



CITY OF WAWATOSA

COMMON COUNCIL

MINUTES • FEBRUARY 18, 2014

Regular Meeting

Common Council Chambers

7:30 PM

7725 West North Avenue, Wauwatosa, WI 53213

PRESENT: Alds. Walz-Chojnacki, Wilke, Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson (7:33 p.m.), McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson -14

ABSENT: Ald. Donegan

EXCUSED: Ald. Wilson

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Porter, Public Works Director; Mr. Ruggini, Finance Director; Police Chief Weber; Mr. Kesner, City Attorney; Ms. Enders, Development Director; Ms. Ledesma, City Clerk

Mayor Ehley in the Chair

The Mayor called the meeting to order at 7:30 p.m.

Approval of minutes of previous meeting

It was moved by Ald. McBride, seconded by Ald. Organ that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -13

APPOINTMENTS BY THE MAYOR

1. Community Development Authority (appointment, final reading)

Allan Wick, 2604 Pasadena Boulevard (Dist. 6)
Term expires 9/30/2015
VP, BMO Harris Bank, Wauwatosa office

2. Senior Commission (reappointment, final reading)

Mary Ann Hamill, 8017 Stickney Avenue (Dist. 2)
Term expires 4/30/2015
Community Representative, Wauwatosa Food Pantry

Patricia Miller, 8844 Stickney Avenue (Dist. 2)
Term expires 4/30/2015
Community Representative, RN

Diane Euting, 2404 N. 66th Street (Dist. 5)
Term expires 4/30/2016
Director of Greater Tosa Interfaith

Judi Parmeter, 8143 Richmond Court (Dist. 2)
Term expires 4/30/2017
Community Representative

It was moved by Ald. McBride, seconded by Ald. Moldenhauer to concur with the foregoing appointments. -13

3. Plan Commission (appointment, first reading)

Jason Wilke, 10409 W. Woodward Avenue (Dist. 8)
Term expires 4/30/2017
Landscape Architect, Waukesha County; City of Wauwatosa Alderman

Tom Stacey, 2521 N. 120th Street (Dist. 7)
Term expires 4/30/2017
Architect, Eppstein Uhen Architects

4. Board of Health (reappointment, first reading)

Dr. John Dunn, 7200 Maple Terrace (Dist. 4)
Term expires 12/31/2019
Physician

It was moved by Ald. Tilleson, seconded by Ald. Pantuso to request that Messrs. Wilke and Stacy appear before the Community Development Committee at the next meeting for a brief dialog prior to their appointment. Roll call vote, Ayes 7 (Wilke, Berdan, Birschel, Ewerdt, Hanson, Pantuso, Tilleson), Noes 7 (Walz-Chojnacki, Causier, Dubinski, McBride, Moldenhauer, Organ, Roznowski. The Mayor cast the tie-breaking vote of No. Motion failed 7-8

Foregoing appointments ordered held as this was the first reading.

APPLICATIONS, COMMUNICATIONS, ETC.

1. Letters of support for passage of the proposed bike/pedestrian plan from James Scoptur, 2600 N. Mayfair Road; D. Stephen Long, no address; Steve Smith, 2637 N. 96th Street; Nicole Penegor, 10137 W. Sunset Avenue; Michael Cape, 10137 W. Sunset Avenue; Eric Fowler, 11008 W. Ruby Avenue

Add to existing file

2. Letters of support to permit backyard bee-keeping in the City from Frieda Payne, 1940 Wauwatosa Avenue; Mary Jo Kern, 7525 Kenwood Avenue

Add to existing file

3. Notices of Claims by Atty. Jason Richard, 100 E. Wisconsin Avenue, Milwaukee, on behalf of Katrina Hamilton, 5270 N. Mohawk Avenue, Milwaukee, and Shante Robinson, 3423 N. Fifth Street, Milwaukee

City Attorney

4. Letter from Scott Bolte, 8836 Jackson Park Blvd., urging restoration of stricken General Recommendations to the proposed bike/pedestrian plan

Add to existing file

5. Notice of Claim: Scott Schueller, 8217 Brookside Place

City Attorney

- 6. Communication from Ald. Causier requesting an item to discuss the possible disbandment of the Employee Relations Committee and subsequent reassignment of duties

City Attorney; Human Resources; Employee Relations Committee

ORDINANCES FOR INTRODUCTION

- 1. Ordinance amending the City's Comprehensive Plan to adopt the Bike and Pedestrian Plan

Refer to originating committee

- 2. Ordinance amending the official zoning map of the City of Wauwatosa to rezone 2050 North Mayfair Road and 2100 North Mayfair Road from C2 District to C2 District/Planned Unit Development overlay

Refer to originating committee

FROM THE COMMITTEE ON LEGISLATION, LICENSING & COMMUNICATIONS

- 1. Resolution granting a "Class B" Liquor License extension to include tented parking lot at 11302 W. Blue Mound Road, Mark Zierath, agent, for an annual festival on Saturday, June 21, 2014, Blue Ribbon Pub, LLC d/b/a Jackson's Blue Ribbon Pub, applicant

Committee recommended approval 4-0

RESOLUTION R-14-32

WHEREAS, Mark Zierath, agent for Blue Ribbon Pub, LLC, d/b/a Jackson's Blue Ribbon Pub, 11302 W. Blue Mound road, Wauwatosa, WI, has requested a temporary extension of the licensed premises to include a tented parking lot of his business on Saturday, June 21, 2014, for their annual festival;

NOW, THEREFORE, BE IT RESOLVED THAT the licensed premises of Blue Ribbon Pub, LLC, d/b/a Jackson's Blue Ribbon Pub, be extended to include a tented parking area in the rear of the building on June 21, 2014, between the hours of 12:00 Noon to 11:00 PM with live music to end at or before 10:00 p.m., all trash being removed from the parking lot after the event, and the music kept at a reasonable level of volume at all times.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Gregory Walz-Chojnacki, Alderman
SECONDER:	Tim Hanson, Alderman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

- 1. Resolution setting a public hearing date of March 18, 2014 to consider adoption of the Bike and Pedestrian Plan by ordinance as an amendment to the City's Comprehensive Plan

Committee recommended approval 8-0

RESOLUTION R-14-33

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin that a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, March 18, 2014 in City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, or their agents or attorneys, will be heard concerning a proposed ordinance adopting the Bike and Pedestrian Plan as an amendment to the City's Comprehensive Plan.

BE IF FURTHER RESOLVED THAT the City Clerk be and is hereby directed to publish the proper notices of said hearing as required by law.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey Roznowski, Alderman
SECONDER:	John Dubinski, Alderman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

- Resolution setting a public hearing date of March 18, 2014 to consider a change of zoning from C2 District to C2 District/Planned Unit Development Overlay at 2050 North Mayfair Road and 2100 North Mayfair Road

Committee recommended approval 8-0

RESOLUTION R-14-34

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin that a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, March 18, 2014 in City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, or their agents or attorneys, will be heard concerning a proposed ordinance rezoning the properties located at 2050 North Mayfair Road and 2100 North Mayfair Road from C2 District to C2 District/Planned Unit Development Overlay.

BE IF FURTHER RESOLVED THAT the City Clerk be and is hereby directed to publish the proper notices of said hearing as required by law.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey Roznowski, Alderman
SECONDER:	John Dubinski, Alderman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

- Resolution approving a Land Combination at 6629 Hillside Lane, Matthew Luckow, applicant

Committee recommended approval 8-0

RESOLUTION R-14-35

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin that permission be and the same is hereby granted to Matthew Luckow for a Land Combination at 6629 Hillside Lane. The location of the parcels is more particularly described as follows:

HYDE PARK LOT 33 BLK 4 & NE HALF OF VACATED ALLEY ADJ ON SW NE 1/4 SEC 27

HYDE PARK LOT 34 BLK 4 & NELY HALF VAC ALLEY ADJ SWLY SUBJ TO EASEMENT NE 1/4 SEC 27

All in accordance with the application attached hereto and made a part of this resolution, and in compliance with Section 17.02.070 of the Code of the City of Wauwatosa.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey Roznowski, Alderman
SECONDER:	John Dubinski, Alderman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

- Resolution approving a Conditional Use in the C1 District at 7505 Harwood Avenue to expand Yo Mama!, Becky Berger, Yo Mama! and Curt Wiebelhaus, Sustainable Properties, Inc, applicants

Committee recommended approval 8-0

RESOLUTION R-14-36

WHEREAS, Becky Berger, Yo Mama! and Curt Wiebelhaus, Sustainable Properties, Inc., applied for a Conditional Use in the C1 District at 7505 Harwood Avenue to expand Yo Mama! and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Becky Berger, Yo Mama! and Curt Wiebelhaus, Sustainable Properties, Inc., to operate a restaurant in the C1 District at 7505 Harwood Avenue to expand Yo Mama! contingent upon:

- hours of operation: Monday through Saturday 11 a.m. to 11 p.m. and Sunday 11 a.m. to 10 p.m. from Memorial Day to Labor Day; and Monday through Saturday 11 a.m. to 10 p.m. and Sunday 11 a.m. to 9 p.m. the rest of the year
- approval of an encroachment agreement for expanded seating in the right-of-way
- obtaining any other licenses and permits.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeffrey Roznowski, Alderman
SECONDER:	John Dubinski, Alderman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

FROM THE COMMITTEE ON BUDGET & FINANCE

1. Resolution authorizing use of TIF #2 funds for the cost of a non-participating utility item in the WisDOT Contract for Swan Boulevard

Committee recommended approval 6-0

RESOLUTION R-14-37

WHEREAS, the Wisconsin Department of Transportation, as part of its contract for the reconstruction of Swan Boulevard, included a non-participating utility item on behalf of the Wauwatosa Water Utility to install a new water main to serve the residential portion of the development at Innovation Campus on the Milwaukee County grounds; and

WHEREAS, the Department of Transportation's bid price was \$577,460.20; and

WHEREAS, the provision of service to the Eschweiler Buildings allows said project to be eligible for funding as part of the project plan for Wauwatosa Tax Incremental District #2;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to complete the transaction for payment of construction costs associated with including a non-participating utility item in the Wisconsin Department of Transportation contract for Swan Boulevard by installation of a water main for service to UWM Innovation campus, at a bid price of \$577,460.20;

BE IT FURTHER RESOLVED THAT said water main extension is authorized for payment by the use of funds from City of Wauwatosa Tax Incremental Finance District #2.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Tim Hanson, Alderman
SECONDER:	Jill Organ, Alderwoman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

2. Resolution authorizing Staff to enter an agreement with GAI Engineers for the 104th Street storm sewer design Project - 4006 for an amount up to \$125,000

Committee recommended approval 5-0

RESOLUTION R-14-38

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT permission be and the same is hereby granted to the appropriate City officials to enter into an agreement with GAI Consultants for professional services related to storm sewer design on 104th Street, in an amount up to \$125,000.00.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Tim Hanson, Alderman
SECONDER:	Jill Organ, Alderwoman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

3. Resolution approving a \$35,000 fund transfer from the Reserve for Contingency for purchase of salt (2/3 vote required)

Committee recommended approval 5-0

RESOLUTION R-14-39

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT a fund transfer from the Reserve for Contingencies in the sum of \$35,000 for the purchase of salt in a quantity up to the balance of the current DOT contract allocation be and the same is hereby approved.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Tim Hanson, Alderman
SECONDER:	Jill Organ, Alderwoman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

4. Resolution authorizing staff to enter into a thirty-six month agreement with QuestCDN for a web-based construction document distribution system

Committee recommended approval 5-0

RESOLUTION R-14-40

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT approval of a thirty-six month contract with QuestCDN for a Software as a Service (SaaS) web-based construction document distribution system be and the same is hereby approved.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Tim Hanson, Alderman
SECONDER:	Jill Organ, Alderwoman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

5. Resolution approving a fund transfer from the Reserve for Contingency for settlement in property valuation cases, Target Corp. v. City of Wauwatosa, Milwaukee County Case Nos. 11-CV-12111 and 12-CV-8470, regarding the property 3900 N. 124th Street (2/3 vote required)

Committee recommended approval 5-0

RESOLUTION R-14-41

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the proposed settlement for the property valuation cases of Target Corporation as outlined in the draft Settlement Agreement attached hereto, be and the same are hereby approved;

BE IT FURTHER RESOLVED THAT \$56,000.00 be transferred from the Reserve for Contingencies for the purpose of satisfying the City's non-reimbursable portion of this settlement.

RESULT:	APPROVED [13 TO 1]
MOVER:	Tim Hanson, Alderman
SECONDER:	Jill Organ, Alderwoman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki
NAYS:	Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

6. Bills and Claims

BILLS AND CLAIMS FOR THE PERIOD 02/05/14 - 02/18/14 -

The Committee on Budget and Finance hereby reports to the Common Council that it has examined the accounts of bills and claims and hereby certifies the same as correct and recommends that each of said accounts be allowed and paid.

Total bills and claims for 02/05/14 - 02/18/14: \$974,343.85

It was moved by Ald. Causier, seconded by Ald. Dubinski that each and every account of bills and claims be allowed and ordered paid. Roll call vote, Ayes 14

FROM THE BOARD OF PUBLIC WORKS

1. Annual report of the Board of Public Works

Board recommended approval 5-0

RESOLUTION R-14-42

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the Annual Report of the Board of Public Works for 2013 attached hereto, be and the same is hereby accepted with edit to report detail.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Tim Hanson, Alderman
SECONDER:	Jill Organ, Alderwoman
AYES:	Berdan, Birschel, Causier, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke
ABSENT:	Donegan
EXCUSED:	Wilson

Carla A. Ledesma, CMC, City Clerk

CITY OF WAUWATOSA
Resolution

R-14-32

By: Legislation, Licensing and Communications

WHEREAS, Mark Zierath, agent for Blue Ribbon Pub, LLC, d/b/a Jackson's Blue Ribbon Pub, 11302 W. Blue Mound road, Wauwatosa, WI, has requested a temporary extension of the licensed premises to include a tented parking lot of his business on Saturday, June 21, 2014, for their annual festival;

NOW, THEREFORE, BE IT RESOLVED THAT the licensed premises of Blue Ribbon Pub, LLC, d/b/a Jackson's Blue Ribbon Pub, be extended to include a tented parking area in the rear of the building on June 21, 2014, between the hours of 12:00 Noon to 11:00 PM with live music to end at or before 10:00 p.m., all trash being removed from the parking lot after the event, and the music kept at a reasonable level of volume at all times.

Passed and Dated _____

Clerk

Approved _____

Mayor

CITY OF WAUWATOSA
Resolution

R-14-33

By: Community Development Committee

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin that a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, March 18, 2014 in City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, or their agents or attorneys, will be heard concerning a proposed ordinance adopting the Bike and Pedestrian Plan as an amendment to the City's Comprehensive Plan.

BE IF FURTHER RESOLVED THAT the City Clerk be and is hereby directed to publish the proper notices of said hearing as required by law.

Passed and Dated _____

Clerk

Approved _____

Mayor

CITY OF WAUWATOSA
Resolution

R-14-34

By: Community Development Committee

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin that a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, March 18, 2014 in City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, or their agents or attorneys, will be heard concerning a proposed ordinance rezoning the properties located at 2050 North Mayfair Road and 2100 North Mayfair Road from C2 District to C2 District/Planned Unit Development Overlay.

BE IF FURTHER RESOLVED THAT the City Clerk be and is hereby directed to publish the proper notices of said hearing as required by law.

Passed and Dated _____

Clerk

Approved _____

Mayor

CITY OF WAUWATOSA
Resolution

R-14-35

By: Community Development Committee

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin that permission be and the same is hereby granted to Matthew Luckow for a Land Combination at 6629 Hillside Lane. The location of the parcels is more particularly described as follows:

HYDE PARK LOT 33 BLK 4 & NE HALF OF VACATED ALLEY ADJ ON SW NE 1/4 SEC 27

HYDE PARK LOT 34 BLK 4 & NELY HALF VAC ALLEY ADJ SWLY SUBJ TO EASEMENT NE 1/4 SEC 27

All in accordance with the application attached hereto and made a part of this resolution, and in compliance with Section 17.02.070 of the Code of the City of Wauwatosa.

Passed and Dated _____

Clerk

Approved _____

Mayor

CITY OF WAUWATOSA
Resolution

R-14-36

By: Community Development Committee

WHEREAS, Becky Berger, Yo Mama! and Curt Wiebelhaus, Sustainable Properties, Inc., applied for a Conditional Use in the C1 District at 7505 Harwood Avenue to expand Yo Mama! and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Becky Berger, Yo Mama! and Curt Wiebelhaus, Sustainable Properties, Inc., to operate a restaurant in the C1 District at 7505 Harwood Avenue to expand Yo Mama! contingent upon:

1. hours of operation: Monday through Saturday 11 a.m. to 11 p.m. and Sunday 11 a.m. to 10 p.m. from Memorial Day to Labor Day; and Monday through Saturday 11 a.m. to 10 p.m. and Sunday 11 a.m. to 9 p.m. the rest of the year
2. approval of an encroachment agreement for expanded seating in the right-of-way
3. obtaining any other licenses and permits.

Passed and Dated _____

Clerk

Approved _____

Mayor

CITY OF WAUWATOSA
Resolution

R-14-37

By: Budget and Finance Committee

WHEREAS, the Wisconsin Department of Transportation, as part of its contract for the reconstruction of Swan Boulevard, included a non-participating utility item on behalf of the Wauwatosa Water Utility to install a new water main to serve the residential portion of the development at Innovation Campus on the Milwaukee County grounds; and

WHEREAS, the Department of Transportation's bid price was \$577,460.20; and

WHEREAS, the provision of service to the Eschweiler Buildings allows said project to be eligible for funding as part of the project plan for Wauwatosa Tax Incremental District #2;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to complete the transaction for payment of construction costs associated with including a non-participating utility item in the Wisconsin Department of Transportation contract for Swan Boulevard by installation of a water main for service to UWM Innovation campus, at a bid price of \$577,460.20;

BE IT FURTHER RESOLVED THAT said water main extension is authorized for payment by the use of funds from City of Wauwatosa Tax Incremental Finance District #2.

Passed and Dated _____

Clerk

Approved _____

Mayor

CITY OF WAUWATOSA
Resolution

R-14-38

By: Budget and Finance Committee

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT permission be and the same is hereby granted to the appropriate City officials to enter into an agreement with GAI Consultants for professional services related to storm sewer design on 104th Street, in an amount up to \$125,000.00.

Passed and Dated _____

Clerk

Approved _____

Mayor

CITY OF WAUWATOSA
Resolution

R-14-39

By: Budget and Finance Committee

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT a fund transfer from the Reserve for Contingencies in the sum of \$35,000 for the purchase of salt in a quantity up to the balance of the current DOT contract allocation be and the same is hereby approved.

Passed and Dated _____

Clerk

Approved _____

Mayor

CITY OF WAUWATOSA
Resolution

R-14-40

By: Budget and Finance Committee

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT approval of a thirty-six month contract with QuestCDN for a Software as a Service (SaaS) web-based construction document distribution system be and the same is hereby approved.

Passed and Dated _____

Clerk

Approved _____

Mayor

CITY OF WAUWATOSA
Resolution

R-14-41

By: Budget and Finance Committee

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the proposed settlement for the property valuation cases of Target Corporation as outlined in the draft Settlement Agreement attached hereto, be and the same are hereby approved;

BE IT FURTHER RESOLVED THAT \$56,000.00 be transferred from the Reserve for Contingencies for the purpose of satisfying the City's non-reimbursable portion of this settlement.

Passed and Dated _____

Clerk

Approved _____

Mayor

SETTLEMENT AGREEMENT

This Agreement is between Target Corporation ("Target"), a corporation organized and existing under the laws of the State of Minnesota and registered and authorized to conduct business in the State of Wisconsin, and the City of Wauwatosa, Wisconsin (the "City"), a municipal corporation organized and existing under the laws of the State of Wisconsin.

1. Definitions. In this Agreement:
 - (a) The "Property" means the land and improvements located at, parcel number 258-0001-09, in the City of Wauwatosa, Wisconsin.
 - (b) "Case" means the action pending in the circuit court for Milwaukee County, Wisconsin titled *Target Corporation v. City of Wauwatosa*, Case No. 12-CV-1023.
 - (c) "Court" means the Circuit Court for Milwaukee County.
 - (d) A "tax year" means a year in which an assessment is made as of January 1, with taxes based on the assessment payable in the year following the tax year.
2. Refund of Taxes. The City shall issue a refund payable to Reinhart Boerner Van Deuren S.C. Trust Account, or to another account designated by Target in writing, pursuant to Wis. Stat. § 74.37, in the amount of \$62,375.27 for 2010, \$62,569.07 for 2011 and \$64,836.56 for 2012 for a total of \$189,780.90 as a refund of property taxes previously paid by Target based on the property tax assessment of the Property for the tax years 2010, 2011 and 2012. The parties agree that no portion of these amounts constitutes interest.
3. Waiver of Costs. Each party waives all claims for costs.
4. Time of Payments. The City shall pay the refund of taxes provided in section 2 of this Agreement in full within 30 days of the date this Agreement is signed by both parties.
5. Stipulation for Dismissal. No later than ten days after Target receives payment in full of the refund of taxes provided in section 2 of this Agreement, the parties shall (a) enter into a stipulation, signed by their respective attorneys, for the dismissal of the Case (including, but not limited to, all claims asserted in the Complaint in the Case) on the merits, with prejudice, and without costs to either party; and (b) file the stipulation with the Court.
6. Breach of this Agreement. Any breach of this Agreement, including but not limited to, failure to make payment in full as provided in sections 2 and 5, shall give rise to a cause of action for breach. In the event of any litigation, including appeals, in connection with the breach, enforcement, or interpretation of this Agreement, the prevailing party shall recover all reasonable attorneys' fees and costs incurred in connection herewith.
7. Responsibility for Fees and Expenses of Attorneys and Experts. Each party shall be solely responsible for the fees of its attorneys and experts.
8. No Representations. Each party acknowledges and agrees that no representation

or promise not expressly contained in this Agreement has been made by the opposing party or any of its employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or implied.

9. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective heirs, successors, and assigns.

10. Governing Law. This Agreement shall be governed and interpreted by the laws of the State of Wisconsin.

11. Interpretation of Agreement. The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this Agreement: (a) neither party shall be deemed the drafter of this Agreement for purposes of its interpretation; and (b) the parties shall attempt in good faith to resolve the dispute.

12. Representation By Counsel; Reliance. Each party acknowledges that it has been represented throughout all negotiations leading up to this Agreement by attorneys of its choice and that its attorneys have approved this Agreement. Each party represents that in entering into this Agreement, the party has relied on its own judgment and on the advice of its attorneys, and that no statements or representations made by the other party or any of its agents, except statements or representations expressly made in this Agreement, have influenced or induced the party to sign this Agreement.

13. No Assignment or Transfer. Target represents and warrants that it has not assigned or transferred to anyone and will not assign or transfer to anyone any of the claims in the Case.

14. Entire Agreement. This Agreement states and constitutes the entire agreement of the parties concerning its subject matter and supersedes all prior or contemporaneous agreements (written or oral), representations, negotiations, and discussions concerning its subject matter, including but not limited to, all agreements (written or oral), representations, negotiations, and discussions made in the course of mediation of the Case.

15. Use of this Agreement. This Agreement shall not be filed with the Court in this Case or in any other case or proceeding, except for the purpose of enforcing this Agreement. This Agreement and any part of this Agreement shall not be admissible in the lawsuit or in any future judicial or administrative proceeding and shall not be offered as evidence or presented by any Party in the Lawsuit or any future judicial or administrative proceeding, except for the purpose of enforcing this Agreement.

16. No Admissions of Liability or Concerning Assessments or Fair Market Value. This Agreement is the settlement of disputed claims. By entering into this Agreement, the City does not admit any liability to Target for any of the claims asserted in the Case or Target's objections to the assessments, and the payments made under this Agreement shall not be construed as an admission of any such liability. Neither Party makes an admission about the assessments or the fair market value of the Property as of January 1, 2010, January 1, 2011, January 1, 2012 or any other date nor any other admission concerning the assessment of Target's

property.

17. Waiver. No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

18. Amendments or Modifications. This Agreement may not be amended, modified or altered in any manner whatsoever, except by a further written agreement duly authorized and signed by the parties.

19. Authorization to Sign Agreement. Each person signing this Agreement on behalf of either party represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this Agreement on behalf of the party. Each party represents that entry into this Agreement is not in contravention of any agreement or undertaking to which the party is bound.

20. Reading of Agreement. Each person signing this Agreement on behalf of either party acknowledges that the person has read this Agreement, that the person understands the terms and conditions of this Agreement, that the person (if other than an attorney for the party) has been advised by legal counsel concerning this Agreement, and that the person freely and voluntarily signs this Agreement.

Dated: November __, 2013.

TARGET CORPORATION

BY: Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street, Suite 600
Madison, WI 53703

Don M. Millis
State Bar No. 1015755
Jessica Hutson Polakowski
State Bar ID 1061368

Dated: November __, 2013.

APPROVED AS TO FORM:

BY: Stafford Rosenbaum LLP
222 W. Washington Ave., Suite 900
Madison, WI 53703

Amie B. Trupke
State Bar ID No. 1041768

Dated: _____, 2013.

CITY OF WAUWATOSA

By:

10550244

Office of the City Assessor
Commercial Property Annual Assessment Report

2010 Assessment Ratio	1.03
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Parcel # :	258-0001-09	Date :	06/02/10
Situs :	3900 N 124th Street	Owner :	Dayton Hudson Corp
		# of Acres	
PFA (SF) :	143,402	Net Leasable :	143,402
GFA (SF) :	143,402	Land SF :	507,876
		Constr. Year :	1970
		Remodeled Year :	1998

Type : Retail - Discount store
 Comments : For 2010: Razed old store and new construction of replacement store complete

In rent:	Electricity	Parking:	# Pkg Spaces	0	0
	Heat		# Pkg Stalls:	0	0
	Water/Sewer		# of Gar Spaces	0	0
	Furniture				

Sq Ft	Floor	Description	Tenant	Actual Rent/Sq Ft	Market Rent/Sq Ft	Market Monthly Rent	Market Annual Rent
143402	1st	Store	Target	\$0.00	\$10.00	\$119,502	\$1,434,020
0				\$	\$	\$0	\$0
143402					10.00	\$0	\$1,434,020

Potential Gross Income (Annual) : \$1,434,020
 Vacancy : 5.00% (\$71,701)
 Total Other Income : \$0

Pkg-outdoor \$0
 Pkg-indoor \$0
 Other Income \$0

Effective Gross Income : \$1,362,319

Operating Expenses :	Reported Expenses	Market Annual \$	Per Unit	% EGI
Utilities:	\$ -	\$0	\$0	0.0%
Mgmt/Admin :	\$ -	\$34,058	\$0	2.5%
Legal, Accounting:	\$ -	\$6,812	\$0	0.5%
Janitorial, Repairs, Maintenance :	\$ -	\$0	\$0	0.0%
Reserves:	\$ -	\$6,812	\$0	0.5%
Insurance:	\$ -	\$0	\$0	0.0%
Sewer, Water:	\$ -	\$0	\$0	0.0%
Lawn, Garbage, Snow:	\$ -	\$0	\$0	0.0%
Taxes:	\$ -	\$0	\$0	0.0%

Total Expenses (less taxes) : \$47,681

Net Operating Income : \$1,314,638

Capitalization Rate : 10.64%

Ov'l Rate : 8.55%
 Tax Rate : 2.09%

Value Estimate : \$12,355,619
 Value Estimate (rounded): \$12,356,000

Average mo. rent SF	\$0.00
Derived GRM	8.6
Operating Expense Summary:	% EGI Per Unit Per SF
Operating Expenses:	\$ 47,681 3.5% \$ 0 \$ 0.33
Derived RE Taxes:	\$ 258,240 19.0% \$ 2 \$ 1.80
Total Operating Expenses:	\$ 305,922 22.5% \$ 2 \$ 2.13

REVALUATION RECOMMENDATION :

	Current	Partial (Y/N)	\$ / SF	Reval.	\$ / SF	Change	% Change
Land :	\$8,380,000	No	\$16.50	\$7,821,300	\$15.40	(\$558,700)	
Imps :	\$4,219,500	No	\$29.42	\$4,534,700	\$31.62	\$315,200	
Total:	\$12,599,500		\$87.86	\$12,356,000	\$86.16	(\$243,500)	-1.9%

CITY OF WAUWATOSA
Resolution

R-14-42

By: Board of Public Works

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the Annual Report of the Board of Public Works for 2013 attached hereto, be and the same is hereby accepted with edit to report detail.

Passed and Dated _____

Clerk

Approved _____

Mayor