f)/boardwalk impacts under Alt D only

However, after reviewing the current proposed Alternatives D and E for the US 41 Memorial to County M Project, the Village has several mitigation requests for anticipated impacts related to Alternatives D and E in the Gordon Nauman Conservation Area, Wietor Wharf Park and Deerfield Docks (4(f) and/or 6(f) properties). The Village of Howard would sincerely appreciate your consideration of the following requests in the final design of the project:



2456 Glendale Avenue • P.O. Box 12207 • Green Bay, Wisconsin 54313

1. The inclusion of the proposed bike/pedestrian path/bridge crossing Duck Creek. This path would likely be attached to the proposed US 41 structure. Draft displays dated November 3, 2010 showed this Duck Creek crossing along with potential concepts and connection(s) of this bike/pedestrian path to Wietor Wharf Park and Deerfield Docks areas under Alternative D and E. The Village is willing to work out design details with WisDOT and FHWA.
2. Paving of Wietor Drive from west of 41 to the cul-de-sac.
3. The purchase of the Ronald Thyron property by WisDot, with an intent to allow the Village to use this property.
4. The inclusion of a path (access) under US 41 along the north side of Duck Creek, connecting Deerfield Docks area (west of US 41) to East Deerfield Ave cul-de-sac (east side of US 41)

On behalf of the Village and the Howard community, we would sincerely appreciate your careful consideration of the aforementioned requests when planning for the US 41 Memorial to County M Project.

Respectfully,

Robert Bartelt
Village Administrator
Village of Howard, Wisconsin

Cc: Brett Wallace, WisDOT Operations Chief
Mindy Gardner, Project Manager/Engineer
Village Board of Trustees

ATTACHMENT VI



Division of Transportation
System Development
Northeast Regional Office
944 Vanderperren Way
PO Box 28080
Green Bay, WI 54324-0080



Jim Doyle, Gover
Frank J. Busalacchi, Secret
Internet web site: www.dot.wisconsin.gov

Telephone: (920)492-5
Facsimile (FAX): (920)492-5
E-mail: greenbay.dtd@dot.state.wi.gov

December 16, 2010

Robert Bartelt
Village Administrator
Village of Howard, Wisconsin
2456 Glendale Avenue, P.O. Box 12207
Green Bay, WI 54307

Re: US 41, Memorial Drive to County M - #1133-10-01
Village of Howard 4(f) and 6(f) mitigation request

Dear Mr. Bartelt:

Thank you for your letter dated November 19, 2010 (copy attached) pertaining to your approval of the current proposed Alternatives D and E and your list of mitigation requests.

The current estimated 4(f) and 6(f) impacts to Village of Howard property that would require mitigation are summarized below, and reflected on the attached plan views dated December 1, 2010:

	Alternative D	Alternative E
4(f) impacts*	0.55 acres in Gordon Nauman Conservation Area	1.12 acres in Gordon Nauman Conservation Area
6(f) impacts*	Total of 375 ft of boardwalk (50 ft at Wietor Wharf Park and 325 ft at Deerfield Docks)	none

**FHWA made a recent determination that the the Wietor Wharf and Deerfield Docks areas being leased to the Village of Howard (owned by WisDOT) are not considered to be 4(f) properties. Therefore, project related impacts to these areas are not included in the 4(f) category in the table above. However, the project impacts to the boardwalk in these areas would still be considered 6(f) impacts and will be mitigated for. All 4(f) and 6(f) impacts in the table above are based on preliminary design and are subject to change once an alternative is chosen and we move into final design.*

The Wisconsin Department of Transportation (WisDOT) NE Region, WisDOT Bureau of Environment and Equity Services (BEES), and the Federal Highway Administration (FHWA) have reviewed the letter referenced above and based on the current estimated 4(f) and 6(f) impacts, have the following responses to your mitigation requests:

Village of Howard mitigation request #1

Proposed bike/pedestrian path/bridge crossing Duck Creek and path connections to the Wietor Wharf and Deerfield Docks areas

WisDOT views this as a good candidate for 4(f) mitigation and enhancement to these areas/community. However, local cost share will be required. Design details and extent of

local cost share will need to be discussed once we select an alternative and move into final design.

Village of Howard 4(f) mitigation request #2

Paving of Wietor Drive from west of US 41 to the cul-de-sac

WisDOT agrees to incorporate this into to the project as part of 4(f) mitigation.

Village of Howard 4(f) mitigation request #3

WisDOT purchase of the Ronald Thyrion property (formerly known as the “old carp pond)

Previous discussions regarding 4(f) mitigation included potential WisDOT purchase of the above property, with the intent of allowing the Village of Howard to use/lease the property to expand the Gordon Nauman Conservation area. When this purchase was originally discussed back in 2007, the proposed project improvements involved a substantially higher amount of 4(f) impacts to Village of Howard properties than the current/refined proposed project improvements. Due to this reduction in 4(f) impacts, WisDOT no longer considers this a reasonable option for 4(f) mitigation. In addition, past WisDOT discussions with the owner of this property indicated that a fair/reasonable sale price would not be obtainable.

Village of Howard 4(f) mitigation request #4

Inclusion of path/access under US 41 along the north side of Duck Creek, connecting Deerfield Docks area (west of US 41) to East Deerfield Ave area (east side of US 41)

WisDOT agrees to incorporate this into the project as part of 4(f) mitigation. Design details of the path will need to be discussed as we move into final design.

6(f) mitigation for boardwalk

Although not included in the Village of Howard's November 19th mitigation list, WisDOT acknowledges that discussion have taken place regarding 6(f) mitigation for existing boardwalk in the Deerfield Docks area and Weitor Wharf Park areas. WisDOT has agreed that all boardwalk disturbed during construction will be replaced in kind.

We would appreciate a formal/written response to this letter on whether or not you agree to these mitigation options/suggestions. Please feel free to contact me with any questions at 920-492-2255.

Sincerely,



Brett Wallace

WisDOT NE Region - US 41 Corridor Program Manager

cc: Mike Berg, WisDOT NE Regional Director

Natasha Gwidt, WisDOT NE Region - US 41 Brown County Supervisor

Mindy Gardner, WisDOT NE Region – Deputy Project Engineer

Mike Helmrick, WisDOT NE Region – Environmental Coordinator

ATTACHMENT VII

Village Board
November 22, 2010 at 6:30pm
Hall Board Room

Call to order The meeting was called to order by B. McIntyre at 6:30p.m.

Roll call B. McIntyre, R. Bredael-excused, J. Widiger, C. Hughes-excused, G. Speaker-excused, J. Lemorande, R. Suennen, D. Steffen, D. Deppeler.

 Also: R. Bartelt, C. Haltom, D. Wiese, J. Belongia, G. Farr

US 41 Memorial to
County M Project

A motion was made by D. Steffen and seconded by J. Widiger to approve the State Municipal Agreement, accept Shawano Avenue as a connecting highway, extend the reconstruction of Riverdale Drive, request the extension of River Grove Avenue and reject the 5 legged roundabout. Motion Carried Unanimously.

R. Bartelt reviewed the letter to the DOT regarding the US 41 Memorial to County M Project (#1133-10-01).

A motion was made by J. Lemorande and seconded by R. Suennen to approve the undated letter to the Dept. of Transportation for approval of proposed alternatives and for requested 4(f) mitigation. Motion Carried Unanimously.

**Minutes of the Village Board Meeting
September 14, 2009 at 6:30 p.m.
Village Hall Board Room**

Call to Order

Village President Burt R. McIntyre called the meeting to order at 6:30 p.m.

Roll Call

Burt R. McIntyre, Village President; Ron Bredael, Trustee Wards 1 & 2
J. Widiger, Trustee Wards 3 & 4; G. Speaker, Trustee 5 & 6; Cathy
Hughes, Trustee Wards 7 & 8; J. Lemorande, Trustee Wards 9 & 10;
Kelly Crouch, Trustee Wards 11 & 12; David Steffen, Trustee Wards
13 & 14; & Dan Deppeler, Trustee Wards 15 & 16.

Also (staff): R. Bartelt, D. Wiese, C. Haltom, E. Janke, J. Dagneau & A.
Helms

#8a
4F Mitigation

D. Wiese reported on a proposed 4F mitigation exchange with the Wisconsin Department of Transportation for parcel VH-516-2 located on Wietor Drive adjacent to Gordon Nauman Park.

J. Widiger moved to approve the 4F mitigation exchange with the condition that in the event that more than 4.53 acres are impacted, the DOT consider additional mitigation exchange acreage. D. Steffen seconded the motion. **The motion carried unanimously.**

ATTACHMENT IX



Village of Howard

2456 Glendale Avenue P O Box 12207 Green Bay WI 54307-2207

August 24, 2007

Chuck Karow
Wisconsin Department of Transportation
944 Vanderperren Way
PO Box 28080
Green Bay WI 54324-0080

RE: US 41 – Memorial Drive to County M
WisDOT Project I.D. 1133-10-00/71

Dear Mr. Karow:

This letter is to provide comments on the US 41 – Memorial Drive to County M project relative to park properties and recreation areas located on Wietor Drive.

The Gordon Nauman Conservation Area is owned and operated by the Village of Howard. Wietor Wharf is a recreation area on property leased by the DOT. Both park areas are operated by the Village of Howard Parks, Recreation and Senior Services Department. The parks are open year round for passive recreation.

The Wietor Wharf and Deer field Docks (West Deerfield Avenue) include boardwalks and fishing piers which were developed in the early 1990's with federal and state grants (Green Bay Remedial Action Plan, Dingell-Johnson Fund, ADLP Stewardship) and local sources (Brown County Conservation Alliance, Village of Howard and DNR).

The Gordon Nauman Conservation Area was purchased and developed as a restoration area from the Fort James Operating Company's natural resource damage assessment settlement funding from Georgia-Pacific. The 29.77 acre park (VH 516-1, VH 525, VH 516-3-1) includes an open air shelter, enclosed garage, paved entrance and 12-stall parking lot, trail loop in wooded area, trail connection to the Wietor Wharf, native prairie planting and rain garden. This project was completed in June of 2007. I have listed two items for future development of the park.

1. Obtain parcel VH 516-2 which is a 4.5 acre piece that contains the area known as the 'old carp pond' which former area fishermen used for their industry. This parcel sits in the middle of the Gordon Nauman Conservation Area properties.

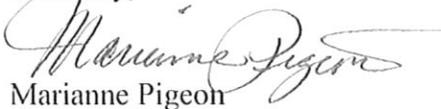
2. Develop an access point on the Duck Creek. Even though there is limited use on the Duck Creek due to the low water, low railroad bridge, and silting of the western edge of the bay; there are outdoorsmen who know the channel and use the access areas provided at Howard Memorial Park, 775 N. Riverview Dr. and Deerfield Docks, 950 West Deerfield Avenue.

The Village supports the proposed US 41/I43 improvements. The new proposed access off Memorial Drive is a benefit to Howard residents as it provides a road to the park that is closer within the village as opposed to the village limits.

The Village recommends for mitigation purposes the following:

- Purchase VH 512.2 for addition to Gordon Nauman Conservation Area.
- Vacate all the land northwest of Hwy 41 to Duck Creek.
- Removal of high road embankments associated with the existing highway to be upland prairie or wetland mitigation with boardwalk and provide interpretive educational programs.
- Provide an access on the Duck Creek from either option below:
 - Use the old I43 road bed and develop an access on DOT property through the Wietor Wharf boardwalk.
 - Develop a park road adjacent to the railroad and provide an access near the railroad bridge.
- Resurface existing Wietor Drive from the proposed access road to the cul de sac.
- Install a boardwalk trail through the wetlands along the Duck Creek.
- Provide railroad gates at the crossing.
- Fence area for new dog park along Hwy 41 corridor.
- Work with village on wetland enhancements.

Sincerely,



Marianne Pigeon

Executive Director of Parks, Recreation and Senior Services

Cc: Troy Robillard, Ayers Associates
Phillip Verville, Ayers Associates
Joshua Smith, Village Administrator
Robert Bartelt, Executive Director of Public Works