

ENROLLED ORDINANCE 167-63

REPEAL AND RECREATE SECTION 6(b) OF THE WAUKESHA COUNTY  
SHORELAND AND FLOODLAND PROTECTION ORDINANCE TO  
INCORPORATE THE MONTEREY DAM FAILURE ANALYSIS (SZ-1744)

WHEREAS, the Waukesha County Board of Supervisors enacted the Waukesha County Shoreland and Floodland Protection Ordinance on January 23, 1970, and

WHEREAS, the Waukesha County Board of Supervisors may make amendments to such Ordinance pursuant to Section 59.692, Wisconsin Statutes, and

WHEREAS, the subject matter of this Ordinance having been duly referred to and considered by the Waukesha County Park and Planning Commission after Public Hearing and the giving of requisite notice of said hearing, and the recommendation thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Section 59.692 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Section 6(b) of the Waukesha County Shoreland and Floodland Protection Ordinance is repealed and recreated to read as follows:

(b) **Zoning map**

1. Districts mapped: The boundaries of zoning districts are shown upon maps as referred to in Section 3 of this Ordinance for all of the unincorporated towns of Waukesha County, and entitled Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps which are made a part of this Ordinance and adopted by reference.

A. Wetlands: The Final Wisconsin Wetlands Inventory Maps for Waukesha County, dated September 6, 1984 and subsequently amended, were utilized to assist in the preparation and identification of wetlands identified on the aerial photographs and accordingly are made a part of this Ordinance and are adopted by reference. All the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said maps were all fully described herein. Said maps shall be kept on file in the offices of the county zoning agency and are periodically updated as amendments are made, and are for general informational purposes only. For the purpose of local administration, a copy of the appropriate maps shall also be kept on file in the office of each town.

All other wetlands subsequently identified by the Zoning Administrator, Zoning Agency, SEWRPC, ACOE or the WDNR within the shoreland boundaries but not noted on the Wisconsin Wetland Inventory Maps, are subject to regulations contained in the C-1 Conservancy District. Said newly determined areas shall be noted on the Shoreland and Floodland Protection Ordinance Zoning Maps as a C-1 designated area within six (6) months of said determination.

B. Floodplains: The boundaries of the floodplains shall be those areas designated as such on the FEMA Flood Insurance Rate Maps, including all areas covered by the regional or base flood and those floodplains identified in the Floodplain Appendix or as depicted as C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and A-E Exclusive Agricultural Conservancy

District on the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps referenced in Section 3(a) of this Ordinance, whichever boundary designates a greater floodplain area. Base flood elevations are derived from the corresponding flood profiles published by FEMA, Flood Insurance Study, effective date, November 19, 2008, or as amended or updated thereafter. Areas covered by the base flood are identified as numbered A-Zones on the Flood Insurance Rate Map. The Flood Insurance Study constitutes the basis for which the official floodplains and appropriate zoning categories for which unincorporated areas of Waukesha County have been mapped. This study has been approved by the WDNR and FEMA, and is on file in the office of the County Zoning Administrator. Regional flood elevations have been derived from other studies and are approved by WDNR. A list of the official floodplain maps to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is listed as follows. These maps and revisions are on file in the office of the Waukesha County Zoning Administrator, in Waukesha County. If more than one map or revision is referenced, the most restrictive information shall apply.

Any change to the base flood elevations (BFE) in the Flood Insurance Study or on the Flood Insurance Rate Map must be reviewed and approved by the WDNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the WDNR.

**OFFICIAL MAPS : Based on the Flood Insurance Study**

Waukesha County Flood Insurance Rate Map (FIRM), panel numbers  
55133C0016F, 55133C0017F, 55133C0018F, 55133C0019F, 55133C0029F,  
55133C0033F, 55133C0034F, 55133C0036F, 55133C0037F, 55133C0038F,  
55133C0039F, 55133C0041F, 55133C0042F, 55133C0043F, 55133C0044F,  
55133C0053F, 55133C0054F, 55133C0059F, 55133C0061F, 55133C0062F,  
55133C0063F, 55133C0064F, 55133C0066F, 55133C0067F, 55133C0068F,  
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55133C0087F, 55133C0088F, 55133C0089F, 55133C0091F, 55133C0093F,  
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55133C0339F, 55133C0385F, 55133C0405F, 55133C0406F, 55133C0407F,  
55133C0408F, 55133C0409F, 55133C0426F, 55133C0427F, 55133C0431F,  
55133C0432F, 55133C0451F, 55133C0452F, 55133C0453F, 55133C0454F,  
dated November 19, 2008; with corresponding profiles that are based on the  
Flood Insurance Study (FIS) dated November 19, 2008, volume numbers  
55133CV001A-003A;

Approved by: The WDNR and FEMA

**OFFICIAL MAPS: Based on other studies**

Official maps approved by the WDNR and FEMA, including flood profiles, floodway data tables, regional or base flood elevations and other information shall become official maps of this Ordinance and shall be specifically listed herein as adopted by the Waukesha County Board.

The County shall provide the list of the official maps to the WDNR and FEMA regional offices for unincorporated areas of Waukesha County. Approved studies shall not be considered official maps herein until the land is rezoned according to Section 39 of this Ordinance. Said areas must be rezoned and identified on the official zoning maps within 6 months of WDNR and FEMA approval. The list of official maps based upon other studies to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is as follows:

- Dam Failure Analysis and Proposed Dam Capacity Analysis-Monches Dam, Hey and Associates, Inc., April 17, 2006; amended on October 13, 2006 by Hey and Associates, Inc.; further amended on May 17, 2011 by the Waukesha County Department of Public Works; and further amended by R.A. Smith National on January 19, 2012. Approved by the WDNR on January 24, 2012 and adopted by the Waukesha County Board on March 27, 2012.
  - Dam Failure Analysis – Monterey Dam, prepared by Kunkel Engineering Group, LLC on September 12, 2011. Approved by the WDNR and adopted by the Waukesha County Board on December 18, 2012.
- C. The A-O agricultural overlay district is a special kind of zoning district established to provide for superimposing upon basic districts additional permissive uses and regulatory standards without disturbing the basic underlying district regulations. As a special district, the applicable procedures for mapping amendments are those found in Section 39, changes and amendments.
- D. The existing floodplain development overlay district (EFD) is an overlay zoning district established to superimpose upon the conservancy zoning district regulatory standards or special regulations which will apply to the underlying zoning district where it is found that such land areas do contain existing development and are located within the floodplain as herein defined. The mapping of this district shall be established pursuant to the procedures set forth in Section 39, changes and amendments, of this Ordinance.
2. Determination of boundaries: District boundaries shall be determined by measurement from and as shown on the official zoning maps and in case of any questions as to the interpretation of such boundary lines, the Zoning Administrator shall interpret the map according to the reasonable intent of this Ordinance.

Unless otherwise specifically indicated or dimensioned on the maps, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the centerline of streets, highways, railways or alleys.

3. Determination of boundaries for C-1 Conservancy District, EFD Existing Floodplain

Development Overlay District, and A-E Exclusive Agricultural Conservancy District:

The boundaries of the C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and A-E Exclusive Agricultural Conservancy District as drawn are intended to represent the edge of marsh lands, swamps, floodlands, wetlands or the ordinary high water mark along streams or other watercourses. Where a question arises as to the exact location of those boundaries, they shall be determined by the Zoning Administrator or the County Zoning Agency through the utilization of the best available information such as topographic maps, soil maps, aerial photographs, infield botanical inventories, floodplain studies or other sources of information available which would lend assistance to such a determination and may be finally determined by actual conditions in each specific situation. An appeal to this determination may be made in conformance with Section 38 of this Ordinance. It is generally the intent of this Ordinance to place all wetlands and lands subject to inundation by the regional flood in either the C-1 district, A-E district, or EFD district if the areas are previously developed. Where land may be subject to inundation by the regional flood and a hydraulic and hydrologic analysis has not been prepared and/or the area is not indicated or mapped as floodplain, a detailed hydraulic and hydrologic analysis shall be prepared and reviewed and found to be adequate by the WDNR or its designated agency, in which case the new floodplain data will be used in the administration of this Ordinance. The Zoning Administrator shall map these floodplain areas in appropriate zoning districts within six (6) months of the time the WDNR has determined the acceptability of the data and said mapping shall be done pursuant to Section 39 of this Ordinance. Any changes or amendments in the mapped floodplains and made a part of this Ordinance shall be approved by the WDNR in accordance with the procedure set forth in Section 39 of this Ordinance.

If an area is found that has not been previously identified or mapped as a floodplain or a wetland and not zoned as C-1 Conservancy, EFD Existing Floodplain Development Overlay or A-E Exclusive Agricultural Conservancy, or a determination of navigability is made and a stream is subsequently found to be navigable, said stream and any shoreland, wetland or floodplains as defined herein, shall immediately become subject to the provisions of this Ordinance. If the floodplain has not been determined, said area of approximate floodplain and wetlands shall be considered to be subject to the C-1, EFD and/or A-E regulations of this Ordinance. Appropriate procedures to establish Shoreland Zoning districts beyond that which is considered C-1 Conservancy, EFD Existing Floodplain Development Overlay or A-E Exclusive Agricultural Conservancy shall be initiated under the mapping amendment procedure pursuant to Section 39 of this Ordinance and as set forth above. Water quality related standards of the Shoreland and Floodland Protection Ordinance are in effect immediately upon a determination of navigability or identification of a shoreland/wetland or floodplain (i.e., setback, grading, and land altering activities, vegetation removal).

4. Discrepancy of wetland boundaries: In the case of any discrepancy regarding a boundary between any mapped or newly determined wetland, the Zoning Administrator may make a determination or consult with the WDNR and coordinate the appropriate onsite investigation to determine the exact boundary. If the WDNR staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland or vice versa, the Zoning Administrator shall have the authority to immediately deny or grant a zoning permit in accordance with the regulations applicable to the correct zoning district designation as it may be modified by such field determination. A notation shall be made on the map indicating that such a change has been made for future reference purposes. Utilizing the procedures above, if an area is found to be inappropriately mapped in a C-1 Conservancy, EFD Existing Floodplain Development Overlay or A-E Exclusive Agricultural Conservancy District category, the Zoning Administrator shall have the authority to designate a district for the subject area consistent with the upland category

which may exist adjacent to the site without necessity of a formal amendment process and shall note said changes on the zoning map within 6 months of said determination.

5. Dispute or discrepancy of floodplain boundaries: In the case of any dispute or discrepancy regarding a boundary between an official zoning map and actual field conditions locating the floodplain boundary, the criteria in paragraphs (a) or (b) below shall be used. If a significant difference exists, the map shall be amended according to Section 39 of this Ordinance. Where the flood profiles are based on established base flood elevations from a Flood Insurance Rate Map, FEMA must also approve any map amendment. The Zoning Administrator can rely on a boundary derived from a flood profile elevation to grant or deny a permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to Section 38 of this Ordinance and the criteria in (a) and (b) below.
  - a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
  - b. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the WDNR, and/or FEMA.

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon passage and publication.

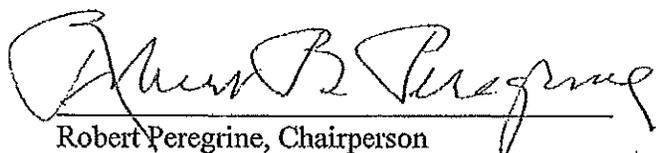
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

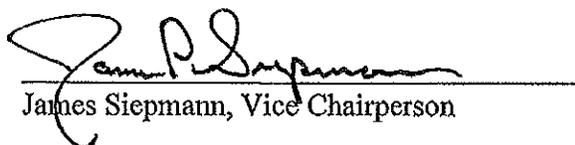
COMMISSION ACTION

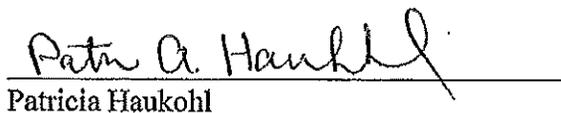
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance hereby recommends approval of (SZ-1744 Text Amendment-Monterey Dam Failure Analysis, Town of Oconomowoc) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

November 15, 2012

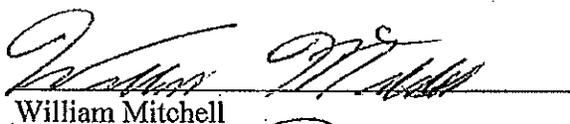
  
Robert Peregrine, Chairperson

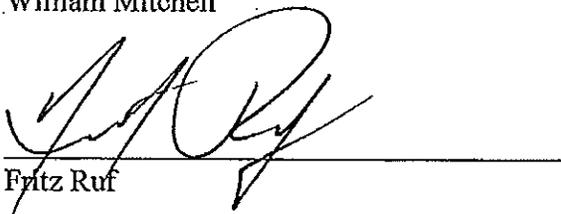
  
James Siepmann, Vice Chairperson

  
Patricia Haukohl

  
Walter Kolb

  
Gary Goodchild

  
William Mitchell

  
Fritz Ruf

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**ZONING MAP AND TEXT AMENDMENT**

**FILE NO.:** SZ-1744 (Text) and SZT-1744A (Rezone)

**DATE:** November 15, 2012

**PETITIONER:** Town of Oconomowoc  
W359 N6812 Brown Street  
Oconomowoc, WI 53066

**LOCATION:**

The proposed dam is to be located west of Mill St. in unincorporated Monterey. The proposed dam failure shadow would affect property located along the Ashippun River generally between Mill Street and C.T.H. "CW" (Mapleton Road). More specifically, the properties affected by the rezone request are located in Sections 5, 8, and 9, T8N, R17E in the Town of Oconomowoc.

**PROPOSED ZONING:**

Amend the text and maps of the Waukesha County Shoreland and Floodland Protection Ordinance in order to adopt the Dam Failure Analysis for the Monterey Dam in accordance with NR 116 of the Wisconsin Administrative Code. The Dam Failure Analysis must be mapped as a new floodplain boundary along the Ashippun River from Mill Street to a point just downstream of C.T.H. "CW" (Mapleton Road). Lands will be rezoned from the A-2 Rural Home, A-5 Mini-Farm, R-1 Residential, R-3 Residential, A-E Exclusive Agricultural Conservancy and E-C Environmental Corridor Districts to the C-1 Conservancy District. Because the County's shoreland jurisdictional limits extend to the full extent of the floodplain limits, if further than 300 ft. from a stream or 1,000 ft. from a lake, a small area of additional shoreland jurisdiction will be created. Some lands will also be rezoned from the C-1 Conservancy District to the adjacent upland districts, because C-1 District boundaries are being updated to incorporate the most current available wetland inventory mapping.

**PUBLIC HEARING DATE:**

October 16, 2012.

**PUBLIC REACTION:**

None.

**TOWN OF OCONOMOWOC PLAN COMMISSION ACTION:**

On October 30, 2012, the Town of Oconomowoc Plan Commission recommended approval to the Town Board and Waukesha County to amend the text and zoning maps of the Waukesha County Shoreland and Floodland Protection Ordinance to adopt the Dam Failure Analysis for the Monterey Dam and create a new C-1 Conservancy District boundary along the banks of the Ashippun River downstream of Mill Street.

**TOWN OF OCONOMOWOC BOARD ACTION:**

On October 30, 2012, the Town of Oconomowoc Board adopted a resolution recommending that Waukesha County amend the text and zoning maps of the Waukesha County Shoreland and Floodland Protection Ordinance to adopt the Dam Failure Analysis for the Monterey Dam and create a new C-1 Conservancy District boundary along the banks of the Ashippun River downstream of Mill Street (Exhibit "A").

167-0-063

**COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY AND THE TOWN OF OCONOMOWOC LAND USE PLAN:**

Prevention of flooding is a key natural resource protection recommendation of both land use plans, and the proposed rezoning will protect the newly studied floodplain from fill and prevent future property damage.

**OTHER CONSIDERATIONS:**

The Monterey Dam was constructed in the 1800s. The bridge was constructed over the dam in the early 1900s. In 1995, the Town of Oconomowoc received a grant from the Federal Government to remove and replace the Mill St. bridge. However, after project planning was nearly complete, the Wisconsin Department of Transportation (WDOT) learned that there was a dam attached to the bridge structure, which was owned by a third party (Roth family). The WDOT would not proceed with the project and it was put on hold. In 2007, the Wisconsin Department of Natural Resources (WDNR) inspected the dam and determined that it was failing. The WDNR ordered the Roths to draw down the pond. The Roths were given the option to reconstruct, transfer or abandon the dam. The Town and Roths worked together to find funding for the reconstruction of the dam and the Roths were given extensions to either reconstruct, transfer or abandon the dam.

In 2009, the Town acquired the dam from the Roth family. With limited funding available, the Town pursued removing the dam. The WDNR started working on an Environmental Assessment to abandon the dam and the Town received a \$50,000 grant to help pay for the removal of the dam. The Town and County set up a joint public hearing to consider the Town's Conditional Use request to remove the dam, but the Town ultimately decided to withdraw the request so that they could further consider replacing the dam. In 2011, Ashippun Lake residents voiced concerns that they believed the dam removal would have a negative impact on Ashippun Lake water levels.

The Ashippun Lake Protection and Rehabilitation District hired a Hydrogeologist from RJN Environmental Services to analyze whether the removal of the dam would impact Ashippun Lake and the sensitive area environmental features. The analysis, which was prepared in 2011, concluded that the water source for the wetland community adjacent to the lake would disappear because the water table would drop far below ground surface and that impacts to the wetland are already being observed because of the draw down of the mill pond. The analysis also concluded that the portion of the Ashippun River upstream of the dam may become intermittent because the stream is part of a small watershed that relies heavily on drainage from Ashippun Lake. The study suggested that the increased gradient caused by the elimination of the mill pond could result in accelerated erosion. Finally, the analysis suggested that dam removal may cause the water table to drop below the lake level over approximately two-thirds of the lake, resulting in a significant reduction in groundwater discharge to the lake, which would affect the lake's ecosystem.

The Southeastern Wisconsin Regional Planning Commission (SEWRPC) conducted a separate evaluation in 2012 that considered the potential impacts of either removing or replacing the dam. The analysis specifically considered water quality and water quantity in Ashippun Lake and considered possible impacts to nearby wetlands. SEWRPC's report also addressed concerns raised in the analysis prepared by RJN Environmental Services. SEWRPC concluded that further analysis would be required to determine the magnitude of a potential reduction in backwater elevations within the wetland complex and lake in order to better quantify the groundwater impacts of the dam removal on the lake. SEWRPC did suggest that dam removal (versus replacement) may have a positive impact on Ashippun Lake water quality. In summary, SEWRPC suggested that several alternatives were available and that natural resource impacts and costs varied amongst the studied alternatives. The alternatives that were addressed included removal of the dam,

reconstruction of the dam, installation of a control structure near the outlet of Ashippun Lake, and installation of an in-stream structure(s) upstream of the current impoundment to minimize possible wetland impacts and maintain water surface elevations within Ashippun Lake.

After considering SEWRPC's analysis, the Town ultimately applied for a Conditional Use Permit (SCU-1552A) to replace the dam. The related Conditional Use request for the dam replacement will be considered by the Waukesha County Park and Planning Commission as a separate matter (SCU-1552A) at its meeting of November 15, 2012.

The WDNR required that the Town hire a firm to prepare a Dam Failure Analysis for review and approval as part of the proposal to reconstruct the dam. The results of the Dam Failure Analysis allow the WDNR to assume a dam hazard rating according to Wisconsin Administrative Code NR 333. The purpose of NR 333 is to ensure that dams are designed, constructed and reconstructed so as to minimize the danger to life, health and property. The Dam Failure Analysis more specifically determines the hydraulic shadow for the failure of the dam, i.e. the area that would flood during a regional flood if the dam failed. A "regional flood" is defined as a flood with a one (1) percent chance of being equaled or exceeded in any given year. In accordance with Wisconsin Administrative Code NR 116, the hydraulic shadow is then required to be regulated as floodway and be placed in the appropriate zoning category as part of the County's floodplain zoning maps. Once the Dam Failure Analysis is approved by the WDNR and floodplain zoning is established, the dam hazard rating can be lowered, if appropriate. There are three (3) dam hazard ratings established by the Wisconsin Administrative Code: high hazard, which indicates a potential loss of life if the dam fails; significant hazard, which indicates a potential for structural loss if the dam fails; and low hazard, which indicates that there would only be environmental impacts if the dam fails. Insurance costs are higher and design and maintenance requirements are greater with higher hazard ratings.

The WDNR has agreed that the hazard rating of the Monterey Dam will be reduced to low hazard provided Waukesha County adopts the Dam Failure Analysis prepared by Kunkel Engineering Group, LLC on September 12, 2011 and zones the dam failure shadow as floodway. The WDNR permit for the reconstruction of the dam is conditioned upon the Dam Failure Analysis being adopted by the County because the dam was designed assuming it will be a low hazard dam. The hazard rating of the dam would be reduced to low hazard because the new dam failure boundary does not impact any residential structures. Two small sheds are located immediately adjacent to the dam failure boundary. Both structures are already mapped as being in the FEMA floodplain. It should be noted that the Dam Failure Analysis was conducted based on the dam that is currently in place. However, the WDNR has stated that the new (proposed) dam has no impact on the results.

Certain lands along the Ashippun River from Mill Street to a point just downstream of C.T.H. "CW" (Mapleton Road) will be rezoned from the from the A-2 Rural Home, A-5 Mini-Farm, R-1 Residential, R-3 Residential, A-E Exclusive Agricultural Conservancy and E-C Environmental Corridor Districts to the C-1 Conservancy District. The areas that would be inundated by the dam failure are required to be regulated as floodway, since flowing floodwater will be discharged downstream as part of a dam failure. Some lands will also be rezoned from the C-1 Conservancy District to the adjacent upland districts to reflect current wetland mapping. Approximately 1.28 acres of land is newly being classified as floodway as a result of the Dam Failure Analysis. The majority of the dam failure area is either currently regulated as FEMA floodplain or wetland. The remainder of the land is open space related to agricultural or residential uses. Approximately 5.31 acres of land is being removed from the C-1 Conservancy District because of the updated and more accurate Wisconsin Wetland Inventory mapping.

It should be noted that the dam failure floodplain boundary will be more broad than the existing FEMA floodplain boundary downstream of the dam. However, FEMA does not acknowledge the dam failure floodplain boundary in its regulatory maps. Therefore, the existing FEMA floodplain boundary and associated elevations are still valid for flood insurance purposes.

As required per Wisconsin Administrative Code NR 116, Waukesha County must also add the Dam Failure Analysis to the list of Official Studies identified in Section 6(b) I.B of the Waukesha County Shoreland and Floodland Protection Ordinance. The text of this section must be revised to read:

**OFFICIAL MAPS: Based on other studies**

Dam Failure Analysis – Monterey Dam, prepared by Kunkel Engineering Group, LLC on September 12, 2011. Approved by the WDNR and adopted by the Waukesha County Board on \_\_\_\_\_ (to be completed upon adoption).

Section 6(b) of the ordinance will be repealed and recreated in its entirety (see Exhibit “B”).

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this request be **approved**. Because adoption of the dam failure study is required by the WDNR under NR 116 of the Wisconsin Administrative Code, adoption of the flood study by text reference and incorporation of the floodplain boundaries into the Waukesha County Shoreland and Floodland Protection Ordinance brings the reconstruction of the Monterey Dam into compliance with State standards and provides the public with the most current and accurate information. Rezoning the dam failure shadow as floodplain on the County zoning map prevents development within said areas, which ultimately protects the downstream property owners and their improvements from flooding.

Respectfully submitted,

*Amy Barrows*

Amy Barrows  
Senior Land Use Specialist

Enclosures: Exhibit “A” (SZ-1744 and SZT-1774A)  
Exhibit “B” (SZ-1744)  
Map (SZT-1774A)

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RESOLUTION NO. 2012-22

RESOLUTION RECOMMENDING AMENDMENT OF  
WAUKESHA COUNTY C-1 CONSERVANCY DISTRICT TO  
INCORPORATE NEWLY CREATED FLOODPLAIN BOUNDARIES

WHEREAS, the Town of Oconomowoc is in the process of replacing the Monterey Dam; and

WHEREAS, the Town Plan Commission and Town Board adopted the Dam Failure Analysis Study prepared for the project by Kunkel Engineering Group; and

WHEREAS, the Town Plan Commission recommended that the C-1 Conservancy District below the Monterey Dam be amended to include the newly created floodplain area set forth in to the Dam Failure Analysis Study, which results in expanding the C-1 Conservancy District upon current A-E Exclusive Agricultural Conservancy District, A-5 Mini-Farm District, A-2 Rural Home District, R-1 Residential District; R-3 Residential District; and

WHEREAS, the Town Plan Commission and Town Board recommended that the expanded C-1 Conservancy District include the aforementioned lands along the banks of the Ashippun River so as to create a new floodway/C-1 Conservancy District boundary downstream from Mill Street.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Town Board of the Town of Oconomowoc hereby accepts the Planner's report and recommendation, which is attached hereto and incorporated herein by reference, and recommends that Waukesha County adopt a zoning ordinance amending the C-1 Conservancy District along the banks of the Ashippun River downstream from the Monterey Dam so as to create a new floodway/C-1 Conservancy District and amend the text of the shoreland ordinance as necessary.

BE IT FURTHER RESOLVED that the Town Clerk forward a copy of this resolution to the Waukesha County Department of Parks and Land Use (Planning and Zoning Division).

DATED: October 30, 2012

TOWN OF OCONOMOWOC

By: Robert C. Hultquist  
Robert C. Hultquist, Chairman

ATTEST:

Jo Ann Lesser  
Jo Ann Lesser, Clerk

## EXHIBIT "B"

### Repeal and recreate Section 6(b) as follows:

#### (b) Zoning map

1. Districts mapped: The boundaries of zoning districts are shown upon maps as referred to in Section 3 of this Ordinance for all of the unincorporated towns of Waukesha County, and entitled Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps which are made a part of this Ordinance and adopted by reference.

- A. Wetlands: The Final Wisconsin Wetlands Inventory Maps for Waukesha County, dated September 6, 1984 and subsequently amended, were utilized to assist in the preparation and identification of wetlands identified on the aerial photographs and accordingly are made a part of this Ordinance and are adopted by reference. All the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said maps were all fully described herein. Said maps shall be kept on file in the offices of the county zoning agency and are periodically updated as amendments are made, and are for general informational purposes only. For the purpose of local administration, a copy of the appropriate maps shall also be kept on file in the office of each town.

All other wetlands subsequently identified by the Zoning Administrator, Zoning Agency, SEWRPC, ACOE or the WDNR within the shoreland boundaries but not noted on the Wisconsin Wetland Inventory Maps, are subject to regulations contained in the C-1 Conservancy District. Said newly determined areas shall be noted on the Shoreland and Floodland Protection Ordinance Zoning Maps as a C-1 designated area within six (6) months of said determination.

- B. Floodplains: The boundaries of the floodplains shall be those areas designated as such on the FEMA Flood Insurance Rate Maps, including all areas covered by the regional or base flood and those floodplains identified in the Floodplain Appendix or as depicted as C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and A-E Exclusive Agricultural Conservancy District on the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps referenced in Section 3(a) of this Ordinance, whichever boundary designates a greater floodplain area. Base flood elevations are derived from the corresponding flood profiles published by FEMA, Flood Insurance Study, effective date, November 19, 2008, or as amended or updated thereafter. Areas covered by the base flood are identified as numbered A-Zones on the Flood Insurance Rate Map. The Flood Insurance Study constitutes the basis for which the official floodplains and appropriate zoning categories for which unincorporated areas of Waukesha County have been mapped. This study has been approved by the WDNR and FEMA, and is on file in the office of the County Zoning Administrator. Regional flood elevations have been derived from other studies and are approved by WDNR. A list of the official floodplain maps to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is listed as follows. These maps and revisions are on file in the office of the Waukesha County Zoning Administrator, in Waukesha County. If more than one map or revision is referenced, the most restrictive information shall apply.

Any change to the base flood elevations (BFE) in the Flood Insurance Study or on the Flood Insurance Rate Map must be reviewed and approved by the WDNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the WDNR.

**OFFICIAL MAPS : Based on the Flood Insurance Study**

Waukesha County Flood Insurance Rate Map (FIRM), panel numbers  
55133C0016F, 55133C0017F, 55133C0018F, 55133C0019F, 55133C0029F,  
55133C0033F, 55133C0034F, 55133C0036F, 55133C0037F, 55133C0038F,  
55133C0039F, 55133C0041F, 55133C0042F, 55133C0043F, 55133C0044F,  
55133C0053F, 55133C0054F, 55133C0059F, 55133C0061F, 55133C0062F,  
55133C0063F, 55133C0064F, 55133C0066F, 55133C0067F, 55133C0068F,  
55133C0069F, 55133C0078F, 55133C0079F, 55133C0083F, 55133C0086F,  
55133C0087F, 55133C0088F, 55133C0089F, 55133C0091F, 55133C0093F,  
55133C0131F, 55133C0132F, 55133C0133F, 55133C0134F, 55133C0141F,  
55133C0142F, 55133C0143F, 55133C0144F, 55133C0151F, 55133C0152F,  
55133C0153F, 55133C0154F, 55133C0156F, 55133C0157F, 55133C0158F,  
55133C0161F, 55133C0162F, 55133C0163F, 55133C0164F, 55133C0166F,  
55133C0167F, 55133C0168F, 55133C0169F, 55133C0176F, 55133C0177F,  
55133C0178F, 55133C0179F, 55133C0181F, 55133C0182F, 55133C0183F,  
55133C0186F, 55133C0187F, 55133C0188F, 55133C0189F, 55133C0191F,  
55133C0193F, 55133C0194F, 55133C0201F, 55133C0202F, 55133C0206F,  
55133C0207F, 55133C0208F, 55133C0214F, 55133C0216F, 55133C0217F,  
55133C0218F, 55133C0219F, 55133C0256F, 55133C0257F, 55133C0259F,  
55133C0270F, 55133C0280F, 55133C0285F, 55133C0290F, 55133C0291F,  
55133C0292F, 55133C0293F, 55133C0294F, 55133C0301F, 55133C0302F,  
55133C0303F, 55133C0304F, 55133C0306F, 55133C0307F, 55133C0308F,  
55133C0309F, 55133C0311F, 55133C0312F, 55133C0314F, 55133C0316F,  
55133C0317F, 55133C0318F, 55133C0319F, 55133C0326F, 55133C0327F,  
55133C0328F, 55133C0329F, 55133C0331F, 55133C0336F, 55133C0338F,  
55133C0339F, 55133C0385F, 55133C0405F, 55133C0406F, 55133C0407F,  
55133C0408F, 55133C0409F, 55133C0426F, 55133C0427F, 55133C0431F,  
55133C0432F, 55133C0451F, 55133C0452F, 55133C0453F, 55133C0454F,  
dated November 19, 2008; with corresponding profiles that are based on the  
Flood Insurance Study (FIS) dated November 19, 2008, volume numbers  
55133CV001A-003A;

Approved by: The WDNR and FEMA

**OFFICIAL MAPS: Based on other studies**

Official maps approved by the WDNR and FEMA, including flood profiles, floodway data tables, regional or base flood elevations and other information shall become official maps of this Ordinance and shall be specifically listed herein as adopted by the Waukesha County Board.

The County shall provide the list of the official maps to the WDNR and FEMA regional offices for unincorporated areas of Waukesha County. Approved studies shall not be considered official maps herein until the land is rezoned according to Section 39 of this Ordinance. Said areas must be rezoned and identified on the

official zoning maps within 6 months of WDNR and FEMA approval. The list of official maps based upon other studies to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is as follows:

- Dam Failure Analysis and Proposed Dam Capacity Analysis-Monches Dam, Hey and Associates, Inc., April 17, 2006; amended on October 13, 2006 by Hey and Associates, Inc.; further amended on May 17, 2011 by the Waukesha County Department of Public Works; and further amended by R.A. Smith National on January 19, 2012. Approved by the WDNR on January 24, 2012 and adopted by the Waukesha County Board on March 27, 2012.
- ~~Dam Failure Analysis - Monterey Dam, prepared by Kunkel Engineering Group, LLC on September 12, 2011. Approved by the WDNR and adopted by the Waukesha County Board on (to be included upon adoption).~~

- C. The A-O agricultural overlay district is a special kind of zoning district established to provide for superimposing upon basic districts additional permissive uses and regulatory standards without disturbing the basic underlying district regulations. As a special district, the applicable procedures for mapping amendments are those found in Section 39, changes and amendments.
- D. The existing floodplain development overlay district (EFD) is an overlay zoning district established to superimpose upon the conservancy zoning district regulatory standards or special regulations which will apply to the underlying zoning district where it is found that such land areas do contain existing development and are located within the floodplain as herein defined. The mapping of this district shall be established pursuant to the procedures set forth in Section 39, changes and amendments, of this Ordinance.

2. Determination of boundaries: District boundaries shall be determined by measurement from and as shown on the official zoning maps and in case of any questions as to the interpretation of such boundary lines, the Zoning Administrator shall interpret the map according to the reasonable intent of this Ordinance.

Unless otherwise specifically indicated or dimensioned on the maps, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the centerline of streets, highways, railways or alleys.

3. Determination of boundaries for C-1 Conservancy District, EFD Existing Floodplain Development Overlay District, and A-E Exclusive Agricultural Conservancy District: The boundaries of the C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and A-E Exclusive Agricultural Conservancy District as drawn are intended to represent the edge of marsh lands, swamps, floodlands, wetlands or the ordinary high water mark along streams or other watercourses. Where a question arises as to the exact location of those boundaries, they shall be determined by the Zoning Administrator or the County Zoning Agency through the utilization of the best available information such as topographic maps, soil maps, aerial photographs, infield botanical inventories, floodplain studies or other sources of information available which would

lend assistance to such a determination and may be finally determined by actual conditions in each specific situation. An appeal to this determination may be made in conformance with Section 38 of this Ordinance. It is generally the intent of this Ordinance to place all wetlands and lands subject to inundation by the regional flood in either the C-1 district, A-E district, or EFD district if the areas are previously developed. Where land may be subject to inundation by the regional flood and a hydraulic and hydrologic analysis has not been prepared and/or the area is not indicated or mapped as floodplain, a detailed hydraulic and hydrologic analysis shall be prepared and reviewed and found to be adequate by the WDNR or its designated agency, in which case the new floodplain data will be used in the administration of this Ordinance. The Zoning Administrator shall map these floodplain areas in appropriate zoning districts within six (6) months of the time the WDNR has determined the acceptability of the data and said mapping shall be done pursuant to Section 39 of this Ordinance. Any changes or amendments in the mapped floodplains and made a part of this Ordinance shall be approved by the WDNR in accordance with the procedure set forth in Section 39 of this Ordinance.

If an area is found that has not been previously identified or mapped as a floodplain or a wetland and not zoned as C-1 Conservancy, EFD Existing Floodplain Development Overlay or A-E Exclusive Agricultural Conservancy, or a determination of navigability is made and a stream is subsequently found to be navigable, said stream and any shoreland, wetland or floodplains as defined herein, shall immediately become subject to the provisions of this Ordinance. If the floodplain has not been determined, said area of approximate floodplain and wetlands shall be considered to be subject to the C-1, EFD and/or A-E regulations of this Ordinance. Appropriate procedures to establish Shoreland Zoning districts beyond that which is considered C-1 Conservancy, EFD Existing Floodplain Development Overlay or A-E Exclusive Agricultural Conservancy shall be initiated under the mapping amendment procedure pursuant to Section 39 of this Ordinance and as set forth above. Water quality related standards of the Shoreland and Floodland Protection Ordinance are in effect immediately upon a determination of navigability or identification of a shoreland/wetland or floodplain (i.e., setback, grading, and land altering activities, vegetation removal).

4. Discrepancy of wetland boundaries: In the case of any discrepancy regarding a boundary between any mapped or newly determined wetland, the Zoning Administrator may make a determination or consult with the WDNR and coordinate the appropriate onsite investigation to determine the exact boundary. If the WDNR staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland or vice versa, the Zoning Administrator shall have the authority to immediately deny or grant a zoning permit in accordance with the regulations applicable to the correct zoning district designation as it may be modified by such field determination. A notation shall be made on the map indicating that such a change has been made for future reference purposes. Utilizing the procedures above, if an area is found to be inappropriately mapped in a C-1 Conservancy, EFD Existing Floodplain Development Overlay or A-E Exclusive Agricultural Conservancy District category, the Zoning Administrator shall have the authority to designate a district for the subject area consistent with the upland category which may exist adjacent to the site without necessity of a formal amendment process and shall note said changes on the zoning map within 6 months of said determination.
5. Dispute or discrepancy of floodplain boundaries: In the case of any dispute or

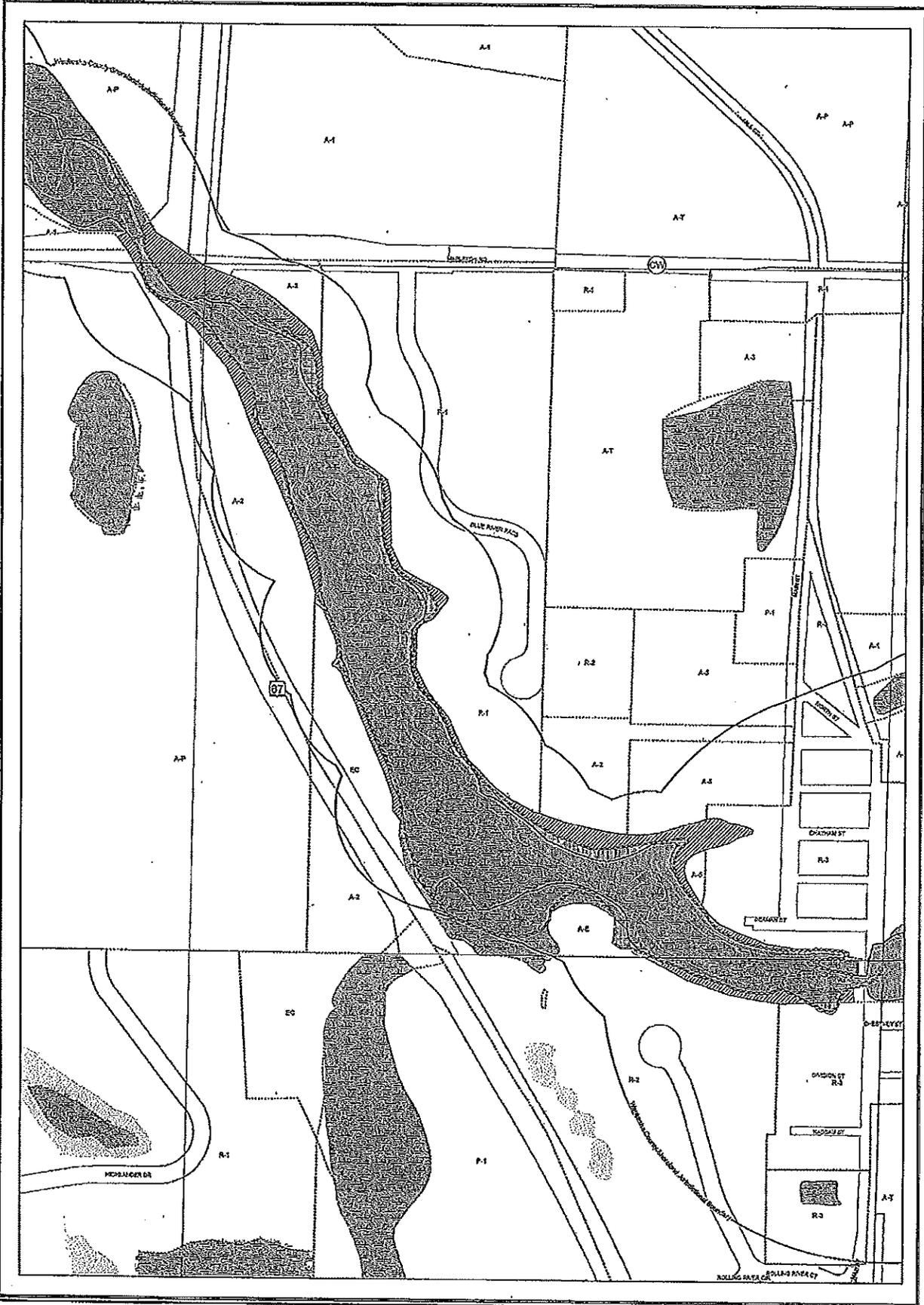
discrepancy regarding a boundary between an official zoning map and actual field conditions locating the floodplain boundary, the criteria in paragraphs (a) or (b) below shall be used. If a significant difference exists, the map shall be amended according to Section 39 of this Ordinance. Where the flood profiles are based on established base flood elevations from a Flood Insurance Rate Map, FEMA must also approve any map amendment. The Zoning Administrator can rely on a boundary derived from a flood profile elevation to grant or deny a permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to Section 38 of this Ordinance and the criteria in (a) and (b) below.

- a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- b. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the WDNR, and/or FEMA.

(Ord. No. 141-44, §§ XLII, XLIII, 7-22-1986)  
(Ord. Of 11-5-84, § V; Ord. No. 141-44, § XLI, 7-22-19

(Section 6(a) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)  
(Section 6(a) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 6(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)



**ZONING MAP AMENDMENT**  
**SECTIONS 5, 8 & 9**  
**TOWN OF ECONOMOWOC**

[Symbol] Standard Zoning to C-1 Consistency District  
 (Hydraulic Flood Shading (1.28 acre))  
 [Symbol] Hydraulic Flood Shading (Flowway)  
 [Symbol] 100-Yr. Floodplain from 2008 FEMA OFPM Maps  
 [Symbol] C-1 Consistency District to remain unchanged  
 (Includes 2008 DNR Wetlands Inventory & 2008 FEMA Floodplain)  
 [Symbol] C-1 Consistency District to be  
 changed to a C-2 consistency district (0.31 acres)

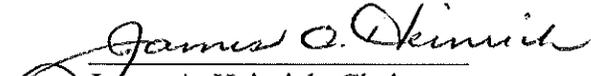
FILE: RZ-1744A  
 DATE: 11/15/12  
 TAX KEY HANGERS: MULTIPLE

1 Inch = 150 feet  
 Prepared by the Winnebago County Department of Public and Land Use

167-0-063

REPEAL AND RECREATE SECTION 6(b) OF THE WAUKESHA COUNTY  
SHORELAND AND FLOODLAND PROTECTION ORDINANCE TO  
INCORPORATE THE MONTEREY DAM FAILURE ANALYSIS (SZ-1744)

Presented by:  
Land Use, Parks, and Environment Committee

  
James A. Heinrich, Chair

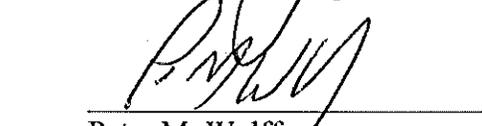
~~(ABSENT)~~  
Jim Batzko

  
Walter L. Kolb

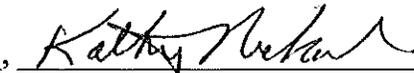
  
Pamela Meyer

  
Fritz Ruf

  
Thomas J. Schellinger

  
Peter M. Wolff

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

Date: 1-2-2013,   
Kathy Nickolaus, County Clerk

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

Approved: K  
Vetoed: \_\_\_\_\_  
Date: 1-3-13,   
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-12/18/12

(ORD) NUMBER-1670063

1 C. SLATTERY.....AYE  
 3 R. MORRIS.....AYE  
 5 J. BRANDTJEN.....AYE  
 7 J. GRANT.....AYE  
 9 J. HEINRICH.....  
 11 F. RUF.....AYE  
 13 P. DECKER.....AYE  
 15 W. KOLB.....AYE  
 17 D. PAULSON.....AYE  
 19 C. CUMMINGS.....AYE  
 21 W. ZABOROWSKI.....AYE  
 23 K. HAMMITT.....AYE  
 25 G. YERKE.....AYE

2 D. FALSTAD.....AYE  
 4 J. BATZKO.....AYE  
 6 J. JESKEWITZ.....AYE  
 8 P. HAUKOHL.....AYE  
 10 D. SWAN.....AYE  
 12 P. WOLFF.....AYE  
 14 P. MEYER.....  
 16 M. CROWLEY.....AYE  
 18 L. NELSON.....AYE  
 20 T. SCHELLINGER....AYE  
 22 P. JASKE.....AYE  
 24 D. DRAEGER.....AYE

TOTAL AYES-23

TOTAL NAYS-00

CARRIED\_\_\_\_\_

DEFEATED\_\_\_\_\_

UNANIMOUS   A  

TOTAL VOTES-23