



## Legislation Details (With Text)

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<b>On agenda:</b>	1/18/2011	<b>Final action:</b>	1/18/2011		
<b>Enactment date:</b>	1/20/2011	<b>Enactment #:</b>	RES-11-00090		
<b>Title:</b>	Accepting various grants of easement for public access and use on the Edgewater Hotel property, authorizing the termination of two existing easements, and authorizing the Mayor and City Clerk to execute any necessary documents related thereto.				
<b>Sponsors:</b>	Mark Clear, David J. Cieslewicz				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Dec of Public Areas Easement (1_6_11).pdf, 2. Termination of 1975 Public Easements (1_6_11).pdf, 3. Partial Termination of 1973 Public Easement NGL Parcel (1_6_11).pdf, 4. Dec of Conservation Easement (1_6_11).pdf, 5. Dec of Public Parking Easement (1_6_11).pdf, 6. Dec of Public Restroom Access Easement (1_6_11).pdf, 7. Dec of ADA Access Easement (1_6_11).pdf, 8. Dec of Public Pedestrian Shoreline Walkway Easement (1_6_11).pdf, 9. Dec of Public Pedestrian Pathway to Shoreline Easement (1_6_11).pdf, 10. Brown comments_01-08-11.pdf, 11. Culver correspondence_01-10-11.pdf, 12. Lauber correspondence_01-08-11.pdf, 13. Mohs comments_01-10-11.pdf, 14. Zellers comments_01-10-11.pdf, 15. Registration Forms 1-18-11.pdf, 16. Emails for Council 1-18-11.pdf				

Date	Ver.	Action By	Action	Result
1/18/2011	1	COMMON COUNCIL	Adopt	Pass
1/10/2011	1	PLAN COMMISSION	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
1/4/2011	1	COMMON COUNCIL	Referred	Pass
12/30/2010	1	Attorney's Office	Referred for Introduction	

### Fiscal Note

The fiscal note is pending.

### Title

Accepting various grants of easement for public access and use on the Edgewater Hotel property, authorizing the termination of two existing easements, and authorizing the Mayor and City Clerk to execute any necessary documents related thereto.

### Body

#### Preamble

In 1965 the City vacated a portion of Wisconsin Avenue north of Langdon Street, and reserved an easement over that vacated portion for the permanent benefit of the general public. The vacation and reserved easement rights were provided for in an uncodified ordinance, which has since been amended several times (as amended, the "1965 Ordinance"). After the 1970's construction of the addition to the Edgewater Hotel in the vacated portion of Wisconsin Avenue, the owner of the Hotel granted to the City an Easement for Public Sidewalk and Parking Purposes (the "1975 Easement Document"). Separately, National Guardian Life ("NGL"), which owns lands abutting the Hotel, granted to the City an Easement for Sidewalk Purposes (the "1973 Easement Document").

The easement granted by NGL pursuant to the 1973 Easement Document includes a strip of land to be used for a public sidewalk. A portion of the land on which this easement exists will be conveyed by NGL to the Hotel

developer, and this portion of the easement shall be terminated and replaced with another sidewalk easement from the Hotel developer to be granted to the City for the benefit of the public.

The easements granted pursuant to the 1975 Easement Document include: (i) an easement for a six foot wide public pedestrian walkway along the shore of Lake Mendota; (ii) an easement for a six foot wide public pedestrian walkway to the Lake Mendota shoreline; and (iii) an easement for public parking off of Wisconsin Avenue. These three easement rights shall be terminated, and replaced with new grants of easements to the City for the benefit of the public as a part of the Hotel redevelopment.

Pursuant to the 1965 Ordinance and the PUD approval for the redevelopment of the Hotel property, the Hotel developer or its assigns is required to designate certain areas of the property as being accessible and open to the general public, and to grant perpetual, non-exclusive easements over the Hotel property to the City for the benefit and use of the public. These easement rights, the easement areas to be granted and the property they shall encumber are described and depicted in separate easement documents attached hereto. The management, maintenance, operation, access to and use of the easement areas shall be the responsibility of the Edgewater Hotel Company, LLC in accordance with a Public Access Management Agreement (the "Management Agreement") between the City and Edgewater Hotel Company, LLC. The perpetual easements to be granted to the City include the following:

Public Areas Easement. This perpetual, non-exclusive easement to be granted to the City shall permit the public to have the right to access and use the surface of certain outdoor improvements to be constructed as a part of the Hotel redevelopment, including the upper terrace, the stair leading to the waterfront and those improvements along the pathway adjacent to the waterfront, including the green space in front of the new building.

Public Pedestrian Pathway to Shoreline Access Easement. This is a perpetual, non-exclusive easement to be granted to the City for the purpose of allowing pedestrian foot traffic from the Wisconsin Avenue right-of-way to the public pedestrian walkway situated along the waterfront. This easement shall replace the pedestrian walkway easement along the eastern stair of the 70's addition that was granted as a part of the 1975 Easement Document.

Pedestrian Shoreline Walkway Easement. This is a perpetual, non-exclusive easement to be granted to the City to provide an improved six-foot wide pedestrian walkway along the Lake Mendota shoreline. This easement shall replace the pedestrian pathway easement granted as a part of the 1975 Easement Document.

ADA Access Easement. This non-exclusive, perpetual easement shall be granted to the City for the purpose of providing an ADA compliant means of access to the shoreline pedestrian path from the Langdon Street right-of-way. This easement shall run over, across and through the Hotel property.

Public Parking Easement. This perpetual, exclusive easement to be granted to the City shall provide four stalls of free parking to the public on a first-come first-serve basis 24 hours a day 365 days of the year. These stalls shall be constructed as a part of the Hotel redevelopment. This easement shall replace the public parking easement rights granted as a part of the 1975 Easement Document.

Conservation Easement. This perpetual easement to be granted to the City shall preserve and protect the view and open space above the existing structures located on the Hotel property and above any new structures to be constructed as a part of the Hotel redevelopment. This easement clarifies the terms of the 1965 Ordinance by providing a specified area in which the rights exist, and prohibits the property owner from erecting, installing or constructing any permanent building, structure or improvement within the easement area, or from making any permanent modification to, or enlargement or expansion to any of the structures on the property which would result in such expansions extending into the easement areas. The Conservation Easement may not be amended or terminated without the approval of the City.

Public Restroom Access Easement. This easement to be granted to the City provides access to and use by the public of restroom facilities on the terrace level of the Hotel property during the hours that the public access areas are open, and to restroom facilities near the lakeshore during such times when the hotel and restaurant spaces in which such restroom facilities are situated are open to the public.

NOW THEREFORE, BE IT RESOLVED, that the City hereby accepts the easement rights to be granted it in the Public Areas Easement, Public Pedestrian Pathway to Shoreline Access Easement, Pedestrian Shoreline Walkway Easement, ADA Access Easement, Public Parking Easement, Conservation Easement and Public Restroom Access Easement, all as described and depicted herein and in the attachments hereto.

BE IT FURTHER RESOLVED that the City hereby authorizes the termination of the 1973 and 1975 Easement

Documents, and provides that such termination shall not occur until new replacement easement rights have been granted to the City.

BE IT STILL FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to execute terminations of the 1973 and 1975 Easement Documents and any other documents necessary to fulfill the intentions of this Resolution, all in a form to be approved by the City Attorney.