

ENROLLED ORDINANCE 177-59

APPROVE EASEMENT TO SPRING BROOK WATERSHED LAKE MANAGEMENT DISTRICT FOR DAM OPERATION, MAINTENANCE, REPAIR AND RECONSTRUCTION OF WILLOW SPRINGS DAM

WHEREAS, the Spring Brook Dam was built in 1966 by a private landowner and was sold to another private landowner in the 1980s; and

WHEREAS, in 1998, to preserve the lake, residents of Willow Springs Lake formed the Spring Brook Watershed Lake Management District, a public inland lake protection and rehabilitation district created under Chapter 33 of the Wisconsin Statutes; and

WHEREAS, in 2002, Enrolled Ordinance 157-50 approved Waukesha County purchasing the former Neubert property in collaboration with the Spring Brook Watershed Lake Management District and the Waukesha County Land Conservancy; and

WHEREAS, the Spring Brook Watershed Lake Management District purchased the portion of the property containing the entire Dam and Waukesha County purchased the remaining undeveloped land, identified in the adopted Park and Open Space Plan, which is known as the Spring Brook Greenway; and

WHEREAS, through a cooperative agreement, land records were recorded delineating all structural components of the Dam and certain lands immediately adjacent to the Dam would be owned by the Spring Brook Watershed Lake Management District relieving Waukesha County from any liability or responsibility for ownership, operation, or maintenance of the dam or dam site; and

WHEREAS, in 2021, the Wisconsin Department of Natural Resources required the Spring Brook Watershed Lake Management District to perform an owner's inspection of the dam, which resulted in identification of several minor deficiencies with the dam that would require maintenance work; and

WHEREAS, in 2022, the Spring Brook Watershed Lake Management District applied for a Municipal Dam Maintenance grant from the Wisconsin Department of Natural Resources, which resulted in the Department of Natural Resources engineer's interpretation that 0.2664 acres of Dam is within Waukesha County land ownership, which requires an easement for the Spring Brook Watershed Lake Management District to receive the state funding and conduct the necessary maintenance required by the Wisconsin Department of Natural Resources; and

WHEREAS, to carry out the intent of Enrolled Ordinance 157-50, Waukesha County will work with the Spring Brook Watershed Lake Management District and the Wisconsin Department of Natural Resources on the conversion of ownership of the 0.2664 acres from Waukesha County to the Spring Brook Watershed Lake Management District; and

WHEREAS, the easement serves to provide the interim step for the Spring Brook Watershed Lake Management District to receive the state funding for maintenance and also relieves

Waukesha County of all liability and responsibility for the operation and maintenance of the dam.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Waukesha County's access easement to the Spring Brook Watershed Lake Management District, which will be recorded in the Office of the Register of Deeds, is hereby approved.

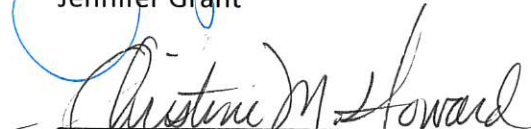
BE IT FURTHER ORDAINED that the Director of Parks and Land Use may execute the easement on behalf of Waukesha County, together with any other documents necessary to accomplish the intended transaction.


APPROVE EASEMENT TO SPRING BROOK WATERSHED LAKE MANAGEMENT DISTRICT FOR DAM OPERATION, MAINTENANCE, REPAIR AND RECONSTRUCTION OF WILLOW SPRINGS DAM

Presented by:
Land Use, Parks, and Environment Committee


Thomas A. Michalski, Chair


Jennifer Grant


Christine M. Howard


Robert L. Kolb


Brian Meier


Chris Mommaerts

Vacant

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

Date: 10/28/2022, 
Margaret Wartman, County Clerk

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

Approved: X

Vetoed: _____

Date: 10/31/2022, 
Paul Farrow, County Executive

Document Number	Document Name
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This EASEMENT, made between WAUKESHA COUNTY,
 Grantor,
 and the SPRING BROOK WATERSHED LAKE MANAGEMENT DISTRICT
 Grantee.

PROPERTY DESCRIPTION:
 See attached Exhibit A (the "Easement Area").

CONDITIONS IMPOSED:
 WAUKESHA COUNTY, WISCONSIN, a Quasi-Municipal Corporation and Grantor, does hereby permit Grantee, the right, permission, and authority to enter upon and access a parcel of real property upon which is situated on the embankment of the Willow Springs Lake Dam (the "Dam"), located within the Easement Area located in a part of the Southeast ¼ of the Northeast 1/4 of Section 4, Township 5 North, Range 19 East, in the Town of Mukwonago, Waukesha County.

Name and Return Address
 Waukesha County
 c/o Department of Parks & Land Use
 515 W. Moreland Blvd., AC-230
 Waukesha, WI 53188

The location of the Easement with respect to the real property of Grantor is set forth in Exhibit A (Legal Description of Easement Area), which is attached hereto and incorporated herein.

MUKT1882992006

Parcel Identification Number (PIN)

Grantee shall access the Grantor parcel to perform certain enumerated operation, maintenance, repair and construction tasks, as set forth in Exhibit B (Construction and Maintenance Tasks), which is attached hereto and incorporated herein, in order to order operate, repair and maintain the Dam.

Grantor hereby grants and conveys to Grantee, an easement to allow Grantee, its agents, contractors, subcontractors, and employees the right to enter from adjoining Spring Brook Watershed Lake Management District-owned property onto and to perform Construction and Maintenance Tasks enumerated in Exhibit B on the portion of the Grantor parcel described in Exhibit A.

Grantor has obtained written approval to grant this Easement from the Wisconsin Department of Natural Resources (the "DNR") pursuant to section Financial Administration 9.f of that certain Lake Protection Grant Agreement, Land Acquisition Project for Project No. LPT-218-03 (the "Agreement"). Said written approval is attached hereto as Exhibit C. Grantor and Grantee acknowledge that this Easement is subject to the terms and conditions of the Agreement.

The rights granted herein are exclusive and limited to the terms and conditions as stated herein.

Grantee has agreed to assume full prospective and retroactive liability and responsibility for the operation and maintenance of the Dam. The Grantee will assume all responsibilities for the operation, repair, maintenance, and management of the Dam, at its sole cost including, without limitation, performing structural and operational maintenance and repair and reconstruction of the Dam as well as monitoring and reporting conditions of the Dam, monitoring water flow over the dam, and filing applications for government grants, if desired, for repairs. The Grantee will bear all costs incurred by the Grantee in carrying out the Construction and Maintenance Tasks and complying with directives for repair order issued by the Wisconsin Department of Natural Resources (WDNR) on

by certified U.S. Mail, Return Receipt Requested, addressed to W320 S8315 Beulah Road, Mukwonago, WI 53149.

Unless terminated earlier or by an approved conversion, the easement granted by Grantor to Grantee shall expire only upon abandonment of the Dam in the legal manner outlined and prescribed in Chapter 31 of the Wisconsin Statutes.

This easement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this easement and duly recorded in the Office of the Register of Deeds of Waukesha County, Wisconsin.

Grantee shall not be permitted to assign this easement without the written permission of Waukesha County.

Signatures Follow

EXHIBIT A
Legal Description of Easement Area

Being a part of Lot 1 of Certified Survey Map No. 9476, recorded December 3rd, 2002, in Volume 86 of Certified Survey Maps on pages 269-276, as Document No. 2889306, being a part of the Southeast ¼ of the Northeast 1/4 of Section 4, Township 5 North, Range 19 East, in the Town of Mukwonago, Waukesha County, State of Wisconsin more particularly described as follows:

Beginning at a 1 inch iron pipe being the southwesterly corner of Lot 2 of said Certified Survey Map No. 9476, thence North 88°21'27" East along the southerly line of said Lot 2, 25.00 feet; thence South 01°38'33" East, 110.00 feet; thence South 88°21'27" West, 160 feet more or less to the shoreline of Willow Spring Lake; thence North 43°05'45" East, 154.86 feet along the shoreline of Willow Spring Lake to a point of the southerly line of said Lot 2; thence North 88°21'27" East along the southerly line of said Lot 2, 26.00 feet to the point of beginning.

Said description contains 11,605 square feet, 0.2664 acres more or less.

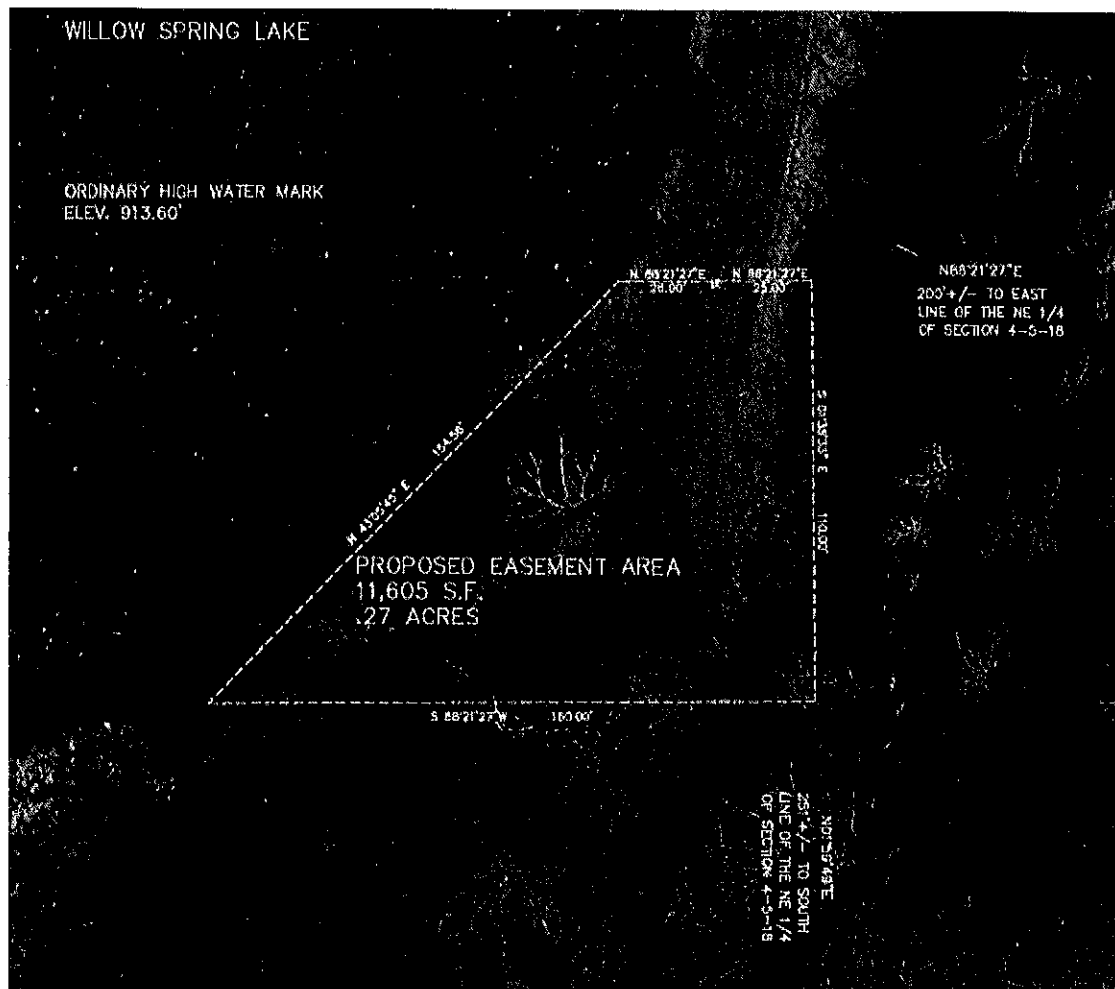


EXHIBIT C
WDNR Access Easement Approval

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
107 SOUTH AVENUE
MILWAUKEE WI 53233-9340

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 800-388-2821
Toll Free 1-888-438-7483
TTY Access 414.229.7111



September 19, 2022

Rebecca Mattano, Park System Manager
Waukesha County, Dept of Parks and Land Use
315 W Moreland Blvd
Rm AC 260
Waukesha, WI 53188

Subject: Access Easement for Dam Maintenance on Grant Funded Property

Dear Rebecca,

Waukesha County received grant funding from the Wisconsin Department of Natural Resources to fund the acquisition of the parcel described in the *Lake Protection Agreement, Land Acquisition Project* for Project number LPT-218-03.

Spring Brook Watershed Lake Management District is requesting an easement to access the grant encumbered property for the purpose of operating, repairing, and maintaining the existing Willow Springs Lake Dam. Pursuant to section Financial Administration 9.1 of the grant agreement for Project LPT-218-03 the County shall obtain written approval from the Wisconsin Department of Natural Resources prior to the sale, lease, mortgage, or assign of property acquired with grant funding.

The Department conditionally approves of the Easement for the operation, repair, and maintenance the Willow Springs Lake Dam provided acknowledgment of the terms and conditions of Project LPT-218-03 within the recitals of the proposed Easement.

Sincerely,

Laura MacFarland
Surface Water Grants Programs Manager

CC:
Heidi Hunk - SER Lakes Coordinator
Christy Kozik - NER/SER Environmental Grants Specialist

the wipw
wisconsin.gov



VOTE RESULTS

24 YES


0 NO

0 ABSTAIN

1 ABSEN

Ordinance 177-O-065

Ordinance 177-O-065: Approve Easement to Spring Brook Watershed Lake Management District for Dam Op of Willow Springs Dam

 **Passed By Majority Vote**

D1 - Foti	AYE	D10 - Thieme	AYE	D19 - Enriquez	AYE
D2 - Weil	AYE	D11 - Howard	AYE	D20 - Schellinger	AYE
D3 - Morris	AYE	D12 - Wolff	AYE	D21 - Gaughan	AYE
D4 - Batzko	AYE	D13 - Decker	AYE	D22 - Vacant	ABSEN
D5 - Grant	AYE	D14 - Mommaerts	AYE	D23 - Hammitt	AYE
D6 - Walz	AYE	D15 - Kolb	AYE	D24 - Bangs	AYE
D7 - LaFontain	AYE	D16 - Crowley	AYE	D25 - Johnson	AYE
D8 - Michalski	AYE	D17 - Meier	AYE		
D9 - Heinrich	AYE	D18 - Nelson	AYE		

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