

CITY OF WHITEWATER
COMMON COUNCIL AGENDA
Common Council Meeting
Tuesday, March 29, 2011 – 6:30 p.m.
City of Whitewater Municipal Building Community Room
312 W. Whitewater Street Whitewater, Wisconsin

AMENDED AGENDA AS OF 3/25/2011 – 9:30 A.M.
AGENDA AMENDED TO ADD ITEM 4, EXECUTIVE SESSION DISCUSSION

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE.

1. Consideration of, and action concerning Separation Agreement with former Police Chief James Coan.
2. Consideration and action on Eminent Domain Resolution of Necessity and Relocation order for the acquisition of real estate for the Whiton and Main Street traffic light project.
3. Resolution authorizing easement for natural gas regulation pits – Jefferson Street.
4. Adjourn to Executive Session, not to reconvene, pursuant to Chapter 19.85(1)(e) “Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.” Item to be discussed: Discussion on Union request to consider extension of Union Contracts with city employees.

. *Items denoted with asterisks will be approved on the Consent Agenda unless any council member requests that it be removed for individual discussion.

SEPARATION AGREEMENT AND GENERAL RELEASE

This Separation Agreement and General Release (hereinafter referred to as "Agreement") is made by and between James R. Coan (hereinafter referred to as "Employee") and The City of Whitewater (hereinafter referred to as "Employer").

Based upon and in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. The Employee has resigned his employment with the City of Whitewater effective March 19, 2011, and expressly declines any reinstatement, reemployment or rehire by the Employer and waives all rights to claim such relief
2. The Employee and the Employer are parties to an Employment Agreement dated August 31, 2006, and September 1, 2006, and have reached an Agreement concerning specific financial actions that will be taken by the parties. Those actions are as follows:
 - a. The Employee shall forfeit all of his right to payment upon separation for accumulated sick leave (approximately \$30,799.22).
 - b. The Employer will pay Employee, within fifteen (15) days of the approval of this Agreement by the City Council, \$5,300.00 as a full and final payment for his accumulated vacation payout.
 - c. The Employee shall not be required to pay the Employer the \$10,000.00 liquidated damages amount referenced in his employment contract.
3. As a material inducement to Employer to enter the Agreement, Employee hereby irrevocably and unconditionally releases, acquits and forever discharges Employer, its successors, assigns, agents, directors, officers, elected officials, employees, representatives, and all other persons acting by, through or in concert with any of them (collectively "Releasees") from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, actions, damages, expenses (including attorneys' fees and costs actually incurred), or any rights of any and every kind or nature, accrued or unaccrued, known and unknown, which Employee has or claims to have against each or any of the Releasees. This release pertains to but is in no way limited to all matters relating to or arising out of Employee's employment and/or the decision to resign his employment effective March 19, 2011. The release further pertains to but is in no way limited to rights and claims under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621, et seq.), the Older Workers Benefits

document
added to council packet
3-29-11 8:50 a.m. ms

Protection Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans With Disabilities Act, the Fair Labor Standards Act, the Equal Pay Act, the Employee Retirement Income Security Act, the Workers Adjustment and Retaining Notification Act, the Wisconsin Fair Employment Act and all other state, local or municipal fair employment laws.

4. As a material inducement to Employee to enter the Agreement, Employer hereby irrevocably and unconditionally releases, acquits and forever discharges Employee from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, actions, damages, expenses (including attorneys' fees and costs actually incurred), or any rights of any and every kind or nature, accrued or unaccrued, known and unknown, which Employer has or claims to have against Employee. This release pertains to but is in no way limited to all matters relating to or arising out of Employee's employment and/or the decision to resign his employment effective March 19, 2011.
5. The parties understand and agree that the Agreement is final and binding and constitutes the complete and exclusive statement of the terms and conditions of separation and that no representations or commitments were made by the parties to induce the Agreement other than as expressly set forth herein and that the Agreement is fully understood by the parties.
6. Neither this Agreement nor any action taken by the Employer or the Employee pursuant to it shall in any way be construed as an admission by the party of any wrongdoing or violation of law, regulation, contract or policy.
7. Employee further represents that he has had the opportunity and time to consult with legal counsel concerning the provisions of the Agreement and that he has been given twenty-one (21) days within which to execute the Agreement and seven (7) days following his execution to revoke the Agreement.
8. The Agreement may not be modified or supplemented except by a subsequent written Agreement signed by the party against whom enforcement of the modification is sought.
9. The validity, construction and enforceability of this Agreement shall be governed in all respects by the laws of the State of Wisconsin.
10. Employee acknowledges that he has carefully read the entire document, that a copy of the document was available to him prior to execution, that he knows and understands the provisions of the document, and that he has signed the document as his own free act and deed.

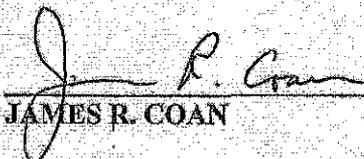
IN WITNESS WHEREOF, the parties herein executed the Agreement as of the date appearing next to their signatures.

CITY OF WHITEWATER

Date: _____, 2011. By: _____
Kevin Brunner, City Manager

Date: _____, 2011. By: _____
Michele R. Smith, City Clerk

CAUTION: THIS IS A RELEASE. CONSULT WITH AN ATTORNEY AND READ IT BEFORE SIGNING. THIS AGREEMENT MAY BE REVOKED IN WRITING BY YOU WITHIN SEVEN (7) DAYS OF YOUR EXECUTION OF THE DOCUMENT.

Date: March 25th, 2011. 
JAMES R. COAN

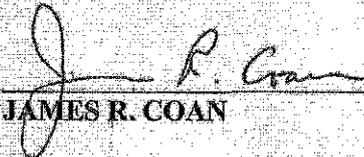
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Date: March 25th, 2011. 
JAMES R. COAN

**RESOLUTION ESTABLISHING A DETERMINATION
OF NECESSITY FOR ACQUISITION OF LANDS
FOR TRAFFIC SIGNAL PURPOSES;
PERMANENT LIMITED EASEMENTS;
TEMPORARY LIMITED CONSTRUCTION EASEMENTS, AND
AUTHORIZING NEGOTIATIONS FOR SUCH ACQUISITION
AND AUTHORIZING CONDEMNATION, IF NECESSARY,
FOR THE WHITON AND MAIN STREET TRAFFIC SIGNALS PROJECT**

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, has decided that public necessity demands the installation and construction of traffic signals at the intersection of Whiton and Main Street in the City of Whitewater, and

WHEREAS, on November 4, 2009, the City of Whitewater entered into an agreement with the State of Wisconsin, Department of Transportation for the funding of the installation and construction of traffic signals at the intersection of Whiton Street and Main Street in the City of Whitewater, and

WHEREAS, public necessity demands that the City of Whitewater acquire fee simple titles to the lands required for said traffic signal purposes, and

WHEREAS, public necessity demands that the City of Whitewater acquire permanent limited easements for traffic signal installation and operation, and

WHEREAS, public necessity demands that the City of Whitewater acquire temporary limited easements required for the installation and construction of said traffic signals,

Now, therefore, **BE IT RESOLVED**, by the Common Council of the City of Whitewater that the determination of necessity for 1) acquisition of lands for traffic signal purposes; 2) acquisition of permanent limited easements for placement and operation of traffic signals, and 3) acquisition of temporary limited easements for the installation and construction of traffic signals is hereby established; and

BE IT FURTHER RESOLVED that the attached Relocation Order is hereby approved, and the City Attorney, or agent for the City of Whitewater at the direction of the City Attorney, is hereby authorized and directed to serve the relocation order on the Clerk in and for Walworth County, Wisconsin, and

BE IT FURTHER RESOLVED that the City Attorney, or agent for the City of Whitewater at the direction of the City Attorney, is hereby authorized and directed to negotiate for the acquisition of those lands and easements required for the purposes above stated, and in the event said lands and easements cannot be obtained by negotiation, the City Attorney is hereby authorized and directed to take, by condemnation, those lands required for City purposes.

Resolution introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

ADOPTED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

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RELOCATION ORDER

LPA1708 04/2010 (Replaces LPA3006)

Project 3835-04-70	Name of Road West Main Street Intersects W/S Whiton Street	Highway Local Street	County Walworth
Right of Way Plat Date	Plat Sheet Numbers 4.1	Previously Approved Relocation Order Date Original	

Description of Termini of Project: Beginning at a point located 23.34 feet south of and 1803.02 feet west of the East ¼ corner of Section 5, T4N, R15E, thence easterly along the reference line of project ID 3835-04-00 to a point located 23.38 feet south of and 1698.04 feet west of the East ¼ corner of Section 5, as shown on the right-of-way detail or a copy thereof marked:

Project Number 3835-04-70
 West Main Street
 (Intersects with South Whiton Street)
 Local Street
 City of Whitewater
 Walworth County

To properly establish, lay out, widen, enlarge, extend, construct, reconstruct, improve, or maintain a portion of the highway designated above, it is necessary to relocate or change and acquire certain lands or interests in lands as shown on the right of way plat for the above project.

To effect this change, pursuant to authority granted under Section 62.22, Wisconsin Statutes, the City of Whitewater orders that:

1. The said road is laid out and established to the lines and widths as shown on the plat.
2. The required lands or interests in lands as shown on the plat shall be acquired by: The City of Whitewater
3. This order supersedes and amends any previous order issued by the: N/A

Kevin Brunner, City Manager

(Date)

RESOLUTION APPROVING THE GRANT OF AN EASEMENT TO WISCONSIN ELECTRIC POWER COMPANY UPON A PART OF PARCEL WSS 00060

WHEREAS, Wisconsin Electric Power Company is upgrading its facilities in the City of Whitewater and requires a gas distribution and regulator easement from the City of Whitewater upon a part of Parcel WSS 00060, which is owned by the City of Whitewater, and

WHEREAS, Wisconsin Electric Power Company has agreed to pay Two Thousand (\$2,000.00) Dollars for said easement, and

WHEREAS, it is in the best interests of the City of Whitewater to grant the easement.

Now, therefore, **BE IT RESOLVED** that the Common Council of the City of Whitewater, Walworth and Jefferson Counties, hereby authorizes the City Manager and the City Clerk to sign the attached Gas Distribution and Regulator Easement in consideration of a payment of Two Thousand (\$2,000.00) Dollars from Wisconsin Electric Power Company.

Resolution introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

ADOPTED:

**GAS DISTRIBUTION
AND REGULATOR EASEMENT**

Document Number

WR NO.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the **CITY OF WHITEWATER**, hereinafter referred to as "Grantor", owner of land, hereby grants and warrants to **WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin corporation doing business as We Energies**, hereinafter referred to as "Grantee", a permanent easement upon, within and beneath a part of Grantor's land hereinafter referred to as "easement area".

The easement area is described as the southerly one hundred (100) feet of the easterly twenty (20) feet of grantor's property running parrallel and abutting the right of way of Jefferson Street (as presently known), in the Northwest ¼ of Section 4, Township 4 North, Range 15 East, City of Whitewater, State of Wisconsin; said lands further described in that certain Quit Claim Deed recorded in office of the Register of Deeds for Walworth County on December 26th 1997 in Volume 651 on Page 5551 as Document No. 371047.

RETURN TO:
We Energies
PROPERTY RIGHTS & INFORMATION GROUP
231 W. MICHIGAN STREET, ROOM A252
PO BOX 2046
MILWAUKEE, WI 53201-2046

Grantor agrees to comply with the Addendum - General Construction Requirements and Restrictions for We Energies Gas Pipeline Easement Areas which is attached hereto, marked Exhibit "B", consisting of two pages, and made a part hereof by this reference.

WSS 00060
(Parcel Identification Number)

1. **Purpose:** The purpose of this easement is to install, operate, maintain repair, replace and extend underground utility facilities, pipeline or pipelines with valves, tieovers, main laterals and service laterals, together with all necessary and appurtenant equipment under and above ground, including cathodic protection apparatus used for corrosion control, as deemed necessary by Grantee and to install, operate, maintain, repair, replace a gas regulator together with and including the necessary foundations, fencing, protective barriers, piping, valving, regulators, filters, and gas process heating equipment and other related appurtenant under and above ground of such design and material as Grantee may deem necessary in the construction and operation of a gas regulator and gas facilities by Grantee, for the transmission and distribution of natural gas and all by-products thereof, or any liquids, gases, or substances which can or may be transported or distributed through a pipeline, including the customary growth and replacement thereof. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with Grantee's use of the easement area.
2. **Access:** Grantee or its agents shall have the right to enter and use Grantor's land with full right of ingress and egress over and across the easement area and adjacent lands of Grantor for the purpose of exercising its rights in the easement area.
3. **Buildings or Other Structures:** Grantor agrees that no structures will be erected in the easement area or in such close proximity to Grantee's facilities as to create a violation of all applicable State of Wisconsin electric and gas codes and any amendments thereto.
4. **Elevation:** Grantor agrees that the elevation of the ground surface existing as of the date of the initial installation of Grantee's facilities within the easement area will not be altered by more than 4 inches without the written consent of Grantee.
5. **Restoration:** Grantee agrees to restore or cause to have restored Grantor's land, as nearly as is reasonably possible, to the condition existing prior to such entry by Grantee or its agents. This restoration, however, does not apply to any trees, bushes, branches or roots which may interfere with Grantee's use of the easement area.
6. **Exercise of Rights:** It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until some time in the future, and that none of the rights herein granted shall be lost by non-use.

- 7. **Binding on Future Parties:** This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.
- 8. **Indemnify and Hold Harmless:** In consideration of the foregoing grant, it is understood that during the time said facilities are located on the premises of the grantor pursuant to this grant, Wisconsin Electric Power Company will indemnify and save the grantor, its successors and assigns harmless from any and all claims for injury or death to any person or for damage to property of any person arising out of grantee's exercise of any of its rights under this easement; excepting, however, any claims or actions arising out of negligence or willful acts on the part of the grantor, its successors and assigns, grantors employees, agents and invitees

Grantor:

CITY OF WHITEWATER

By _____

(Print name and title): _____

By _____

(Print name and title): _____

Personally came before me in _____ County, Wisconsin on _____,

the above named _____, the _____

and _____, the _____

of the CITY OF WHITEWATER, for the municipal corporation, by its authority, and pursuant to Resolution File

No. _____ adopted by its _____ on _____.

Notary Public Signature, State of Wisconsin

Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

My commission expires _____

This instrument was drafted by Jeffrey Fowle on behalf of Wisconsin Electric Power Company, PO Box 2046, Milwaukee, Wisconsin 53201-2046.

EXHIBIT "B"

ADDENDUM

General Construction Requirements and Restrictions
for We Energies Gas Regulator Site Easement Areas

1. The easement area must be accessible to We Energies personnel or their agents.
2. Fill material, rubble, scrap, pavement or berms may not be placed within the easement area without We Energies' prior written approval.
3. The elevation/grade over the pipeline may not be altered without prior written approval from We Energies. This includes both excavation and fill. A minimum of 36 inches of cover over the gas pipeline must be maintained at all times. The grade within ten (10) feet of a regulator facility may not be altered.
4. Retention ponds and their inlets/outlets are not permitted within the easement area. However, a storm sewer might be permitted within the easement area upon prior written approval from We Energies as to the location of same.
5. No drainage ditches or drain tiles may be constructed within the gas pipeline easement area unless approved in writing by We Energies with proper cover and erosion protection. Plans must be submitted to We Energies for prior written approval.
6. Septic fields or mound systems may not be constructed within the easement area. Laterals to or from the field or mound may cross the gas pipeline, provided that they maintain an 18 inch separation from the gas pipeline. If it is necessary to locate and expose the gas pipeline, excavation must be done by hand-digging or vacuum excavation with a We Energies representative present. Plans must be submitted to We Energies for prior written approval.
7. Underground culverts, pipelines, cables, sewers or any utility must not be placed within 18 inches of the gas pipeline in any direction and must be hand dug or vacuum excavated when within 4 feet of the gas pipeline. We Energies must be notified when excavation is planned in proximity to the gas pipeline to view and inspect excavation activities. Plans must be submitted to We Energies for prior written approval. There will be no charge to Grantor for the We Energies representative to view and inspect any underground excavation.
8. Digger's Hotline must be contacted at least 3 days prior to any excavation or construction activities within the easement area. The current phone number for Digger's Hotline is 1-800-242-8511.
9. Structures or above ground improvements are not allowed within the easement area. These prohibited structures include but are not limited to: houses, garages, outbuildings, storage sheds, decks, swimming pools, gazebos, satellite dish antennas and dog kennels/runs.

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EXHIBIT "B" – Page 2

10. Except landscaping around the regulator station as approved or provided by We Energies, landscaping, including trees and shrubs, **is not** permitted within fifteen (15) feet of the centerline of the pipeline.
11. The installation of future roadways must be supported by sound structural fill around the gas pipeline. We Energies may require soil borings to establish the subgrade load bearing characteristics of the site and prove that unstable soils are not present around the gas pipeline. Plans must be submitted to We Energies for prior written approval.
12. A paved/compacted surface, such as a driveway, is allowed within the easement area provided that a minimum cover of 48 inches is maintained over the gas pipeline. Plans must be submitted to We Energies for prior written approval.
13. Heavy earth moving equipment may not be routed over the gas pipeline without providing load bearing protection, such as temporary pavement, heavy mats, additional compacted cover or other adequate bridging methods. Prior notification to and written approval from We Energies are required.
14. **We Energies must be contacted at least three (3) working days prior to any excavation activity within the easement area to coordinate oversight or inspection, or to confirm compliance with these provisions. The current phone number for We Energies Gas Emergency Response is 1-800-261-5325. There will be no charge to Grantor for any oversight, inspection, or compliance information.**
15. Additional protective requirements may be necessary upon review of Grantor's construction plans submitted to We Energies as required by the Easement Agreement.

2 - 6X6 PITS - NO ABOVE GROUND PIPING

W STARIN RD 80'

FWO#1224967 - RETIRE MAINS
 FWO#1224256 - RETIRE REG & RELIEF PITS IO#1006296
 FWO# - RETIRE VALVE PIT



NORTH

539 ID 2367538
 KURT TROEMEL
 262-473-3140

CITY LANDS POSSIBLE DIVISION

REMEASURE RETIREMENTS RECORD PIPE REMOVED

- 6" STL 60D 74 8405-1 - 6'
- 4" STL 60D 74 8405-1 - 6'
- 4" STL 150D 80 MO249 - 6' - REPAIR
- 4" STL 150D 61 7581 - 138'
- 4" STL 60D 61 - 7581 - 20'
- 6" STL 150 61 7851 - 110'
- 6" STL 60D 7581 - 10'
- 801-2 - VALVE PIT - 1961
- 801-2 - REG PIT - 1961
- 801-14 - RELIEF PIT -1974

RETIRE VALVE PIT

EASEMENT

RETIRE PIT

RETIRE PIT

JEFFERSON ST 60'

445 ID 2367534
 JAY ZABEL
 262-844-2242

503 ID 2367535
 ROGER TREWYN
 262-473-6403

801-11S
 801-13Z
 3 WIRE TEST STAND
 NORTH - 4IN PE
 SOUTH - 6IN PE
 WEST - 6IN STL

ITEM NO.	DESCRIPTION	STD / MTL NUMBER	LOCATION	LOCATION	DEPTH
1	6" WELD TIE-IN				
2	6" WELD TIE-IN				
3	6" WELD TIE-IN				
4	6" 90 DEGREE WELD ELL				
5	6" WELD VALVE & BOX			PPE VALVE	
6	OPERATOR & MONITOR PITS			801-08	
7	6" WELD VALVE & BOX			PPE VALVE	
8	6" 90 DEGREE WELD ELL				
9	6" TRANS FIG				
10	6" 90° PE TEE				
11	6" PE REDUCER - NORTH				
12	4" PE VALVE & BOX				
13	4" EF CRG				
14	4" BENT CLAMP				
15	6" PE VALVE & BOX				
16	6" 90 DEGREE PE ELL				
17	6" 90 DEGREE PE ELL				
18	6" TRANS FIG				
19	6" LSF				
20	11# ANODE				
21	TEST STAND				

DRAWN BY: GARY GOODCHILD	
DATE: 12-30-10	OFFICE: WKGS
TRS: N4 15E NW4	TRS:
TRS:	TRS:

PROJECT DESCRIPTION / LOCATION	
N. JEFFERSON ST O&M PITS	
WHITEWATER CITY	
WALWORTH COUNTY	

RESERVATION NO.	
CSS NO. 117137	FWO NO.
MO NO. MRS15810106	SHEET NO. 01 OF 01



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