

Friends of the Mukwonago River



Longear Sunfish
(*Lepomis megalotis*)

The Mukwonago River watershed is home to over 50 species of fish including the threatened Longear Sunfish (*Lepomis megalotis*), several species of rare freshwater mussels, an incredible diversity of wetlands, and some of the highest water quality in Southeastern Wisconsin. The mission of the Friends of the Mukwonago River is to protect the Mukwonago River and its associated watershed ecosystems by way of education, advocacy, and promotion of sound land use throughout the watershed.

2006 NEWSLETTER

Friends of the Mukwonago River-- *finally...here it is...*

We've been busy! As usual, we haven't gotten this update out as soon as we would have liked, but that does not mean we haven't been working on lots of projects to save this special river in this special watershed. So here, at last, is an update on our recent efforts. As always, thank you for your patience and support!

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Village of Mukwonago

DNR issues stormwater permit to Village of Mukwonago

The DNR issued the Village of Mukwonago a municipal stormwater permit on January 1, 2007 for their storm drain runoff to the river. The DNR issues stormwater permits to municipalities and other entities in an attempt to mitigate existing conditions that are causing damage to local lakes and streams and to prevent further damage. This is a positive development for the lower portion of the river.



As with most municipalities, much of the village was built without any engineered stormwater quality controls, so rainfall and melting snow flow across roads, parking lots and urban landscapes, picking up soil, fertilizer, oil, metals, bacteria, and other pollutants on their way to the river. Storm sewer pipes and drainage ditches carry this polluted storm water to the Mukwonago River without any treatment, resulting in sedimentation, loss of habitat, and a decline in water quality. All of these impact plants and animals in the river, as well as affecting our ability to enjoy the river for recreational uses. Runoff pollution from urban and rural sources is, in fact, the leading cause of water quality problems in Wisconsin's lakes and rivers.

We expect that the permit will, at the very least, require the village to reduce its sediment load to the river, through a stormwater monitoring program which would determine pollutant sources and reduce pollution. Under a permit, pollutant sources can be controlled by various methods such as street sweeping, de-icer (road salt) management, “catch basin” cleaning, residential leaf and grass clipping collection, management of lawn and garden fertilizers on municipally-owned properties, etc. Public education and involvement and illicit discharge detection and elimination are also required by the permit.

Further, in the future, the village will need to “promote environmentally sensitive land development designs by developers and designers.” This may sound familiar because it is exactly what we’ve been asking of all major developments in the watershed for the last several years.

The village is already doing some of the things that will be required under the permit, such as construction site erosion control, a program to “rehabilitate” leaking sanitary sewers, and apparently some street sweeping and catch basin cleaning. They also included a high quality stormwater management system in the design of their “Gateway” project (where Wal-Mart, Home Depot, and the Waukesha Memorial Hospital are now located).

For the first five years of the permit the village would be required to generate an annual report on their progress, and “the public shall be encouraged to review and comment on the report.” We certainly will!

In our last newsletter, we (and the Waukesha County Land Conservancy and Waukesha County Environmental Action League) sent letters of endorsement to the DNR for two stormwater grant proposals on behalf of the village for stormwater management planning and to study the feasibility of stormwater utility districts. The stormwater management grant was awarded. This grant will fund studies which will provide data and recommendations to accomplish some of the work described above. DNR staff has informed us that the village is starting work on this plan.

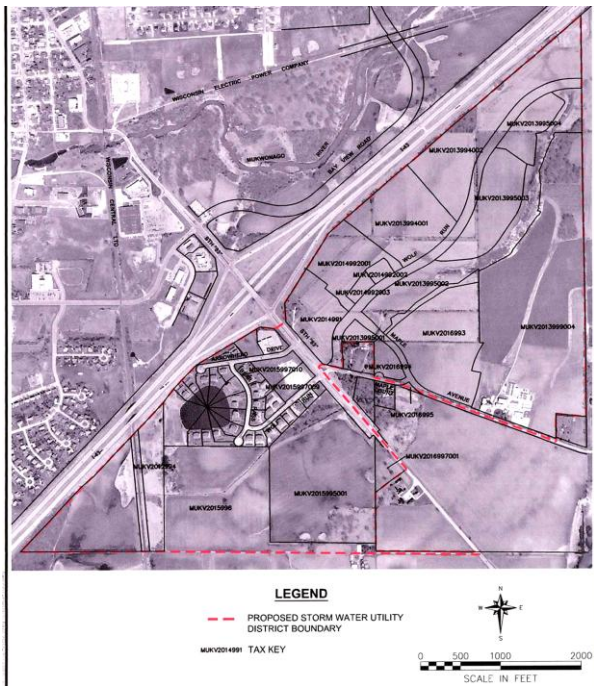
The second grant, which didn’t get funded, would have provided a “feasibility study” to determine if, and how, a stormwater utility could work in the village. A stormwater utility has the ability to tax those who generate stormwater runoff, particularly those who generate larger volumes of runoff. This means that a stormwater utility will always have dedicated funding, which ensures long term maintenance of storm water management facilities and consistent attention to the issues related to stormwater.

Additional stormwater utilities need to be formed in the village. For example, our repeated requests to Wal-Mart to clean out the solids from their neglected retention pond at their old facility largely fell on deaf ears. Although there is a retention pond (that was considered state-of-the-art many years ago) serving the old Wal-Mart building and its parking lot(s), along with other nearby businesses, it is largely ineffective due to outdated technology and lack of maintenance. A stormwater utility would tax the property owners and use the funds to conduct the necessary maintenance. (More on the village’s first stormwater utility, covering the Gateway area appears in the next article.)

While the entire river is of great importance, one of the most diverse and ecologically important parts of the river is the section passing through the Village of Mukwonago. This part of the river is also the most imperiled due to the recent intense level of development in the village. Contact us for our video (now available on DVD!) to learn more about how this special resource came to be.

Village approves first Storm Water Utility District

On March 7, 2006, the Village of Mukwonago passed a resolution creating “Village of Mukwonago Storm Water Utility District 1.” This stormwater district covers properties which drain to a pond and little stream in the housing complex west of the BP Truck Stop on Hwy 83 (which has been built before there were any requirements for stormwater control), through the new “Gateway” business district, under Hwy 43 and into the Mukwonago River. The stormwater management facilities and the cost to map out the utility were paid for by the Village’s Gateway project. The utility would raise just short of \$10,000 per year to pay for ongoing maintenance such as mowing of the Gateway’s grassed swale, monitoring of the down gradient wetland (required by DNR permit), and eventual dredging of the ponds.



The Friends attended the hearing and spoke in favor of the new district. Several property owners from the nearby housing development spoke out against the utility because, of course, they didn’t want to have to pay for it. After the residents’ complaints were aired, the village’s engineer commented that the residents didn’t have much right to complain because the stormwater work that the village did for the Gateway kept the existing property owners from falling within the floodplain of the stream and presumably from having to pay for costly floodplain insurance.

The village and their engineer deserve much credit for undertaking this effort. We think this investment in the area’s water quality is money well spent.

Towns of Mukwonago and East Troy

Development of the Rainbow Springs property - the saga continues...

We have attended countless meetings at the Towns of Mukwonago and East Troy regarding the Rainbow Springs property. Its future, however, still hangs in the balance. The position of the Friends is unwavering: the highest and best use of this unique property is in some form of conservation ownership eliminating or at least significantly reducing the possibility of its development and granting the public access to all the incredible piece of land has to offer.

Rainbow Springs is a large and very environmentally important property. Not only does it contain a significant amount of frontage on the Mukwonago River, but it is home to many rare animals and plants. The site contains, for example, nesting areas for Blanding’s Turtles (a state-threatened animal), significant populations of Kittentails (a state-endangered plant), prairie remnants, and a natural cranberry bog (a rare entity in the southern part of the state). The property also contains expansive groundwater recharge areas. Randall Arendt, the nationally renowned landscape designer and author who was involved in the early phases of the project, stated that the site was among the most diverse he’d ever seen.

Last winter property owner Michael Feker assembled an impressive list of development consultants to advise him on the development of the property. The proposals, however, turned out less than impressive from a river-protection standpoint.

The Town of East Troy side of the Rainbow Springs property:

While the initial development proposal preserved upland woods and wetlands, the rest of the site contained development that was far too dense. Specifically, the existing zoning would allow for up to 60 lots on the parcel. If the lots were to be clustered, however, Walworth County would potentially allow a very generous 20% “density bonus” for a total of around 72 lots. Feker’s design, in contrast, contained 150 lots, more than twice what would legally be allowed on the property.

We concluded that the proposal was excessive development dressed up as a conservation design. Of particular concern was the fact that nearly all of the lots were to be clustered on the sandy, former agricultural land that is a high quality groundwater recharge area for the river and underlying shallow aquifers. The landowner’s justification was that restoration of the drainage way on the property (which had been previously channelized and dammed during construction of the golf course) and restoration of degraded wetlands and uplands on the property would require the “engine of economic development” for financing.

That was their proposal. We discussed it with Friends members and with individuals who are knowledgeable on how development affects water quality. We reached the conclusion that if we were to endorse this proposal we would be “throwing out the baby with the bathwater.” A “cookie cutter” development (bad as they are!) would be better. The East Troy Plan Commission and Town Board agreed and turned down the proposal. Feker quickly returned with a “cookie cutter” proposal which would carve the parcel into 5, 10 and 20 acre parcels, as he is entitled under the existing zoning. This proposal was subsequently approved, preliminarily, by the Town of East Troy.

As this was going on, Vice President Ezra kept the parties who are interested in preserving the property through a negotiated purchase “at the table” so that all possible avenues for raising funds could be explored. As of yet, these negotiations have not come to fruition, but we understand they are ongoing and continue to hold out hope for a positive outcome.

The Town of Mukwonago side of the Rainbow Springs property:

The landowners are proposing a development on the Town of Mukwonago side of the property with a density that is more or less within the current zoning. Many details remain to be worked out before the town would/could approve the plan. We will continue to be involved in every stage of the process.

So, with the Rainbow Springs property, as with most things in life, it ain’t over until it’s over. We stand ready to jump in on the development proposal process at any time should it resume again, and we remain encouraged that development will not actually be the final outcome for this property should a negotiation for the property’s permanent conservation be worked out among the property owners and several of our partners in conservation, including the DNR, The Nature Conservancy, the Waukesha County Land Conservancy, and the Friends. So, hope for the best and stay tuned on this one.

We couldn't do it without the generous support of our members!

When the development proposals for the Rainbow Springs property came to the table, we knew we had to take action if we were to minimize this development's damage to the river. So, we hired the nationally renowned stormwater design firm, Conservation Design Forum, of Elmhurst, Illinois, to help us assess the best way to design the development and its stormwater management system to protect the river. This cost us several hundred dollars. Normally, we ask the landowners and developers we work with to pay for these services, but in some cases, like this one, we must pay ourselves. Here, we needed to get out in front of the process (conceptual plans come before detailed preliminary plats and stormwater plans) and get some qualified and credible input from someone we could trust. So at least we have our foot in the door on the stormwater concerns of *this* proposal. Of course, we would not be able to play this role without the generous support of our members, which gives us the ability to pay for expert help in situations like this. Thank you!

Town of Mukwonago

Town of Mukwonago passes conservation subdivision ordinance

In the fall of 2005, the Town of Mukwonago passed a conservation subdivision ordinance. The Friends' Ezra Meyer spent many hours working with the town helping in this effort. The ordinance mandates a minimum of 40% open space in a "cluster type" development, and it requires certain types of watershed friendly stormwater management facilities.

During the public hearing the Friends and the Metropolitan Builders Association of Greater Milwaukee (MBA) both spoke in favor of the measure. Said a representative of the MBA, "It's not exactly what we wanted, but we generally support it." The town had asked for MBA's input during the drafting of the ordinance and incorporated their concerns into the final proposal.

This type of development is what we would like to see in most instances where development will occur. The upside of a conservation subdivision, from the standpoint of developers and communities, is that, if done well, it becomes highly sought after by consumers in the rural housing market. Unfortunately, even though that's the case, many traditional developments continue to be built, either due to communities not having ordinance language on the books to allow conservation-designed subdivisions or due to developers not understanding the value of this approach. Having a conservation subdivision ordinance on the books is an important step to encourage a better style of development. We applaud the Town of Mukwonago for this accomplishment.

Development proposed on the Jakober property

The Jakober property is located on the northeast corner of the intersection of Highways E and NN in the Town of Mukwonago. Jericho Creek runs from north to south through properties on the west side of Highway E, directly across the highway from the Jakober property. Due to its proximity to the creek and the potential for stormwater runoff from this development to impact the Mukwonago River, we chose to get involved on this one from an early stage.

This 96-acre parcel has mostly gently rolling topography, and it has been in agricultural production for many years. There is a 5-acre wetland (officially considered an Environmental Corridor) and some steeply-sloped land on the northwest corner of the property.

The developer proposed several alternatives for the property. The Friends and the neighbors who live adjacent to the property all asked the developer to do a conservation design development consistent with the conservation design ordinance that the town passed in the fall of 2005. A conservation design would have clustered the homes on smaller lots and preserved land for groundwater recharge and, possibly, hiking trails, prairie restoration, and/or farming. The developers chose not to go the conservation subdivision route, citing “competition from the many smaller lots that have recently been approved in the Village of Mukwonago.”

We do not agree with this decision, considering that conservation designed subdivision lots have been, and continue to be, a hot commodity, but the bottom line is that we ended up here with a compromise. The developers ended up getting a Planned Unit Development approved. The lots ended up at about 1.5 acres each (less than the 3 acres allowed by county zoning but more than the 0.75-acre minimum size that the town’s conservation subdivision ordinance would require).

On the bright side, the Friends asked that the developers incorporate into their design “low impact” stormwater provisions to preserve the groundwater flow to Jericho Creek. The developers agreed and hired the cutting-edge stormwater design firm of Montgomery and Associates from Madison to do the design work. We believe this firm has the expertise to minimize the development’s adverse impact on Jericho Creek, and we will continue to monitor the process to see that the outcome is as low impact as possible.

Purchase of Development Rights (PDR)

The Town of Mukwonago PDR Committee, of which our own Ezra Meyer is a member, has been working hard for over three years now to move this issue ahead.

Taxpayer funding and support for the measure will go before the voters via a referendum on the town’s April 2007 ballot. The question, in a nutshell, will be whether town property taxpayers are willing to help fund a PDR program in the town with fifty cents per \$1000 assessed value of their property taxes (\$125 in any given year for a home with an assessed value of \$250,000). Other funds to support the program could likely come from the state and federal governments.

A PDR program would go a long way to help the town maintain some of its rural character, but it would also help to maintain water quality in the Mukwonago River and the lakes in the town. Protecting natural groundwater recharge areas by preventing development and the associated

Purchase of Development Rights

(from our 2005 newsletter)

The Friends would be glad to see purchase of development rights programs adopted in all of the Mukwonago River watershed’s towns (Eagle, Mukwonago, Genesee, East Troy, and Troy), or perhaps even at the level of Walworth and Waukesha Counties. PDR is an effective technique for keeping farmland and other valuable open spaces open forever while preserving options for farmers and other large landowners who would rather not develop.

The way a PDR program works is that the community provides monetary compensation to a landowner who is willing to restrict his or her land from being able to be developed or subdivided forever. Compensation is equivalent to the land value the property owner gives up by restricting his or her land in this way. Unlike zoning and subdivision controls, landowner participation in PDR is entirely voluntary.

Although it can be somewhat expensive, countless examples exist from across the country (a few right here in Wisconsin) where citizens have voted in a referendum to tax themselves a little bit more to pay for everlasting farmland and open space preservation through PDR.

impervious surfaces that can shut down recharge will maintain abundant, clean groundwater.

The proposal also makes fiscal sense in that land left open does not place demands on costly government services (including schools) that developed land, particularly land developed for residential purposes, does.

The Friends are glad this issue will come up for a vote of support in the Town of Mukwonago. We hope the referendum passes, as similar measures have in countless places across the country. (See the Trust for Public Land's LandVote website here www.tpl.org/landvote/ for more information.)



If you reside in the Town of Mukwonago, please remember to get out and vote on April 3, and please encourage your family, friends, and neighbors in the town to do the same. Thank you!

December 2006 work party

Our mission explicitly deals with promoting good land use throughout the watershed. One part of that is restoring quality natural habitats, whether in the river, along its banks, or in upland areas away from the river. With the latter habitats in mind, we agreed to co-sponsor a work party on December 3, 2006 with the Waukesha County Land Conservancy (WCLC) in the Town of Mukwonago.

Background: After receiving approval for their residential development (see Fall 2002 Friends newsletter), Harmony Homes, the developer of Lakewood Farms Preserve, gave 25 acres of high quality wetlands and adjacent steeply-sloped land to WCLC. The Conservancy's parcel is located north of Hwy LO across from and just east of the main entrance to Rainbow Springs.

Before it came to WCLC, the parcel had been neglected for many years and was overgrown with invasive brush and plant species (buckthorn, thistles, etc.). We cleared and burned (thanks to a previous heavy snowfall) lots of bad brush and restored a big chunk of habitat for the many species that live there, including the state-threatened Blanding's Turtle. Thank you to all who attended!



Volunteers cut and burn brush.



Note the difference in cleared Conservancy property vs. overgrown, non-managed neighboring property.

Other Good Things to Know

High capacity wells

The 12/27/06 edition of the *Mukwonago Chief* reported that the Village of Mukwonago has agreed to join three other municipalities in spending \$11,000 each to fund “a regional groundwater study (or computer model) that will result in documents that can be used in a court of law, should a lawsuit about groundwater occur.”

Of course, pumping from high capacity wells (those pumping over 100,000 gallons/day) and its potential to draw down the water table have, for good reason, recently become very contentious issues in the Mukwonago River watershed and other parts of Southeastern Wisconsin. Stay tuned for updates on this topic!

State groundwater legislation

The DNR held public hearings in December of 2006 to solicit input on proposed administrative rules relating to groundwater pumping and high capacity wells. (State agencies write administrative rules to implement laws passed by the legislature.) The proposed rules (known as NR 820) are meant to carry out a 2004 law aimed at assuring that trout streams and a limited set of other high quality lakes and rivers are not harmed by high capacity well pumping.

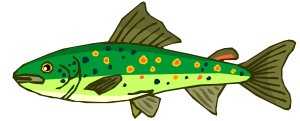
Many of those commenting on the rules -- including two partner organizations that the Friends look up to: the Wisconsin Association of Lakes (www.wisconsinlakes.org) and the River Alliance of Wisconsin (www.wisconsinrivers.org) -- indicated their strong feeling that the original law did not go far enough. It still leaves groundwater-fed wetlands, most of the state's lakes, and too many rivers and springs unprotected from groundwater pumping. The DNR, however, can only modify the rules within the confines of the law passed by the legislature. Statewide water conservation groups and the Friends will continue to monitor developments on these DNR rules, and we will watch for an opportunity for the legislature to improve the laws. We will keep you apprised of opportunities for citizen input.

The proposed rules also set the geographical boundaries for “Groundwater Management Areas” (GMAs), where groundwater levels have been drawn down 150 feet or more as a result of pumping. The designated areas are Waukesha County and Brown County in Northeast Wisconsin (home of Green Bay). These recommendations were drawn up by a Groundwater Advisory Committee (GAC), which is made up of a broad range of stakeholders representing industry, municipalities, other water users, and conservation interests.

The GAC called for local control of groundwater resources within GMAs, and the DNR's proposed rules reflect this. This means that local governments would have groundwater management plans drawn up with the help of regional planning agencies. These plans would contain several key provisions such as water conservation plans, a public participation component, and local planning to protect recharge areas and areas susceptible to groundwater contamination. The plans would have input by local government, large well owners, and other interests. The GAC also called for state funding to help with this planning. At Governor Doyle's request, the DNR and Public Service Commission have drawn up a report that outlines how water utilities can reduce their customers' water usage and how to develop a statewide water conservation strategy.

Mukwonago River Fish Committee

A number of expert biologists (from the DNR, the University of Wisconsin, the Southeastern Wisconsin Regional Planning Commission, etc.) meet regularly with managers and concerned parties (including the Friends) to discuss the fish and other species in the Mukwonago River and to determine what, if any, action should be taken to maintain and enhance this great diversity of species.



The committee took very positive action recently. They urged the DNR to discontinue their longstanding practice of stocking non-native Brown Trout in the river and to stock and otherwise encourage native Brook Trout instead. We have long been concerned about this issue, as Brown Trout are an aggressive predator species not native to the area. The DNR, to their credit, has finally agreed. The lack of competition should help the river's population of native Brook Trout and other species inhabiting the cold stretches of the river. Thanks to DNR for taking this positive step!

Help for the river's beleaguered mussels

On April 10, 2006, the Friends attended and spoke at the Conservation Congress Spring Meeting in Waukesha. (Meetings are held in all Wisconsin counties on the same night each year in the spring.) The Conservation Congress serves in an advisory capacity to the Natural Resources Board, which can change fish and game harvest quotas and recommend legislative changes, among other things.



There were two issues on the agenda that could affect the river.

The first proposal was to "Prohibit recreational harvest of live freshwater mussels from inland waters of the state, excluding the Great Lakes and the Mississippi River." Mussels are considered one of the most endangered families of animals in North America. The Mukwonago River has been found to contain some of most diverse and dense mussel beds in Wisconsin, including some threatened and endangered species. Over the last several years, though, many of the river's mussel beds have been seriously depleted. According to local game wardens the cause was intentional harvesting. This harvesting was not illegal, as the rules in place at the time allowed each person to harvest up to 50(!) pounds of mussels per day, although threatened and endangered species could not be harvested. A potential problem, though, was the fact that even experts can have trouble telling mussel species apart.

The Friends were supportive of this prohibition. We are happy to announce that the proposal was endorsed by the Conservation Congress at the 2006 meeting and ultimately became law on October 1, 2006. All "inland waters" are now closed to mussel harvest, which should greatly benefit the mussels in the Mukwonago River. Our job now is to get the word out to DNR wardens and those used to harvesting mussels, including the Hmong community, so that harvesting ceases and the river's mussel populations can begin the long, slow process of repopulating the stream's mussel shoals. They'll still have zebra mussels to contend with, but the mussels just might be breathing a sigh of relief this summer.

The second proposal, brought before the congress by Ken Zettlemier of the Waukesha County Conservation Alliance, would reclassify the entire Mukwonago River as an "Outstanding Resource Water," offering the river increased regulatory protections against potential impacts from groundwater pumping and other development activities. The designation would not change recreational uses such as

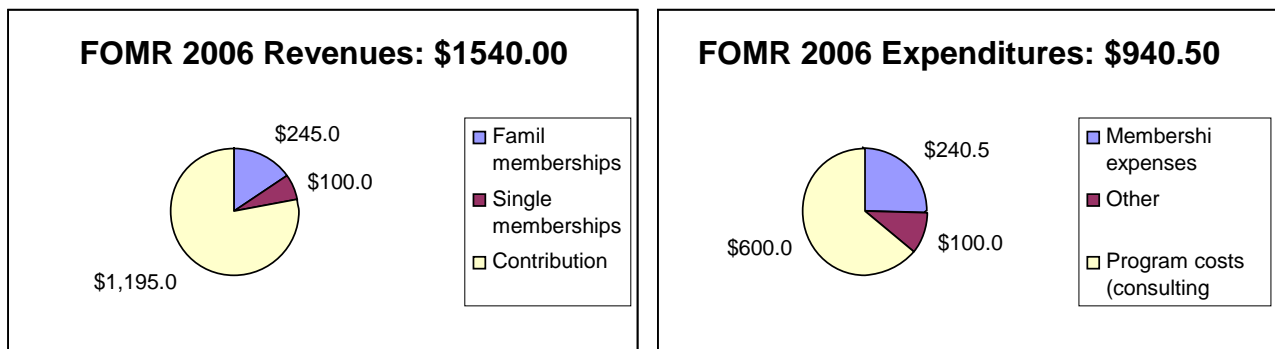
fishing, canoeing, etc. in any way. The proposal was approved by the Waukesha County Conservation Congress and is now winding its way through the process to be approved (or not) a second time before it could potentially be taken up by the Natural Resources Board.

The Nature Conservancy purchases important upper watershed property

The Mukwonago Chief recently reported on The Nature Conservancy’s (TNC’s) purchase of 66 acres in the Town of Troy (in Walworth County) formerly owned by Robert Baker. This parcel is near the land that TNC purchased from George Williams College several years ago (west of Nature Road and Lulu Lake). We are happy that TNC is keeping an eye on this important headwaters area of the River.

Friends’ financials

Below is our financial statement for 2006. Contact President / Treasurer Nancy Gloe if you would like additional information.



Finally, we have just submitted our application for tax exempt [(501)(c)(3)] status with the IRS. This status will make us eligible for grants from private foundations and other sources and will ensure that donations made by supporters like you are tax deductible. Because our gross annual receipts remain under \$5000, however, it appears we can be considered tax exempt under the 501(c)(3) rules now. If you donated to the Friends in 2006, consider this when filing your tax returns. It is best to seek the assistance of a tax expert and/or accountant for the best advice on these matters. This IRS website contains a great deal of useful information at a page dealing expressly with issues around tax-exempt status for groups like this one. You can find it here: <http://www.irs.gov/charities/charitable/index.html>.

Friends’ 2007 annual membership meeting – SAVE THE DATE!

The annual membership meeting for the Friends of the Mukwonago River will be held on **Saturday, March 24, 2007** at the **Mukwonago Community Library** (300 Washington Avenue, 262-363-6411; <http://www.wcfls.lib.wi.us/mukcom/>) beginning at **9:30 a.m.** Watch for more details as the date approaches. We hope you will all be able to join us!

PLEASE JOIN OR RENEW YOUR MEMBERSHIP WITH THE FRIENDS OF THE MUKWONAGO RIVER

Now is the perfect time to join or renew your membership with the Friends of the Mukwonago River! The river continues to face many threats from proposed and pending developments throughout the watershed. Still too few understand the singular importance of this river and watershed, unique for the incredible diversity and unparalleled quality.

As we work to provide a voice for the river in the planning and decision-making processes surrounding these projects, we need to hire experts from time to time to help us make the case for win-win solutions that will allow sensible development to occur while protecting the Mukwonago River. We also aim to increase the capacity of the Board of Directors of the Friends and its volunteers to make strides toward our watershed protection and restoration goals, which this year means we will seek professional training from the River Alliance of Wisconsin, at an additional cost. Your membership fee for the coming year will help us be able to do these important things.

Please join now at the level that's appropriate for you. Just fill out the form below and mail it and a check to:

Friends of the Mukwonago River, P.O. Box 21, Eagle, WI 53119

** Please note our P.O. Box change **

Circle one: Friend (\$25) Defender(\$35) Guardian(\$50) Steward(\$100) Sustainer(>\$100) \$_____

Note: Memberships of \$25 or more receive a copy of our "Glacial Refuge (**now on DVD!**)" video

Memberships of \$35 or more receive a Friends t-shirt (indicate S, M, L, XL)

Memberships of \$50 or more receive a video and t-shirt (indicate S, M, L, XL)

I do not need a gift at this time.

Bequests are also gladly accepted.

Name: _____

Address: _____

City, State, Zip Code: _____

Phone # (optional): _____ **E-mail:** _____

Please indicate here if you'd prefer an email newsletter in the future (and provide email above).

Thank you!