
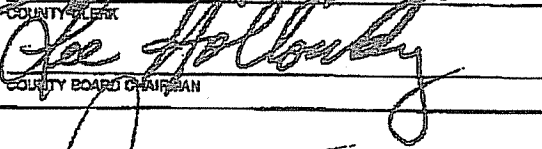


<b>RECORD OF COUNTY BOARD AND COUNTY EXECUTIVE ACTIONS</b> 3327 R2		<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance	COUNTY BOARD FILE NO. File No. 08-184
<b>CERTIFICATION TO COUNTY BOARD PASSAGE</b>	I certify that the attached resolution or ordinance was adopted by The Board of Supervisors of Milwaukee County at a meeting held on the <u>22nd</u> day of <u>May</u> 20 <u>08</u> by a vote of <u>18</u> ayes <u>0</u> noes		
	DATE SIGNED <u>5-22-08</u>	 COUNTY CLERK	
<b>COUNTY EXECUTIVE'S ACTION</b>	I approve the attached resolution or ordinance.		
	DATE SIGNED <u>6-6-2008</u>	 COUNTY BOARD CHAIRMAN	
<b>CERTIFICATION OF PUBLICATION</b>	_____		
	DATE PUBLISHED	DATE SIGNED	COUNTY CLERK

RECEIPTS

<b>BY COUNTY CLERK'S OFFICE</b>	<b>JUN 16 2008</b>	 SIGNATURE
	DATE SIGNED	

MAY 22 2008

Adopted  
18-0

File No. 08-184  
(Journal, May 22, 2008)

1  
2  
3  
4 (ITEM 5) From the Director, Parks, Recreation and Culture, requesting authorization to  
5 approve and finalize a mutually beneficial agreement between Milwaukee County and the  
6 Metropolitan Sewerage District (MMSD), for the transfer of 16.39 acres of Milwaukee  
7 County owned Underwood Creek Parkway and granting Underwood Creek Parkway  
8 permanent easement interests totaling approximately 0.73 acres to MMSD required for  
9 MMSD to construct the Underwood Creek Restoration and Flood Management  
10 Watercourse Improvements Project and the Milwaukee County Grounds Floodwater  
11 Management Facility-Structures and Tunnel Project, and granting permanent and temporary  
12 easement interests totaling approximately 1.07 acres in Jackson Park to MMSD for MMSD  
13 to construct the South 41<sup>st</sup> Street Relief Sewer Project in exchange MMSD will transfer  
14 three separate parcels of land totaling 75.14 acres to the Milwaukee County Department of  
15 Parks Recreation and Culture for inclusion to the Oak Creek Parkway recreation corridor,  
16 by recommending adoption of the following:

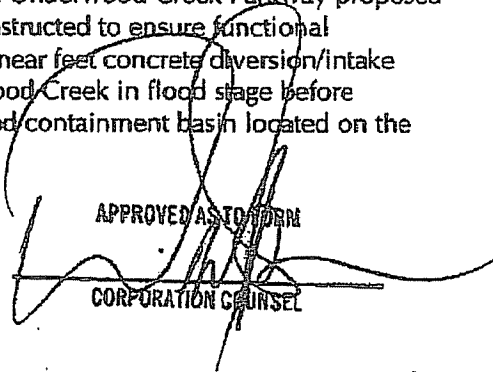
17  
18 **A RESOLUTION**  
19

20 WHEREAS, based on months of evaluation and discussion, MMSD and DPRC staff  
21 have concluded it is in the mutual best interest of Milwaukee County and the MMSD to  
22 transfer 16.39 acres of primarily floodway and wetland within the Milwaukee County  
23 owned Underwood Creek Parkway to the MMSD rather than retain ownership of these  
24 lands, based on the fact that this linear, narrow segment of floodway and wetlands within  
25 the Underwood Creek Parkway, extending from just north of the High Point office building  
26 on Watertown Plank Road to the County owned Hansen Golf Course, is required by the  
27 MMSD to construct the Underwood Creek Rehabilitation and Flood Management  
28 Watercourse Project followed by necessary construction to complete and place on-line the  
29 Milwaukee County Grounds Floodwater Management Facility.- Structures and Tunnel  
30 Project; and

31  
32 WHEREAS, the size and scope of both MMSD flood management projects will  
33 necessitate significant permanent changes to the present physical condition, function, and  
34 aesthetics of this 16.39 acres of the Underwood Creek Parkway, including, but not limited  
35 to: the removal of approximately 6,450 linear feet of the existing Underwood Creek  
36 concrete channel lining, the excavation and moving of massive amounts of soil to enable  
37 the flow of the creek to be realigned in a more meandering, natural condition; and

38  
39 WHEREAS, a significantly long segment of the Underwood Creek Parkway proposed  
40 to be transferred to the MMSD, will need to be reconstructed to ensure functional  
41 compatibility with the as yet to be constructed 290 linear feet concrete diversion/intake  
42 structure required to receive the flow of the Underwood Creek in flood stage before  
43 diverting it, via underground tunnels, to the west flood containment basin located on the  
44 former Milwaukee County Grounds; and

APPROVED AS TO FORM  
CORPORATION COUNSEL



45 WHEREAS, this 290 linear feet diversion/intake structure will have numerous large  
46 rectangular water intake openings covered by metal trash racks, a building to house utilities  
47 and operating controls, and a 1,400 feet (0.27 mile) long permanent access road required  
48 for its construction and future operation, maintenance, and periodic cleaning operations;  
49 and  
50

51  
52 WHEREAS, as part of the wetland mitigation needed to construct the Milwaukee  
53 County Grounds Floodwater Management Facility, the MMSD is required by the Wisconsin  
54 Department of Natural Resources (WDNR) to restore and maintain in perpetuity  
55 approximately 16 acres of Butler's garter snake habitat within the segment of the  
56 Underwood Creek Parkway proposed to be transferred to the MMSD, which will demand  
57 not only adherence to the goals and objectives of the WDNR's mandated Butler's garter  
58 snake habitat management plan, but also the long-term (in essence perpetual) dedication of  
59 resources, both operationally and financially, to maintaining and monitoring the  
60 approximately 16 acres of snake specific habitat; and  
61

62 WHEREAS, the extensive size and scope of both MMSD watercourse/flood  
63 management construction projects, combined with the required long-term (perpetual)  
64 financial and maintenance obligations, strongly indicates that MMSD ownership of this  
65 16.39 acres of the Underwood Creek Parkway is more viably appropriate than for  
66 Milwaukee County to retain ownership and grant the MMSD permanent and/or temporary  
67 easements, only to have significantly large scale flood management infrastructure and  
68 operations, together with their associated potential liabilities, risks, and safety concerns,  
69 permanently occupy and functionally alter the County's property; and  
70

71 WHEREAS, the MMSD's S. 41<sup>st</sup> Street Relief Sewer Project is being undertaken to  
72 provide sanitary sewer relief in Burnham Street and Lincoln Avenue and is a court  
73 mandated public health project; and  
74

75 WHEREAS, the MMSD requires approximately 1.07 acres of permanent and  
76 temporary easement interests in Jackson Park to construct, operate, and maintain a 42-inch  
77 diameter relief sewer paralleling S. 43<sup>rd</sup> Street, which is the western boundary of Jackson  
78 Park; and  
79

80 WHEREAS, the MMSD's construction activities will utilize the asphalt parking lot  
81 located in Jackson Park on the east side of S. 43<sup>rd</sup> Street and upon completion of the sewer  
82 project work, the MMSD will reconstruct the Jackson Park asphalt parking lot and restore  
83 all disturbed or damaged areas; and  
84

85 WHEREAS, compensation to Milwaukee County for the required 1.07 acres of  
86 permanent and temporary easement interests will be provided through the transfer and  
87 exchange of the MMSD's 75.14 acres of land in Oak Creek; and  
88

89 WHEREAS, in exchange for the 16.39 acres of the Underwood Creek Parkway that  
90 the County will transfer to the MMSD, the MMSD will transfer to the DPRC ownership of  
91 three separate parcels of land acquired through their "Greanseams" conservation reserve  
92 program, subject to a Conservation Easement retained by the MMSD; and  
93

94 WHEREAS, these parcels of land, totaling 75.14 acres, are located in the southern  
95 part of the City of Oak Creek will be incorporated into the County's Oak Creek Parkway;  
96 and  
97

98 WHEREAS, on April 21, 2008, the MMSD Commissioners approved the transfer of  
99 the 75.14 acres of Greanseams conservation reserve program land to the DPRC contingent  
100 on the Milwaukee County Board of Supervisors' approval of the transfer of the 16.39 acres  
101 of the Underwood Creek Parkway located in the City of Wauwatosa and the granting of  
102 various permanent and temporary easement interests to the MMSD; and  
103

104 WHEREAS, The 75.14 acres to be transferred to the DPRC are undeveloped open  
105 space land purchased by the MMSD to preserve hydric (primarily organic and prone to  
106 seasonal flooding) soils and provide protection against future flooding of developed areas;  
107 and  
108

109 WHEREAS, all three MMSD land parcels border the County's existing Oak Creek  
110 Parkway and an off-road segment of the Oak Leaf Bicycle Trail, making attractive,  
111 functional additions to the Oak Creek Parkway recreation corridor possible; and  
112

113 WHEREAS, while the MMSD will retain a Conservation Easement on each of the  
114 three land parcels (to prevent the construction of buildings, impermeable surfaces, or  
115 inappropriate development that would acerbate urban flooding), the DPRC could construct  
116 gravel (permeable) parking lots, hiking/nature trails, and linkages to the existing Oak Leaf  
117 Bicycle Trail; and  
118

119 WHEREAS, these three land parcels fill critical "gaps" in the County's Oak Creek  
120 Parkway linear recreation and urban open space corridor and more ecologically significant,  
121 the majority of this acreage is delineated as "Primary Environmental Corridor," making it a  
122 top priority for public ownership, protection, and preservation; and  
123

124 WHEREAS, DPRC staff envision these 75.14 acres being utilized for public open  
125 space, appropriate passive orientated recreational usage, urban flood and water quality  
126 protection, wildlife habitat, and the restoration of native plant communities, with seasonal  
127 recreational activities including bicycling, hiking, nature observation, local school  
128 environmental education classes/programs, cross-country skiing, and snowshoeing; and  
129

130  
131

132 WHEREAS, future DPRC operational and maintenance requirements are expected to  
133 be minimal, most likely to include periodic removal of alien plant species, the biannual  
134 clean up of wind blown litter or debris, and periodic site inspections estimated to increase  
135 DPRC annual operation costs by approximately \$7,500.00; and  
136

137 WHEREAS, it is estimated that the cost to the County and the DPRC to retain  
138 ownership of the 16.39 acres of the Underwood Creek Parkway, based on the potential  
139 liabilities, risk management issues, safety concerns, and increased site maintenance  
140 requirements related to MMSD's flood management infrastructure, operations, and long-  
141 term maintenance on this land could far exceed the estimated \$7,500.00 in annual DPRC  
142 operation costs associated with accepting the 75.14 acre MMSD land transfer; and  
143

144 WHEREAS, DPRC and MMSD staff will work together over the long term to ensure  
145 these lands are being maintained and used in ways that meet the original intent of the  
146 Greenseams program, as the goals and objectives of this program are mutually desirable  
147 and in the best interest of the taxpaying public; and  
148

149 WHEREAS, the two proposed MMSD Underwood Creek flood management  
150 projects, the S. 41<sup>st</sup> Street Relief Sewer Project, and the County's ownership and  
151 preservation of the 75.14 acres in Oak Creek will provide substantial health, water quality  
152 and flood protection, open space preservation, and public recreation benefits to many  
153 residents of Milwaukee County; and  
154

155 WHEREAS, upon Milwaukee County Board of Supervisors' approval and  
156 authorization, the DPRC and MMSD staff will begin detailing the process to implement the  
157 land exchange and the permanent and temporary easement rights transfer to enable the  
158 MMSD to complete and place on-line its Milwaukee County Grounds Floodwater  
159 Management Project and construct the related Underwood Creek Rehabilitation and Flood  
160 Management Watercourse Project; and  
161

162 WHEREAS, the Committee on Economic and Community Development, at its  
163 meeting on May 12, 2008, recommended approval of the Director of Parks, Recreation and  
164 Culture's request by a vote of 7-0; and  
165

166 WHEREAS, the Committee on Parks, Energy and Environment, at its meeting on  
167 May 13, 2008, also recommended approval of the Director of Parks, Recreation and  
168 Culture's request by a vote of 7-0; now, therefore,  
169

170 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby  
171 authorizes and directs the Director of the Department of Parks, Recreation and Culture to  
172 work with MMSD staff to finalize and implement the transfer of 16.39 acres of Milwaukee  
173 County owned Underwood Creek Parkway and the granting of Underwood Creek Parkway  
174 permanent easement interests totaling approximately 0.73 acre to the Milwaukee  
175 Metropolitan Sewerage District (MMSD) required by the MMSD to construct the

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176 Underwood Creek Restoration & Flood Management Watercourse Improvements Project  
177 (Project No. W21005) and to complete and place on-line the Milwaukee County Grounds  
178 Floodwater Management Facility – Structures and Tunnel Project (Project No.  
179 W20004C06), and the granting of permanent and temporary easement interests totaling  
180 approximately 1.07 acres in Jackson Park to the MMSD for the MMSD to construct the S.  
181 41<sup>st</sup> Street Relief Sewer Project (Project No. C06009) in exchange for the MMSD transfer of  
182 three (3) separate parcels of land totaling 75.14 acres to the Milwaukee County Department  
183 of Parks, recreation and Culture for inclusion into Milwaukee County's Oak Creek Parkway  
184 recreation corridor.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: May 1, 2008

Original Fiscal Note

Substitute Fiscal Note

**SUBJECT:** Negotiate, prepare, and execute an exchange of land with the Milwaukee Metropolitan Sewerage District (MMSD) whereby Milwaukee County will transfer 17.26 acres of Underwood Creek Parkway to the MMSD and grant the MMSD permanent and temporary easement rights in exchange for the MMSD transferring 75.14 acres of Greenseams conservation reserve program land to Milwaukee County to enable the MMSD to construct the Underwood Creek Restoration & Flood Management Watercourse Improvements Project, the Milwaukee County Grounds Floodwater Management Facility - Structures and Tunnel Project, and the S. 41<sup>st</sup> Street Relief Sewer Project.

FISCAL EFFECT:

- No Direct County Fiscal Impact
- Existing Staff Time Required
- Increase Operating Expenditures  
(If checked, check one of two boxes below)
- Absorbed Within Agency's Budget
- Not Absorbed Within Agency's Budget
- Decrease Operating Expenditures
- Increase Operating Revenues
- Decrease Operating Revenues
- Increase Capital Expenditures
- Decrease Capital Expenditures
- Increase Capital Revenues
- Decrease Capital Revenues
- Use of contingent funds

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	7,500.00
	Revenue		
	Net Cost	0	\$7,500.00
Capital Improvement Budget	Expenditure	0	0
	Revenue		
	Net Cost	0	0

## DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. <sup>1</sup> If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

After months of evaluation and discussion, MMSD and DPRC staff have concluded it is in the mutual best interest of Milwaukee County and the MMSD to transfer 17.26 acres of Milwaukee County owned Underwood Creek Parkway to the MMSD rather than retain ownership of these lands. This conclusion is based on the fact that this linear segment of the Underwood Creek Parkway, extending from just north of the High Point office building on Watertown Plank Road to the County owned Hansen Golf Course (in the vicinity of the confluence of the Underwood Creek with the Menomonee River), is required by the MMSD to construct the Underwood Creek Rehabilitation and Flood Management Watercourse Project followed by necessary construction to complete and place on-line the Milwaukee County Grounds Floodwater Management Facility – Structures and Tunnel Project.

In exchange for the 17.26 acres of the Underwood Creek Parkway that the County will transfer to the MMSD, the MMSD will transfer to the DPRC ownership of three separate parcels of land acquired through their "Greenseams" conservation reserve program, subject to a Conservation Easement retained by the MMSD. These parcels of land, totaling 75.14 acres, are located in the southern part of the City of Oak Creek and would be incorporated into the County's Oak Creek Parkway. All three land parcels border the County's existing Oak Creek Parkway and off-road segment of the Oak Leaf Bicycle Trail, making attractive, functional additions to the Oak Creek Parkway recreation corridor possible. These parcels would fill critical "gaps" in the County's Oak Creek Parkway linear recreation and urban open space corridor. More ecologically significant, the majority of the acreage is delineated as "Primary Environmental Corridor," making it a top priority for public ownership, protection, and preservation. DPRC staff envision these 75.14 acres being utilized for public open space, appropriate passive orientated recreational usage, urban

<sup>1</sup> If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.



flood and water quality protection, wildlife habitat, and the restoration, where appropriate, of native plant communities. Seasonal recreational activities might include bicycling, hiking, nature observation, local school environmental education classes/programs, cross-country skiing, and snowshoeing. Future DPRC operational and maintenance requirements are expected to be minimal, but will most likely include periodic removal of alien plant species, the biannual clean-up of wind blown litter or debris, and periodic site inspections.

Direct operational costs to the County and/or the DPRC are: DPRC staff time required to negotiate and prepare the land transfer documents, the required permanent and temporary easements, including meetings; and operations staff time and equipment to provide the required biannual site clean ups, more frequent site inspections, and the removal of alien plant species. This annual cost is estimated to be approximately \$7,500.00 or less.

This \$7,500.00 annual operations cost is estimated to be considerably less than the costs the County/DPRC might incur if it retained the 17.26 acres of Underwood Creek Parkway land, as these lands will have greater liability, risk management, and public safety concerns resulting from the MMSD's flood management infrastructure, operations, and required on-going maintenance operations on County/DPRC land. In addition, the County/DPRC is not in a financial position to assume all or part of the required long-term (virtually perpetual) Butler's quarter snake habitat maintenance, the costs of which are estimated to be far greater than the estimated \$7,500.00 additional operations costs associated with the land transfer and exchange.

Uncalculated Future Capital Project Expenditures are:

The County/DPRC may wish to budget for the construction of minimal facilities such as: one or two gravel vehicular parking lots, hiking and nature trail clearing and wood chip surfacing, Oak Leaf Bicycle Trail linkages, native plant community restoration work, and safety/public use signage. Many of these types of capital projects and related costs are eligible for grants and other cost-sharing programs, which the DPRC intends to take full advantage of. In addition, none of these suggested capital projects would need to be implemented in order for the accepted land to function as a major asset to the County/DPRC.

The assumption made in preparing this Fiscal Note is that the identified additional operations expenditures will be required on an annual basis and that capital costs would only be incurred if grants and other cost-sharing dollars were available and secured, thereby requiring the County provide capital dollars for a required grant match.

Department/Prepared By Parks, Recreation and Culture/Mike Raap

Authorized Signature

James Raap

Did DAS-Fiscal Staff Review?

Yes

No