

Visit our website at
www.oakcreekwi.org
for the agenda and
accompanying
common council
reports.



Common Council
Chambers
8640 S. Howell Ave.
PO Box 27
Oak Creek, WI 53154
(414) 768-6500

COMMON COUNCIL MEETING AGENDA

TUESDAY, OCTOBER 15, 2013
AT 7:00 P.M.

COUNCIL MEETINGS CAN BE SEEN LIVE ON GOVERNMENT ACCESS CHANNELS 25 AND 99

1. Call Meeting to Order / Roll Call
2. Pledge of Allegiance
3. Approval of Minutes: 10/1/13

Public Hearings (beginning at 7:00 p.m.)

Citizen input, comments and suggestions are requested on the specific item(s) identified below. Action by the Council may occur at the same meeting if so included in the agenda.

4. **Special Assessment:** Consider proposed special assessments for water main and appurtenances for Project No. 14101, on both sides of S. 10th Avenue from approximately 450 feet south of E. Becker Rd., to E. County Line Road and the north side of E. County Line Road from S. 10th Avenue to S. Chicago Rd. (STH 32) (4th District).
5. **Resolution:** Consider Resolution No. 11410-101513, a final resolution authorizing water main and lateral improvements, and levying special assessments against benefited properties on both sides of S. 10th Ave. from 450' south of E. Becker Road to E. County Line Rd. and on the north side of E. County Line Road from S. 10th Avenue to S. Chicago Rd. (Project No. 14101) (4th District).
6. **Official Map Amendment:** Consider a proposal by St. Mary and St. Antonious Coptic Orthodox Church to amend the official map for the North 20 acres of the East ½ of the Northeast ¼ of Section 18, Town 5 North, Range 22 East. (2nd District).
7. **Ordinance:** Consider Ordinance No. 2697, amending the official map for the North 20 acres of the East ½ of the Northeast ¼ of Section 18 (2nd District).
8. **Street Vacation:** Consider a proposed street vacation and discontinuation of a part of Public Street in the City of Oak Creek (324 E. Forest Hill Ave. in the SE ¼ of Section 16-5-22) (1st District).
9. **Resolution:** Consider Resolution No. 11399-090313, vacating and discontinuing a part of a public street in the City of Oak Creek (324 E. Forest Hill Ave. in the SW ¼ of Section 16-5-22) (held 09/03/13) (1st District).
10. **Resolution:** Consider Resolution No. 11393-082013, approving a certified survey map for the property at 324 E. Forest Hill Ave. (1st District).

11. **Resolution:** Consider Resolution No. 11394-082013, approving a certified survey map for the property at 400 E. Lily Dr. (1st District).

Presentation

12. **Presentation:** Presentation and Announcement of Winners of the Mayor's Landscape Awards.
13. **Presentation:** Presentation by Bray Architects; Owner's Representative, Steve Chamberlin; and Community Development Director, Douglas Seymour, to update the Council on the City Hall, Library and Fire Station project.

New Business

MAYOR & COMMON COUNCIL

14. **Motion:** Consider a motion to authorize the Mayor and City Clerk to execute a three-year contract with Tyler Technologies Inc., for full assessment and software services, for the period of 11/1/13 through 10/31/16, for an annual fee of \$175,000 with no price increase over its terms (by Committee of the Whole).
15. **Motion:** Consider a motion to establish new hours City Hall will be open to the public beginning January 2, 2014 (by Committee of the Whole).
16. **Motion:** Consider a motion to approve the 2013 Vendor Summary Report in the amount of \$364,416.63 (by Committee of the Whole).

COMMUNITY DEVELOPMENT

17. **Motion:** Consider Resolution No. 11411-101513, expressing opposition to Wisconsin Assembly Bill 385 regarding changes to the local hotel room tax (by Committee of the Whole).

LICENSE COMMITTEE

The License Committee met on 10/3/13. Minutes are attached. Recommendation are being made as follows:

18. **Motion:** Consider a motion to grant an Operator's license to Troy Reichenberger, 10524 W. Cortez Cir., Franklin (Buffalo Wild Wings).
19. **Motion:** Consider a motion to grant an Operator's license to Gabrielle Hanley, 3807A East Holmes Ave., Cudahy (Branded Steer).
20. **Motion:** Consider a motion to grant an Operator's license to Robin Atwood, 580 W. Riverwood Dr., #104, Oak Creek (Legion).

The following items were received after the License Committee met:

21. **Motion:** Consider a *motion* to grant an Operator's license to the following (*favorable background report received*):
 - Warren C. Litza, 1224 E. Oak Ln., Oak Creek (Legion)
 - Jenny L. Bergez, 26570 Oak Ridge Dr., Wind Lake (Legion)
 - Jeffrey Girard, 1200 Madison Ave., South Milwaukee (Legion)
 - Daniel M. Ornelas, 4101 E. Barton Oaks Ct., Oak Creek (Mobile Oasis)
22. **Motion:** Consider a *motion* to grant an Original Class A Beer license to Cynthia Smith, Walgreen Co., dba Walgreens #04887, 9449 S. Howell Ave.
23. **Motion:** Consider a *motion* to grant a change of agent to Ultra Food Mart, LLC dba Pick 'n Save #6387 from Matthew Meyer to Richard T. Romel, 1226 Dundee Dr., Racine.

MISCELLANEOUS

24. **Motion:** Consider a *motion* to convene in to Closed Session immediately following the conclusion of the Common Council meeting pursuant to Wisconsin State Statutes as follows:
 - a. Section 19.85 (1)(e) to discuss the terms of a development agreement, including a TIF incentive grant, with Wired Development for a mixed use development at Drexel Town Square.
 - b. Section 19.85 (1)(e) to discuss the terms of a development agreement, including a TIF incentive grant, with Barrett Visionary Properties for a multi-family development at Drexel Town Square.
 - c. Section 19.85 (1)(g) to discuss potential litigation against the Dillon Group LLC regarding the installation of the final lift of asphalt and other improvements in the Belmont Grove subdivision.
 - d. Section 19.85 (1)(g) to discuss potential litigation against Angus Young & Associates, Inc. of Janesville, WI and VJS Construction Services of Pewaukee, WI regarding the design and construction negligence related to the addition and renovation of the public works facility at 800 W. Puetz Rd.
 - e. Statutes 19.85 (1)(c) to discuss COBRA benefits for a former firefighter.
25. **Motion:** Consider a *motion* to reconvene into Open Session.
26. **Motion:** Consider a *motion* to take action, if required.

Adjournment.

Public Notice

Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid at no cost to the individual to participate in public meetings. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible preferably a minimum of 48 hours. For additional information or to request this service, contact the Oak Creek City Clerk at 768-6511, (FAX) 768-9587, (TDD) 768-6513 or by writing to the ADA Coordinator at the Health Department, City Hall, 8640 S. Howell Avenue, Oak Creek, Wisconsin 53154.

It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

CITY OF OAK CREEK

**NOTICE OF PUBLIC HEARING ON SPECIAL ASSESSMENTS
FOR WATER MAIN AND APPURTENANCES**

IN ACCORDANCE WITH RESOLUTION NO. 11391-082013

(PROJECT NO. 14101)

PLEASE TAKE NOTICE that the Common Council of the City of Oak Creek has declared its intention to exercise its power under Section 3.20 of the Municipal Code of the City of Oak Creek to levy special assessments upon abutting property for benefits conferred upon such property in the following location:

PROJECT NO. 14101 WATER MAIN AND APPURTENANCES

All property fronting on:

Both sides of S. 10th Avenue

From: Approx. 450 feet south of E. Becker Road
To: E. County Line Road

And

The north side of E. County Line Road

From: S. 10th Avenue
To: S. Chicago Road (STH 32)

The report of the Utility Engineer showing preliminary proposed plans, estimated cost of improvements and proposed assessments are on file in the office of the Utility Engineer and may be inspected there Monday through Friday between the hours of 7:30 a.m. and 4:00 p.m.

You are further notified that the Common Council will hear all persons interested or their agents or attorneys concerning matters contained in the proposed assessments on Tuesday, October 15, 2013 at 7 p.m. in the City Hall Council Chambers. All particulars presented will be finally determined.

By order of the Common Council.

Dated this 20th day of August, 2013

/s/ Catherine A. Roeske
City Clerk

City of Oak Creek Common Council Report

Meeting Date: October 15, 2013

Item No.: 5

Recommendation: That the Common Council adopt Resolution No. 11410-101513 a final resolution authorizing water main and lateral improvements, and levying special assessments against benefited properties on both sides of S. 10th Avenue from 450' south of E. Becker Road to E. County Line Road and on the north side of E. County Line Road from S. 10th Avenue to S. Chicago Road, and to set the special assessment interest rate for repayment. (Project No. 14101) (4th Aldermanic District).

Background: The project was initiated by property owners through a petition for public service and will provide water service to the adjacent property owners. If approved, the installation will be completed by the fall of 2014. Residents in this area had been advised by the Wisconsin Department of Natural Resources (WDNR) that molybdenum levels in private wells equals or exceeds ground water quality enforcement standards. Since the date of the petition, the WDNR has relaxed the standard.

The special assessment interest rate for repayment has been 7% for the last 20 years. City of Oak Creek staff will provide a recommendation based on some economic indicator that will result in an appropriate interest rate moving forward.

A public information meeting regarding the project was held on September 24, 2013. Each affected property owner was sent a letter introducing the project.

The Oak Creek Water and Sewer Commission approved the project at their May 14, 2013 meeting.

Fiscal Impact: The Oak Creek Water and Sewer Utility will initially fund the entire cost of the project, and shall be reimbursed as special assessments are received. The estimated cost of the project is \$800,000.

Prepared by:



Ronald J. Pritzlaff, P.E.
Utility Engineer

Respectfully submitted,



Gerald Peterson, ICMA-CM
City Administrator

Fiscal Review by:



Bridget M. Souffrant
Finance Director/Comptroller

RESOLUTION NO. 11410-101513

BY: _____

**FINAL RESOLUTION AUTHORIZING WATER MAIN, LATERALS,
AND APPURTENANCES IN S. 10th AVENUE AND E. COUNTY LINE ROAD
AND LEVYING SPECIAL ASSESSMENTS AGAINST BENEFITED
PROPERTIES AND APPROVING PRELIMINARY PLANS**

(PROJECT NO. 14101)

(4th ALDERMANIC DISTRICT)

WHEREAS, the Common Council of the City of Oak Creek, held a public hearing at the City Hall at 7:00 p.m. on October 15, 2013 for the purpose of hearing all interested persons concerning preliminary Resolution No. 11391-082013, the report of the Utility Engineer on the proposed improvements and construction of water main, laterals, and appurtenances, and on benefits conferred upon properties in the following location:

PROJECT NO. 14101 WATER MAIN, LATERALS, AND APPURTENANCES

All property fronting on:

Both sides of S. 10th Avenue

From: Approx. 450 feet south of E. Becker Road
To: E. County Line Road

And

The north side of E. County Line Road

From: S. 10th Avenue
To: S. Chicago Road (STH 32)

and has heard all persons desiring audience at such hearing and has considered the Engineer's Report.

WHEREAS, the City proposed to install said improvements and the owners abutting said improvements will benefit from the installation of same; and

WHEREAS, the Utility Engineer has prepared preliminary plans for said improvements; and

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Oak Creek as follows:

1. That the aforementioned improvements be installed.
2. That the report of the Utility Engineer pertaining to construction of the above-described public improvements, is hereby adopted and approved.

3. That the above-described public improvements constitute an exercise of the City's Police power and benefit the properties being assessed.

4. That each abutting property owner shall be assessed for the improvements in the manner set forth in Section 3.20 of the Municipal Code of the City of Oak Creek and the assessment rate as set forth in Common Council Resolution No. 10751-041707.

5. That the Schedule of Assessments shown on the report is true and correct, has been determined on a reasonable basis, and is hereby confirmed.

6. A. That the assessments may be paid in cash or in 5/10 annual installments in accordance with Section 3.210 of the Municipal Code of the City of Oak Creek; if paid in installments, the same shall bear interest at the rate of _____ % per annum on the unpaid balance.

B. For those properties which are vacant or have one residential dwelling unit, that are two and one-half (2½) acres or more in area, or have three hundred thirty (330) feet or more of assessed frontage, payment shall be made within twenty (20) years of the date of the levy in equal annual installments on the property tax bill with interest at the rate of _____ % per annum on the unpaid balance.

7. That the said preliminary plans are hereby approved.

8. That the City Clerk is hereby authorized to advertise for bids for the above-mentioned improvements and that she shall advertise for such bids in the official newspapers.

9. That the City Clerk is hereby directed to publish this resolution as a Class I Notice in the assessment district.

10. That the City Clerk is further directed to mail a copy of this resolution and upon completion of the improvement, a statement of the final assessment against his property to every property owner whose name appears on the assessment roll whose post office address is known or can, with reasonable diligence, be ascertained.

Introduced at a regular meeting of the Common Council of the City of Oak Creek held this 15th day of October, 2013.

President, Common Council

Passed and adopted this 15th day of October 2013.

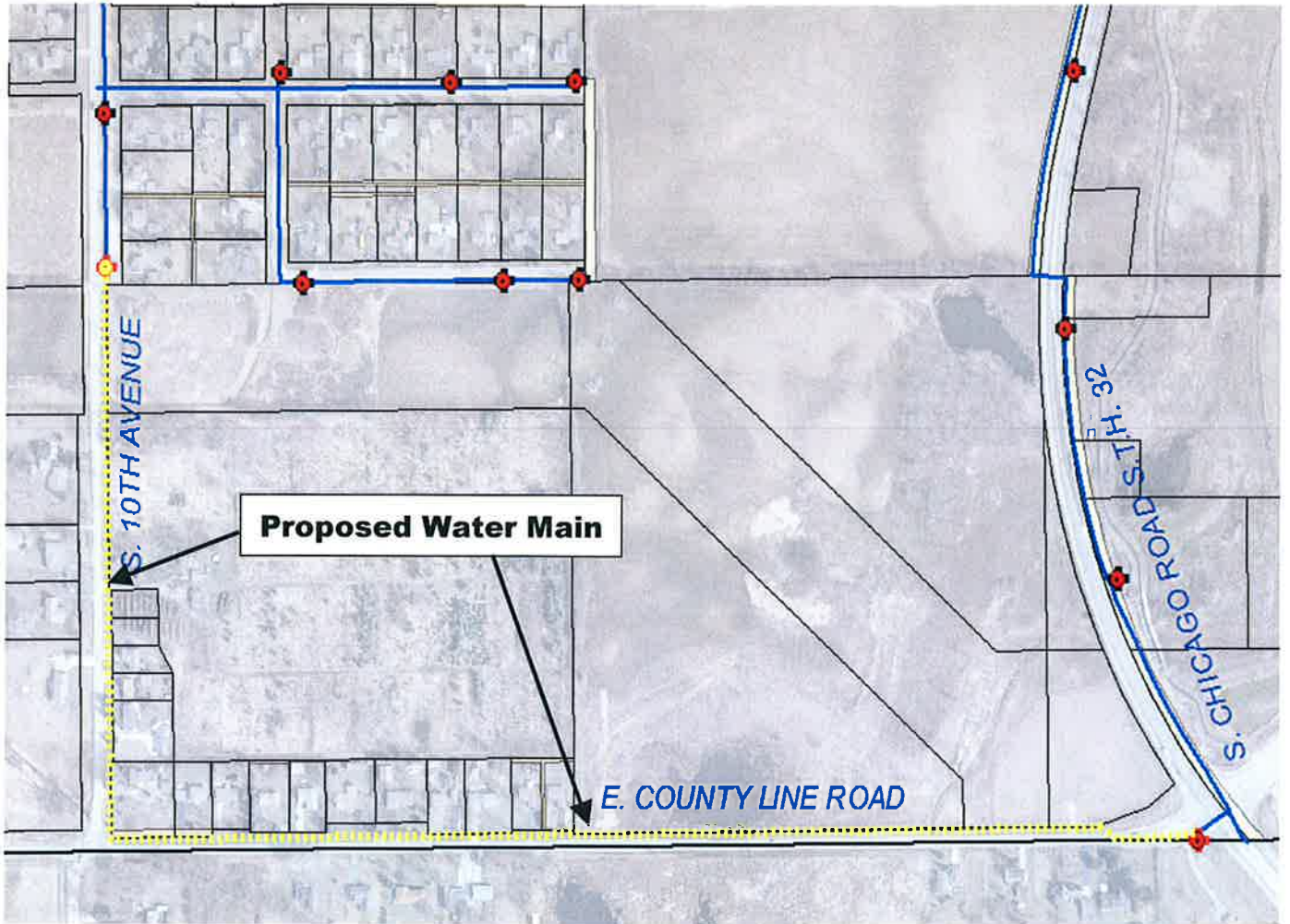
Mayor

ATTEST:

City Clerk

VOTE: Ayes _____ Noes _____

**PROPOSED WATER MAIN
S. 10TH AVENUE AND E. COUNTY LINE ROAD**



TO BE PUBLISHED SEPTEMBER 26, 2013 AND OCTOBER 3, 2013

OFFICIAL NOTICE

**NOTICE OF PUBLIC HEARING
BEFORE THE OAK CREEK COMMON COUNCIL**

PURPOSE: The purpose of this public hearing is to consider a proposal by St. Mary and St. Antonious Coptic Orthodox Church to amend the official map for the North 20 acres of the East 1/2 of the Northeast 1/4 of Section 18, Town 5 North, Range 22 East.

Hearing Date: October 15, 2013
Time: 7:00 p.m.
Place: Oak Creek City Hall
8640 South Howell Avenue
Oak Creek, WI 53154
Common Council Chambers

The Common Council has scheduled other public hearings for October 15, 2013 at 7:00 PM. This hearing may begin at 7:00PM or as soon as possible following the conclusion of other public hearings.

A copy of the proposed map amendment is available for review at the Department of Community Development.

Any person(s) with questions regarding the proposed map amendment may contact the Department of Community Development at (414) 768-6527, during regular business hours.

Date of Notice: September 19, 2013

CITY OF OAK CREEK COMMON COUNCIL

By: Stephen Scaffidi, Mayor

PUBLIC NOTICE

PLEASE NOTE: Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid at no cost to the individual to participate in public meetings. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible, preferably a minimum of 48 hours. For additional information or to request this service, contact the Oak Creek City Clerk at 768-6511, (FAX) 768-9587, (TDD) 768-6513 or by writing to the ADA Coordinator at the Health Department, City Hall, 8640 South Howell Avenue, Oak Creek, Wisconsin 53154.

City of Oak Creek Common Council Report

Meeting Date: October 15, 2013

Item No.: 7

Recommendation: That the Council adopt Ordinance No. 2697, which would amend the official map for the North 20 acres of the East 1/2 of the Northeast 1/4 of Section 18.

Background: In anticipation of an addition to the southern portion of the existing building, St. Mary & St. Antonious Coptic Orthodox Church is requesting approval to remove the officially mapped street on their property at 1521 W. Drexel Avenue.

When considering a proposal to amend the Official Map, the Commission should consider the impact on the ability to logically develop adjacent properties in accordance with the existing official map. Nearby property owners may have an interest in maintaining certain aspects of an official map if it provides them the future opportunity to subdivide their property in a cost-effective manner. If a person is proposing to remove this opportunity, or to alter it, they need to demonstrate that any adverse effects on the property owners involved would be offset by the benefit to the neighborhood. In other words, a property owner should not be able to amend the official map to maximize the development potential of his or her property at the detriment of surrounding properties.

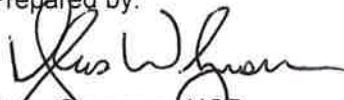
Staff has encouraged the church to contact the four property owners to the east and south to determine whether full removal of the officially mapped street pattern in the area is amenable to all parties. None of the affected property owners submitted objections nor did they participate in the Plan Commission meeting reviewing the request. Removing the street pattern from the four parcels would not adversely affect the properties as the parcel to the east currently has access from Drexel Avenue and S. 13th Street; the parcel sharing the church's southern boundary line also has access from S. 13th Street; and a majority of the parcel to the south, with frontage along W. Willow Drive, is encumbered by flood fringe, floodway, and wetlands.

The southernmost parcel affected by the proposal is unlikely to be developed in such a way that would require access from the north as depicted in the officially mapped street pattern. In fact, the official street pattern on the parcel combined with the presence of flood features and wetlands make any development of the parcel challenging. Staff opinion on the proposal is that amending or removing the official street pattern creates a better development opportunity for the parcels involved, and is more logical from a planning perspective based on existing development. However, it should be noted that amending the official street pattern would not change the location of existing and planned utilities in the area.

The Plan Commission has reviewed this request and has recommended that the Common Council amend the official map as proposed.

Fiscal Impact: There would not be any fiscal impact associated with the proposed amendment to the official map

Prepared by:


Doug Seymour, AICP
Director of Community Development

Respectfully Submitted,


Gerald Peterson, ICMA-CM
City Administrator

Fiscal Review by:


Bridget M. Souffrant
Finance Director / Comptroller

ORDINANCE NO. 2697

BY: _____

AN ORDINANCE TO AMEND SECTION 6.01 OF THE MUNICIPAL CODE OF THE CITY OF OAK CREEK RELATING TO A CHANGE IN THE OFFICIAL MAP FOR SECTION EIGHTEEN (18)

(2nd Aldermanic District)

The Common Council of the City of Oak Creek does hereby ordain as follows:

SECTION 1: Section 6.01 of the Municipal Code of the City of Oak Creek enacted and adopted pursuant to Section 62.23(6)(b), Wisconsin Statutes, creating the official map of the City of Oak Creek, is hereby amended so as to establish the exterior lines of planned new streets, highways, parkways, parks and playgrounds and to widen, narrow, extend and close existing streets, highways, parkways, parks and playgrounds, as more fully shown on the map attached hereto and declared to be a part thereof (EXHIBIT "A"), the same affecting the Section 18, in the City of Oak Creek, County of Milwaukee, State of Wisconsin.

SECTION 2: All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

SECTION 3: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Oak Creek held this 15th day of October 2013.

Passed and adopted this ____ day of _____, 2013.

President, Common Council

Approved this ____ day of _____, 2013.

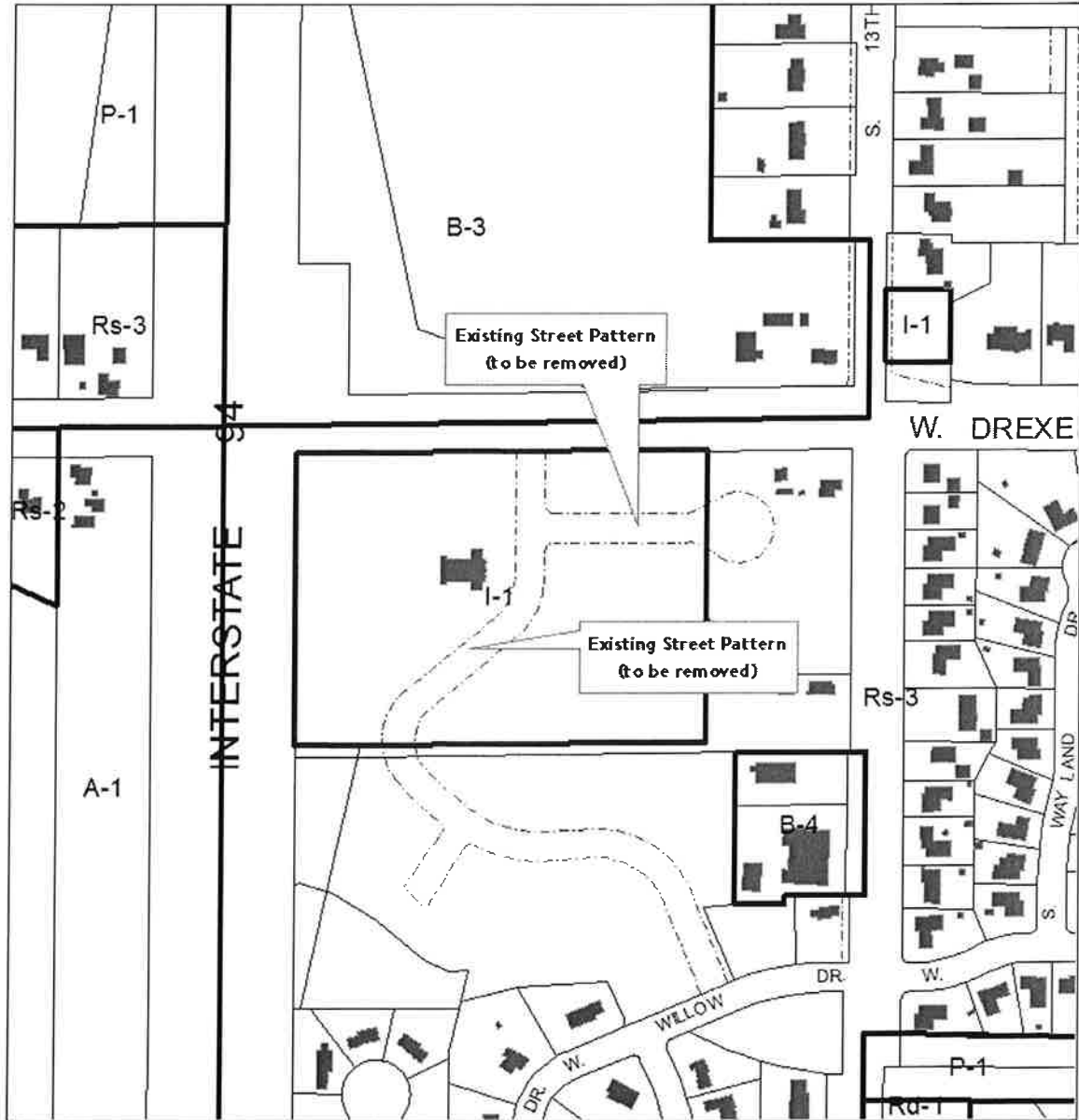
Mayor

ATTEST:

City Clerk

VOTE: Ayes: _____ Noes: _____

EXHIBIT "A"



*** * * OFFICIAL NOTICE * * ***

NOTICE OF COMMON COUNCIL ACTION

The Common Council of the City of Oak Creek will hold a Public Hearing at 7:00 p.m. on Tuesday, October 15, 2013, in the Common Council Chambers of the City Hall located at 8640 South Howell Avenue, Oak Creek, Wisconsin, upon the resolution herein described and will act upon said resolution at said time and place. Said resolution was introduced by the Common Council of the City of Oak Creek on September 3, 2013, pursuant to Wis. Stats. Sec. 66.1003(4), and proposes the discontinuing and vacation of the public street right-of-way in the City of Oak Creek, Milwaukee County, Wisconsin, the legal description thereof being as follows:

That part of the Southwest Quarter (SW ¼) of the Northwest Quarter (NW ¼) of Section 16, Town 5 North, Range 22 East in the City of Oak Creek, Milwaukee County, Wisconsin, being more particularly described as follows:

Commencing at the southwest corner of said Northwest Quarter (NW ¼); thence North 89°18'49" East along the south line said Northwest Quarter (NW ¼) 982.00 feet to the west line projected of Parcel 2 of Certified Survey Map No. 560; thence North 00°34'02" East along said projection 40.01 feet to the place of beginning of the lands hereinafter to be described; thence continuing North 00°34'02" East 10.00 feet to the north right-of-way line of East Forest Hill Avenue; thence North 89°18'49" East along the said north right-of-way line 335.69 feet to the southeast corner of said Parcel 2; thence South 00°47'07" West along the east line of said Parcel 2 projected 10.00 feet; thence South 89°18'49" West 335.65 feet to the place of beginning.

Provided, that pursuant to Section 66.1005, Wisconsin Statutes, such vacation shall not terminate the easements acquired and the rights of the public in any of the underground structures, improvements or services as enumerated or otherwise existing in said public way and in said description of lands hereinbefore described, but such easements and rights and all rights of entrance, maintenance, construction and repair with reference thereto shall continue as if such public way had not been vacated.

A copy of the map depicting the street proposed to be vacated is available in the Department of Community Development.

All interested persons, firms and corporations wishing to be heard are invited to be present and may be heard at this hearing.

The Common Council has scheduled other public hearings for October 15, 2013, at 7:00 p.m. This hearing may begin at 7:00 p.m. or as soon thereafter as is practicable, following the conclusion of other scheduled public hearings.

Published by the authority of the Common Council of the City of Oak Creek this 5th day of September, 2013.

Catherine Roeske, City Clerk

Any person(s) with questions regarding the proposed change may call the City Engineer at 768-6538.

PUBLIC NOTICE

PLEASE NOTE: Upon reasonable notice, a good faith effort will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aid at no cost to the individual to participate in public meetings. Due to the difficulty in finding interpreters, requests should be made as far in advance as possible, preferably a minimum of 48 hours. For additional information or to request this service, contact the Oak Creek City Clerk at 768-6511, (FAX) 768-9587, (TDD) 768-6513 or by writing to the ADA Coordinator at the Health Department, City Hall, 8640 S. Howell Avenue, Oak Creek, Wisconsin 53154.

City of Oak Creek Common Council Report

Meeting Date: October 15, 2011

Item No.: 9

Recommendation: That the Council adopt Resolution No. 11399-090313 vacating a portion of the E. Forest Hill Avenue right-of-way.

Background: A request has been made by the owner of 324 E. Forest Hill Avenue to vacate a portion of the right-of-way along the southern property boundary. The area to be vacated is 10 feet in width and between 335.65 feet and 335.69 feet in length, for a total of 3,356 square feet.

This request is related to certified survey maps for this property, property located at 400 E. Lily Drive, and the preliminary plat for the Oakfield Village Addition #2. All told, the CSMs and subdivision will create 11 new building lots. Adding the aforementioned square footage to the lot at 324 E. Forest Hill Avenue allows the Applicant to create conforming building lots and creates a straight right-of-way consistent with adjacent parcels to the west.

No adverse impacts to the current and future maintenance of the right-of-way are anticipated with this vacation, and the City Engineering Department has expressed no objections.

The Plan Commission has reviewed this request and recommends its approval.

This resolution was previously introduced at the September 3, 2013 meeting, and held to allow for publication and a public hearing.

Fiscal Impact: This vacation will return the right-of-way to private ownership, allowing the creation of new residential building lots. Residential development of the lots will generate \$3,996/home in impact fees. Data has suggested that single-family homes constructed on the newly created parcels would need to have an assessed value in excess of \$249,577 (each) in order to generate revenues equal to costs.

Prepared by:


Doug Seymour, AICP
Director of Community Development

Respectfully Submitted,


Gerald Peterson, ICMA-CM
City Administrator

Fiscal Review by:


Bridget M. Souffrant
Finance Director/Comptroller

RESOLUTION NO. 11399-090313

RESOLUTION VACATING AND DISCONTINUING A PART OF A
PUBLIC STREET IN THE CITY OF OAK CREEK
(324 E. Forest Hill Avenue in the SW ¼ of Section 16-5-22)
(1st Aldermanic District)

WHEREAS the public interest requires that a part of a public street in the City of Oak Creek, Milwaukee County, Wisconsin, be discontinued and vacated, the legal description of the street being:

That part of the Southwest Quarter (SW ¼) of the Northwest Quarter (NW ¼) of Section 16, Town 5 North, Range 22 East in the City of Oak Creek, Milwaukee County, Wisconsin, being more particularly described as follows:

Commencing at the southwest corner of said Northwest Quarter (NW ¼); thence North 89°18'49" East along the south line said Northwest Quarter (NW ¼) 982.00 feet to the west line projected of Parcel 2 of Certified Survey Map No. 560; thence North 00°34'02" East along said projection 40.01 feet to the place of beginning of the lands hereinafter to be described; thence continuing North 00°34'02" East 10.00 feet to the north right-of-way line of East Forest Hill Avenue; thence North 89°18'49" East along the said north right-of-way line 335.69 feet to the southeast corner of said Parcel 2; thence South 00°47'07" West along the east line of said Parcel 2 projected 10.00 feet; thence South 89°18'49" West 335.65 feet to the place of beginning.

provided that pursuant to Section 66.1005 Wis. Stats. such vacation shall not terminate the easements acquired and the rights of the public in any of the underground structures, improvements or services as enumerated or otherwise existing in said public way and in said description of lands hereinbefore described, but such easements and rights and all rights of entrance, maintenance, construction and repair with reference thereto shall continue as if such public way had not been vacated.

and,

WHEREAS it appears that this resolution was introduced before the Common Council of the City of Oak Creek pursuant to Wis. Stats. Sec. 66.1003(4)(a) on September 3, 2013 and a Notice of Public Hearing was published in the Oak Creek NOW, the official City newspaper on September 12, 2013, September 19, 2013 and September 26, 2013, that a copy of said Notice was duly served on the following property owners in accordance with Wisconsin State Statutes:

OWNER	PROPERTY ADDRESS
Mark D. and Linda A. Beaumont	300 E. Forest Hill Ave., Oak Creek, WI 53154
David Semrad and Linda L. Holler	324 E. Forest Hill Ave., Oak Creek, WI 53154 (Mailing address: 8170 S. 13 th St., Oak Creek, WI 53154)
Midwest Real Estate Development Co., Inc.	324 E. Forest Hill Ave., Oak Creek, WI 53154 (Mailing address: 2990 Universal St., Ste. C, Oshkosh, WI 53904)
Darlene F. Kollatz	400 E. Forest Hill Ave., Oak Creek, WI 53154

and it further appears that no sufficient written objection to said discontinuance and vacation was filed with the City Clerk; and it appears that a public hearing was held before the Common Council of the City of Oak Creek on the 15th day of October, 2013, at 7:00 p.m.; and

WHEREAS, A Notice of Pendency of Application to Vacate in the above matter was recorded with the Register of Deeds for Milwaukee County, Wisconsin on the 3rd day of September, 2013 and a report was received by the Plan Commission, all as required by law, and

NOW THEREFORE, in accordance with the authority vested in the Common Council by Section 66.1003(4)(a) of the Wisconsin Statutes,

BE IT RESOLVED by the Common Council of the City of Oak Creek that the following public street legally described as:

That part of the Southwest Quarter (SW ¼) of the Northwest Quarter (NW ¼) of Section 16, Town 5 North, Range 22 East in the City of Oak Creek, Milwaukee County, Wisconsin, being more particularly described as follows:

Commencing at the southwest corner of said Northwest Quarter (NW ¼); thence North 89°18'49" East along the south line said Northwest Quarter (NW ¼) 982.00 feet to the west line projected of Parcel 2 of Certified Survey Map No. 560; thence North 00°34'02" East along said projection 40.01 feet to the place of beginning of the lands hereinafter to be described; thence continuing North 00°34'02" East 10.00 feet to the north right-of-way line of East Forest Hill Avenue; thence North 89°18'49" East along the said north right-of-way line 335.69 feet to the southeast corner of said Parcel 2; thence South 00°47'07" West along the east line of said Parcel 2 projected 10.00 feet; thence South 89°18'49" West 335.65 feet to the place of beginning.

provided that pursuant to Section 66.1005 Wis. Stats. such vacation shall not terminate the easements acquired and the rights of the public in any of the underground structures, improvements or services as enumerated or otherwise existing in said public way and in said description of lands hereinbefore described, but such easements and rights and all rights of entrance, maintenance, construction and repair with reference thereto shall continue as if such public way had not been vacated.

be and the same are hereby discontinued and vacated.

Introduced at a regular meeting of the Common Council of the City of Oak Creek held the 3rd day of September, 2013.

Passed and adopted this ____ day of _____, 2013.

President, Common Council

Approved this ____ day of _____, 2013.

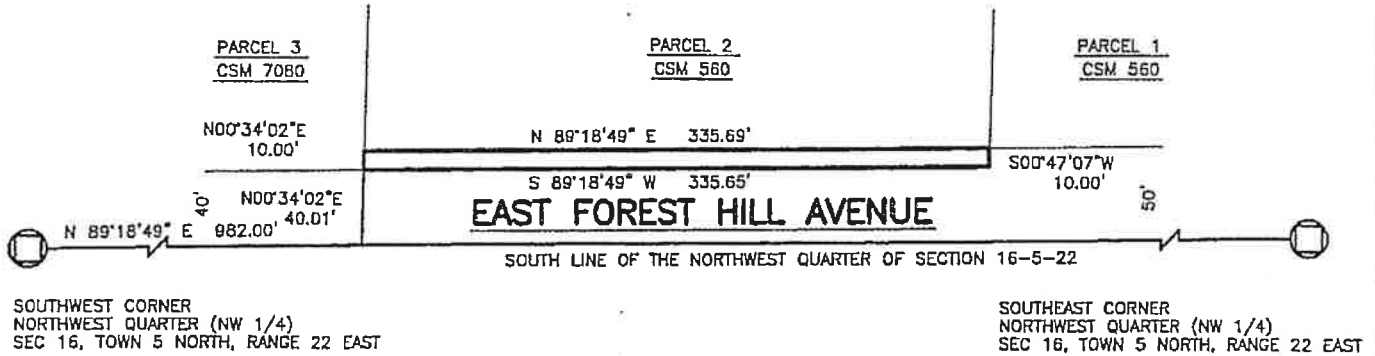
ATTEST:

Mayor

City Clerk

VOTE: Ayes _____ Noes _____

**EXHIBIT A
EAST FOREST HILL STREET
RIGHT-OF-WAY VACATION**



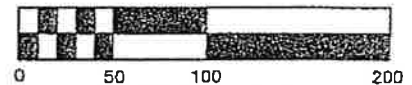
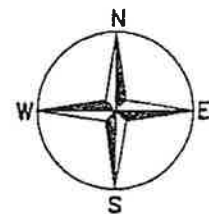
SOUTHWEST CORNER
NORTHWEST QUARTER (NW 1/4)
SEC 16, TOWN 5 NORTH, RANGE 22 EAST

SOUTHEAST CORNER
NORTHWEST QUARTER (NW 1/4)
SEC 16, TOWN 5 NORTH, RANGE 22 EAST

SURVEYOR'S DESCRIPTION:

That part of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section 16, Town 5 North, Range 22 East in the City of Oak Creek, Milwaukee County, Wisconsin, being more particularly described as follows:
Commencing at the southwest corner of said Northwest Quarter (NW 1/4); thence North 89°18'49" East along the south line of said Northwest Quarter (NW 1/4) 982.00 feet to the west line projected of Parcel 2 of Certified Survey Map No. 560; thence North 00°34'02" East along said projection 40.01 feet to the place of beginning of the lands hereinafter to be described: thence continuing North 00°34'02" East 10.00 feet to the north right-of-way line of East Forest Hill Avenue; thence North 89°18'49" East along the said north right-of-way line 335.69 feet to the southeast corner of said Parcel 2; thence South 00°47'07" West along the east line of said Parcel 2 projected 10.00 feet; thence South 89°18'49" West 335.65 feet to the place of beginning.

Containing 3,356 square feet or 0.0770 Acres of land.



GRAPHIC SCALE
SCALE: 1" = 100'



Handwritten signature of Calvin K. Klimeck

KALVIN K. KLIMECK - Wis Reg. No. S-2209
Dated this 9th day of July, 2013

OWNER: MIDWEST DEVELOPMENT CORP. 2990 Universal St, Suite C Oshkosh, WI 53904 (920)426-2001
This instrument prepared by KALVIN K. KLIMECK, P.E., R.L.S., of PIONEER ENGINEERING AND SURVEYING, L.L.C.
3902 C.T.H. "B", Johnson Creek, Wisconsin, 53038 phone no. (414) 651-0490 e-mail: kalpioneereng@tds.net

City of Oak Creek Common Council Report

Meeting Date: October 15, 2013

Item No.: 10

Recommendation: That the Council adopt Resolution No. 11393-082013 approving a certified survey map for the property at 324 E. Forest Hill Ave.

Background: Steve Mark, Midwest Development Corporation, is requesting approval of a certified survey map to create three building lots and one outlot prior to an overall plan for subdivision at 324 E. Forest Hill Ave. and 400 E. Lily Dr., known as Oakwood Village Addition #2. All proposed parcels meet the zoning requirements for the Rs-3 District.

The City's adopted Comprehensive Plan designates E. Forest Hill Avenue as a minor arterial roadway, and recommends managing and controlling access on arterial and collector roadways. It goes on to state that only major facilities such as large shopping centers or other significant traffic generators should be allowed direct access to arterial roadways. Staff has historically gone on record with concerns regarding single-family lots each taking direct access to arterial streets. However in this instance the officially mapped street pattern leaves no realistic alternative. In such cases, considering the increasing traffic on the street and its minimal cross section, staff is recommending that a restriction be placed on the CSM requiring a paved turnaround area on each of the lots to avoid vehicles having to back out into the traffic lanes of the minor arterial street.

Staff is also recommending that a minimum front setback of 40 feet be illustrated on Lots 1 – 3. That setback would be consistent with the front setbacks of the adjacent parcels.

The Plan Commission has reviewed this request and has recommended its approval with the following conditions:

1. Update the map to correct technical errors.
2. Update the map to depict the Lily Drive right-of-way along the northern property line of the proposed Outlot 1 prior to recording.
3. Update the map to depict the 10-foot-wide utility and drainage easement along the western property line of the proposed Outlot 1 prior to recording.
4. Submit a detailed grading plan for review and approval by the City of Oak Creek Engineering Department prior to recording the certified survey map.
5. Update the map to illustrate a minimum front setback of 40 feet on each of the lots prior to recording the map.
6. That a paved turnaround area be required on Lots 1 – 3.

Fiscal Impact: Residential development of the three lots will generate \$11,988 in impact fees. Data has suggested that single-family homes constructed on the newly created parcels (1-3) would need to have an assessed value in excess of \$249,577 each in order to generate revenues equal to costs.

Prepared by:



Doug Seymour, AICP
Director of Community Development

Respectfully submitted,



Gerald Peterson, ICMA-CM
City Administrator

Fiscal Review by:

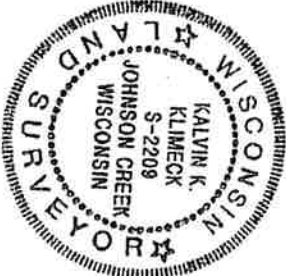
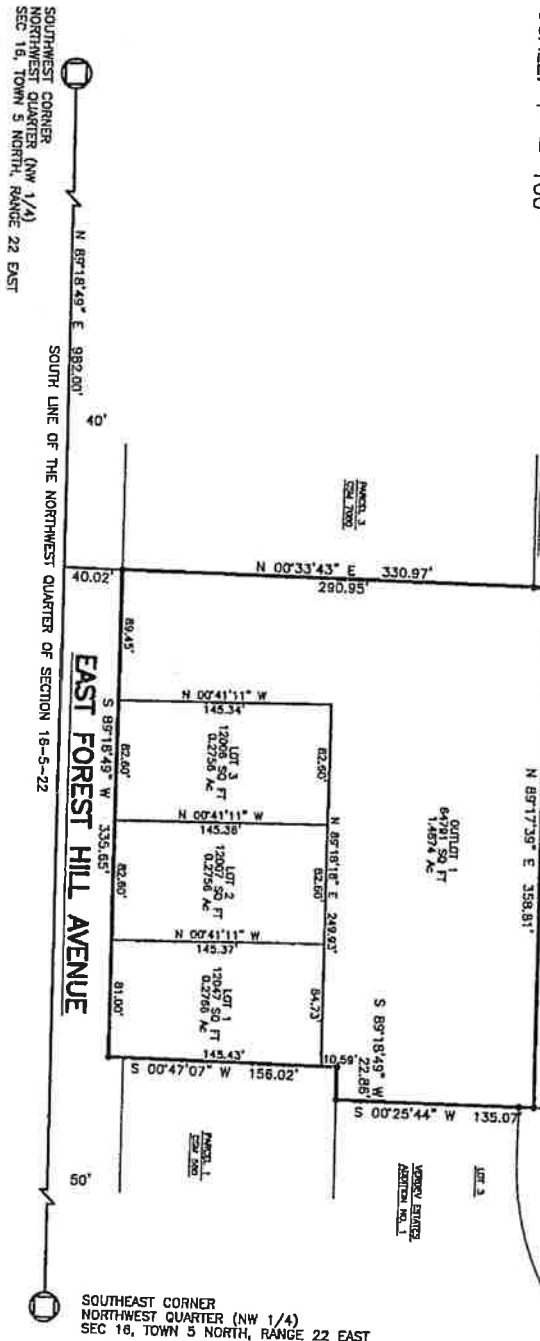
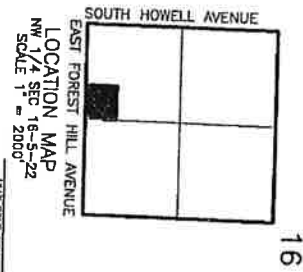
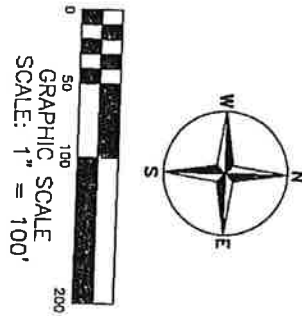


Bridget M. Souffrant
Finance Director/Comptroller

CERTIFIED SURVEY MAP NO. _____ PAGE 1 OF 4

THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 16, TOWN 5 NORTH, RANGE 22 EAST CITY OF OAK CREEK, MILWAUKEE COUNTY, WISCONSIN

REFERENCE BEARING: The south line of the Northwest Quarter (NW 1/4) was used as the reference bearing and bears North 89°18'49" East



[Signature]
 KALVIN K. KLIMECK - Wis Reg. No. S-2209
 Dated this 9th day of July, 2013

RESOLUTION NO. 11393-082013

BY: _____

RESOLUTION APPROVING A CERTIFIED SURVEY MAP
FOR STEVE MARK, MIDWEST DEVELOPMENT CORP.

324 E. Forest Hill Avenue
(1st Aldermanic District)

WHEREAS, it appears that the certified survey map submitted by STEVE MARK, MIDWEST DEVELOPMENT CORP., hereinafter referred to as the subdivider, is in compliance with all statutory requirements; and

WHEREAS, the subdivider has complied with all of the applicable ordinances and resolutions of the City of Oak Creek, and

WHEREAS, the Plan Commission has recommended that this certified survey map be approved subject to the following conditions:

1. Update the map to correct technical errors.
2. Update the map to depict the Lily Drive right-of-way along the northern property line of the proposed Outlot 1 prior to recording.
3. Update the map to depict the 10-foot-wide utility and drainage easement along the western property line of the proposed Outlot 1 prior to recording.
4. Submit a detailed grading plan for review and approval by the City of Oak Creek Engineering Department prior to recording the certified survey map.
5. Update the map to illustrate a minimum front setback of 40 feet on each of the lots prior to recording the map.
6. That a paved turnaround area be required on Lots 1 – 3.

NOW, THEREFORE, BE IT RESOLVED that this certified survey map, in the City of Oak Creek, Wisconsin, is hereby approved, and the dedication of public easements accepted, by the Common Council subject to the following conditions:

1. Update the map to correct technical errors.
2. Update the map to depict the Lily Drive right-of-way along the northern property line of the proposed Outlot 1 prior to recording.
3. Update the map to depict the 10-foot-wide utility and drainage easement along the western property line of the proposed Outlot 1 prior to recording.
4. Submit a detailed grading plan for review and approval by the City of Oak Creek Engineering Department prior to recording the certified survey map.
5. Update the map to illustrate a minimum front setback of 40 feet on each of the lots prior to recording the map.
6. That a paved turnaround area be required on Lots 1 – 3.

Introduced at a regular meeting of the Common Council of the City of Oak Creek held this 15th Day of October, 2013.

Passed and adopted this ____ Day of _____, 2013.

President, Common Council

Approved this ___ Day of _____, 2013.

Mayor

ATTEST:

City Clerk

VOTE: Ayes _____ Noes _____

City of Oak Creek Common Council Report

Meeting Date: October 15, 2013

Item No.: 11

Recommendation: That the Council adopt Resolution No. 11394-082013 approving a certified survey map for the property at 400 E. Lily Dr.

Background: Steve Mark, Midwest Development Corporation, is requesting approval of a certified survey map to create two outlots prior to an overall plan for subdivision at 324 E. Forest Hill Ave. and 400 E. Lily Dr., known as Oakwood Village Addition #2. Both of the proposed parcels meet the zoning requirements for the Rs-3 District.

The Plan Commission has reviewed this request and has recommended its approval with the following conditions:

1. Update the map to depict the officially mapped roads through the property prior to recording.
2. Update the map to depict the Lauree Lane and Alisa Lane access and utility easements as 60 feet wide through the proposed outlots prior to recording.
3. Update the map to depict the right-of-way along the northern boundary as required for the certified survey map for 324 E. Forest Hill Avenue.
4. Update the map to correct any other technical errors.

Fiscal Impact: There is no fiscal impact as a result of this CSM. Future development of the outlots would have positive fiscal impacts for the City.

Prepared by:



Doug Seymour, AICP
Director of Community Development

Respectfully submitted,



Gerald Peterson, ICMA-CM
City Administrator

Fiscal Review by:

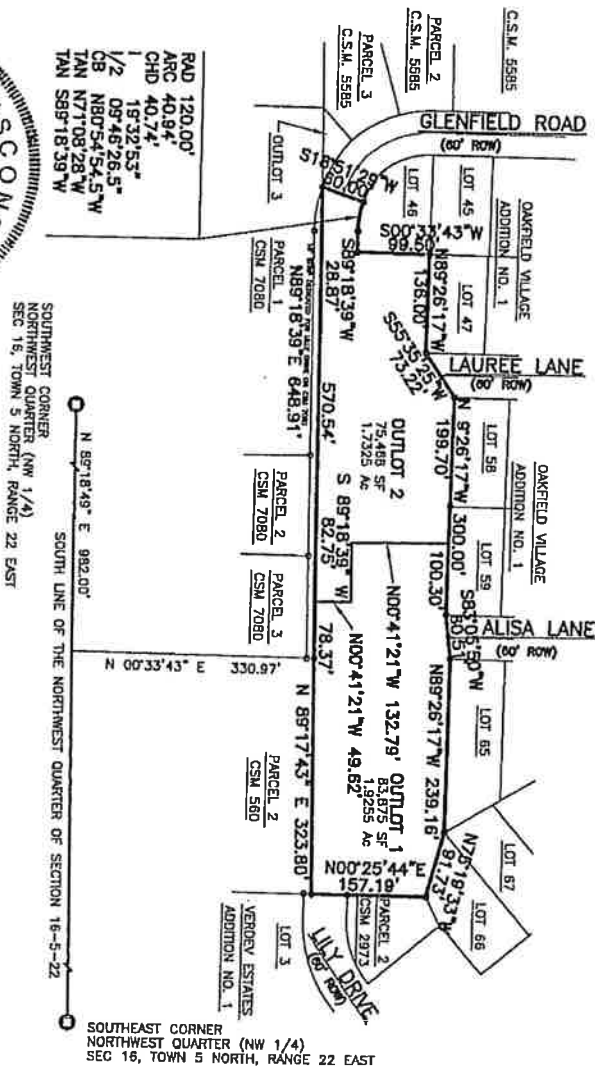
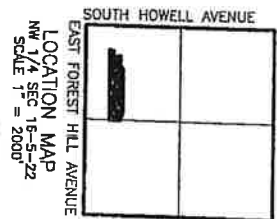
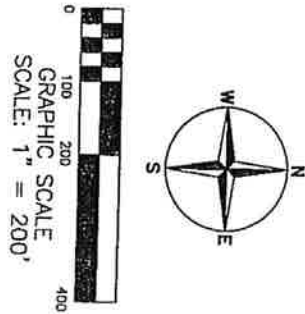


Bridget M. Souffrant
Finance Director/Comptroller

CERTIFIED SURVEY MAP NO. _____ PAGE 1 OF 3

THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 16, TOWN 5 NORTH, RANGE 22 EAST CITY OF OAK CREEK, MILWAUKEE COUNTY, WISCONSIN

REFERENCE BEARING: The south line of the Northwest Quarter (NW 1/4) was used as the reference bearing and bears North 89°18'49" East



[Signature]
 KALVIN K. KLIMECK - Wis Reg. No. S-2209
 Dated this 9th day of July, 2013

OWNER: MIDWEST DEVELOPMENT CORP. 2990 Universal St, Suite C Oshkosh, WI 53904 (920)426-2001
 This instrument prepared by KALVIN K. KLIMECK, P.E., R.L.S., of PIONEER ENGINEERING AND SURVEYING, L.L.C.
 3902 C.T.H. "B", Johnson Creek, Wisconsin, 53038 phone no. (414) 651-0490 e-mail: kalpioneereng@tds.net

RESOLUTION NO. 11394-082013

BY: _____

RESOLUTION APPROVING A CERTIFIED SURVEY MAP
FOR STEVE MARK, MIDWEST DEVELOPMENT CORP.

400 E. Lily Dr.
(1st Aldermanic District)

WHEREAS, it appears that the certified survey map submitted by STEVE MARK, MIDWEST DEVELOPMENT CORP., hereinafter referred to as the subdivider, is in compliance with all statutory requirements; and

WHEREAS, the subdivider has complied with all of the applicable ordinances and resolutions of the City of Oak Creek, and

WHEREAS, the Plan Commission has recommended that this certified survey map be approved subject to the following conditions:

1. Update the map to depict the officially mapped roads through the property prior to recording.
2. Update the map to depict the Lauree Lane and Alisa Lane access and utility easements as 60 feet wide through the proposed outlots prior to recording.
3. Update the map to depict the right-of-way along the northern boundary as required for the certified survey map for 324 E. Forest Hill Avenue.
4. Update the map to correct any other technical errors.

NOW, THEREFORE, BE IT RESOLVED that this certified survey map, in the City of Oak Creek, Wisconsin, is hereby approved, and the dedication of public easements accepted, by the Common Council subject to the following conditions:

1. Update the map to depict the officially mapped roads through the property prior to recording.
2. Update the map to depict the Lauree Lane and Alisa Lane access and utility easements as 60 feet wide through the proposed outlots prior to recording.
3. Update the map to depict the right-of-way along the northern boundary as required for the certified survey map for 324 E. Forest Hill Avenue.
4. Update the map to correct any other technical errors.

Introduced at a regular meeting of the Common Council of the City of Oak Creek held this 15th Day of October, 2013.

Passed and adopted this ___ Day of _____, 2013.

President, Common Council

Approved this ___ Day of _____, 2013.

Mayor

ATTEST:

City Clerk

VOTE: Ayes _____ Noes _____

City of Oak Creek Common Council Report

Meeting Date: October 15, 2013

Item No.: 13

Background: As part of its continuing commitment to keep the Council apprised of the progress on the Library - City Hall and Fire Station, the design team will update the Common Council on the status of these projects.

As part of this evening's update, the project team will share the most recent site and building plans with the Council, along with identifying potential areas where there are opportunities to minimize cost to better align with the budget.

Fiscal Impact: Construction estimates will be reviewed and presented in the future.

Respectfully submitted by:



Gerald R. Peterson, ICMA-CM
City Administrator

Reviewed by:



Douglas Seymour
Community Development Director

City of Oak Creek Common Council Report

Meeting Date: 10/15/13

Item No.: 14

Recommendation: That the Common Council authorizes the Mayor and City Clerk to execute a three-year contract with Tyler Technologies Inc., for full assessment and software services, for the period of 11/1/13 through 10/31/16, for an annual fee of 175,000 with no price increase over its terms.

Background: The current contract (\$91,000) for Assessment services with Tyler Technologies Inc. expires 10/31/13. Tyler Technologies performs assessment services providing office hours using a Contract Assessor one day per week; all clerical functions are performed by City employees (currently one full-time and two part-time). Tyler Technologies has also provided revaluation services as requested by the City, generally every three to four years, for an additional fee (last done in 2011 for a fee of \$92,500), which would have been recommended for 2014.

The proposed contract would be for Tyler Technologies to perform full assessment services to meet the City's needs. They would also perform annual statistical revaluations for assessment years 2014, 2015 and 2016 as part of their annual fee. This enhancement will establish fair and equitable assessments of all properties, thus eliminating large fluctuations from market values year to year. Their service will require a Contract Assessor and a Deputy Assessor to each maintain office hours one day per week. Tyler Technologies clerical staff will maintain office hours five days per week to perform all clerical functions, as well as to provide information to the public and City staff.

In an effort to provide efficient and equitable administrative services at the new City Hall, a staffing plan was presented to, and approved in concept by, the Common Council at their meeting on September 17, 2013. Approval of this contract would be the first major step toward implementation of this plan, and the affected City employees would become Administrative Support Assistants effective January 1, 2014. In the interim, these employees will focus on record retention and migration and will begin cross-training in the Treasurer's office.

I have been working with representatives of Tyler Technologies Inc., to negotiate this contract, which has been reviewed by City Attorney Lawrence Haskin, City Administrator Gerald Peterson and City Clerk Catherine Roeske. Representatives from Tyler Technologies are here to address any questions you may have.

Fiscal Impact: This contract represents an increase of \$50,000. In the 2014 (and future) budgets, cost savings could be achieved depending upon staff attrition.

Prepared by:



Barbara Guckenberger,
City Treasurer

Respectfully submitted by:



Gerald R. Peterson, ICMA-CM
City Administrator

Fiscal Reviewed by:

Bridget M. Souffrant
Finance Director / Comptroller

TABLE OF CONTENTS

	<u>Page</u>
1. SERVICES TO BE PROVIDED.....	2
2. CONTRACT DOCUMENTS	2
3. PERIOD OF AGREEMENT	2
4. COMPENSATION	3
5. INDEPENDENT CONTRACTOR	4
6. OWNERSHIP OF DATA.....	4
7. PURPOSE/USE OF APPRAISALS	4
8. INDEMNIFICATION AND INSURANCE.....	4
9. FORCE MAJEURE	5
10. EMPLOYMENT LAWS.....	6
11. CONFLICT OF INTEREST.....	6
12. PROJECT PERSONNEL.....	6
13. NON-SOLICITATION.....	6
14. SUBCONTRACTS	7
15. ASSIGNMENT OF AGREEMENT	7
16. COMPANY RIGHT TO STOP WORK FOR NON-PAYMENT	7
17. GOVERNING LAW.....	7
18. CONFLICT.....	7
19. ENTIRE AGREEMENT	7
20. SEVERABILITY	8
21. TERMINATION.....	8
22. ARBITRATION	8
23. NOTICES	8
SIGNATURE PAGE.....	9
SCHEDULE A (ANNUAL ASSESSMENT SERVICES)	
SCHEDULE B (TIME AND MATERIAL SERVICES)	

ARTICLES OF AGREEMENT

This Agreement is between and by the City of Oak Creek, located in the State of Wisconsin, hereinafter referred to as the "City,"

AND

Tyler Technologies Inc., CLT, a company formed under the laws of the State of Delaware and qualified to do business in the State of Wisconsin, herein after referred to as the "Company,"

WITNESSETH

WHEREAS, the Company has experience in the design, development, and implementation of Computer Assisted Mass Appraisal (CAMA) software and assessing services; and

WHEREAS, the Company has served State, County and Municipal Government for over 70 years; and

WHEREAS, the City desires to utilize said services;

NOW, THEREFORE, it is hereby agreed that the Company shall provide the professional services contained in Schedule A (Assessment Services) and Schedule B (Additional Services) during the period of this Agreement as specified in Article 3 below.

1. SERVICES TO BE PROVIDED

The Company shall provide to the City in a professional and workmanlike manner, all of those services stipulated in Schedule A (Assessment Services to be Provided) and Schedule B (Additional Services). The Company shall be responsible for the scheduling of personnel as categorized in Schedules A and B.

2. CONTRACT DOCUMENTS

This Agreement, Schedule A and Schedule B shall comprise the contract documents.

3. PERIOD OF AGREEMENT

This Agreement shall run from November 1, 2013 through October 31, 2016.

The Company's time of performance of the Agreement is conditioned upon the performance of the SUPPORT OF ASSESSMENT SERVICES BY THE CITY in the Scope of Services and upon the nonoccurrence of an act of God or other cause or causes

beyond the Company's control, but occurrence of any such event should not relieve the Company from full performance, but shall entitle the Company to a mutually agreed to reasonable extension of the completion date, waiver of penalty provisions and/or reasonable increase in the fee to be paid the Company, should such occurrence materially increase the degree of difficulty of project execution.

In addition to the above, the Company's performance of the Agreement is conditioned upon the receipt by the Company from the City of all required City information on a timely basis and cooperation of assigned personnel. If the City fails to perform as stated, the Company obligations to perform the services provided in this Agreement shall be suspended until such deliveries are made, any and all requests for such information shall be made in writing by the Company upon reasonable notice, but no less than two (2) weeks prior to the date delivery of same is desired by the Company.

4. **COMPENSATION**

As compensation for the Company providing the professional services contained in Schedule A:

The City shall pay the Company a fee of **ONE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$175,000.00)** for these services for the period of November 1, 2013 through October 31, 2014.

The City shall pay the Company a fee of **ONE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$175,000.00)** for these services for the period of November 1, 2014 through October 31, 2015.

The City shall pay the Company a fee of **ONE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$175,000.00)** for these services for the period of November 1, 2015 through October 31, 2016.

Invoices shall be submitted every four weeks for an amount equal to the progress reported approved during the previous month. Payments will be made within thirty (30) days of submittal to the City. Failure of the City to make payment when due shall entitle the Company, in addition to its other rights and remedies, to suspend, temporarily, further performance of this Agreement without liability. The City shall have the right to inspect the progress of the work at any reasonable time, including without limitation, inspection of data completed by the Company. The Company shall provide to the City Treasurer on a monthly basis, written progress reports enclosed with the invoice. Failure by the Company to submit such progress report shall result in delay in payment of invoice of up to thirty (30) days from the date in which such progress report is submitted.

Additional compensation that may be due the Company as a result of services requested by the City that are beyond the scope of services of this Agreement will be invoiced in the month subsequent to the month in which the services were provided.

5. INDEPENDENT CONTRACTOR

The relationship of the Company to the City shall be that of an independent contractor and no principal-agent or employer-employee relationship is created by this Agreement.

6. OWNERSHIP OF DATA

Data collected is the property of the City and; therefore, the City staff shall have access using their own personal login and passwords, to all archived information in the CAMA and Access systems. Data used by the Company in the services contemplated herein shall remain the property of the City and no use or copying shall be made thereof beyond that listed in this Agreement without the written permission of the City.

7. PURPOSE/USE OF APPRAISALS

The Company by virtue of this Agreement is contracted to provide certain services and recommendations of value to the City which are intended for exclusive use as recommendation of value for determinations of assessment for ad valorem tax purposes. Any use other than that stated above is not authorized nor intended, and most specifically excludes an opinion of value used for federally related real estate transactions or other mortgage lending purposes.

8. INDEMNIFICATION AND INSURANCE

Except as provided below, the Company agrees to defend and save harmless the City, its officers, agents and employees against all claims, demands, payments, suits, actions, recovery, and judgments of every kind and description arising out of the performance of this Agreement, for personal injury or property damage brought or recovered against it by reason of any negligent action or omission of the Company, its agents, or employees and with respect to the degree to which the City is free from negligence on the part of itself, its employees or agents.

The City agrees to defend and indemnify and save harmless the Company, its officers, agents and employees against all claims, demands, payments, suits, actions, recovery and judgments of every kind and description arising out of any valuation disputes, or challenges to the methodology employed under this Agreement brought or recovered against, whether based in contract, negligence or otherwise.

Neither party shall be liable to the other for consequential, indirect or incidental damages, including, but not limited to, loss of tax revenue or claims related to valuation of property, whether based in contract, negligence, strict liability, or otherwise.

In any event, the Company's liability for damages (except for damage to real or personal property or personal injury as provided above), under any theory of liability or form of action including negligence shall not exceed the total amount paid by the City to the Company under this Agreement.

The Company shall carry Commercial General Liability Insurance in the amount of \$1,000,000 including protection with a combined single limit of \$1,000,000 for bodily injury and property damage, with \$500,000 for property damage per occurrence.

The Company shall also maintain Automobile Liability Insurance providing limits of \$1,000,000 per occurrence, and the Company shall provide Workers' Compensation Insurance. The Workers' Compensation Insurance shall provide coverage under the governing Compensation Act of Wisconsin, and shall provide the employer's liability insurance in the amount of \$250,000. The Company shall also carry errors and omissions coverage providing liability limits of \$1,000,000.

Annually, Certificates of Insurance shall be supplied to the City by the Company detailing the above coverage. A carrier authorized to do business within the State of Wisconsin will issue the certificates naming the City as an additional insured.

9. FORCE MAJEURE

Neither party shall be liable to the other for any loss, damage, failure, delay or breach in rendering any services or performing any obligations hereunder to the extent that such failure, delay or breach results from any cause or event beyond the control of the party being released hereby (Force Majeure), including, but not limited to, acts of God, acts or omissions of civil or military authorities (acting in their sovereign, but not in their contractual, capacity), floods, torrential rainfall, other severe or unusual weather or climatic conditions, which would exist for a substantial period of time and would have an affect so as to substantially impair the complete deadline, epidemics, quarantines, other medical restrictions or emergencies, defects or failures in equipment or materials owned or supplied by the other party, strikes or other labor actions, embargoes, wars, civil disobedience, riots, terrorism, extreme inflations (eight percent or greater per year) or of governmental rationing of fuel and/or power which would result in a severe shortage thereof, which would substantially impair the proposed completions deadline.

If either party is prevented or delayed in the performance of its obligations hereunder by Force Majeure, that party shall immediately notify the other party in writing of the reason for the delay or failure to perform, describing in as much detail as possible the event of Force Majeure causing the delay or failure and discussing the likely duration of the Force Majeure and any known prospects for overcoming or ameliorating it. Both parties agree to take any commercially reasonable measures to overcome or ameliorate the Force Majeure and its adverse effects on this Agreement, and to resume performance as completely as is reasonably possible once the Force Majeure is overcome or ameliorated.

10. EMPLOYMENT LAWS

The Company shall comply with all the applicable provisions of Federal and Wisconsin laws, rules and regulations regarding employment and shall further specifically comply with those sections related to Equal Employment Opportunity.

11. CONFLICT OF INTEREST

The Company covenants that it has no public or private interest, and will not acquire directly or indirectly any interest that would conflict in any manner with the performance of its services. The Company warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to the Company in connection with any work contemplated or preformed relative to this Agreement.

12. PROJECT PERSONNEL

All work will be performed by personnel certified by the State of Wisconsin, Department of Revenue, excepting general clerical support staff. On or before the effective date of this contract the Company will provide and update the City with a listing of personnel assigned to the Project, including vehicle and license plate information. Any changes, including vehicle and license plate information shall be submitted to the City not less than five (5) days prior to new personnel being assigned to the City. All project personnel assigned shall be thoroughly trained with enough experience and knowledge of the City of Oak Creek's policy and procedures and shall be approved by the City.

13. NON-SOLICITATION

During the Period of Agreement and for a period of six months following the project completion date, the City will not solicit for employment or hire any Company employee without the express written consent of the Company.

14. SUBCONTRACTS

The Company agrees not to subcontract any of the work required by this Agreement without the written permission of the City. The Company agrees to be responsible for the accuracy and timeliness of the work submitted in the fulfillment of its responsibilities under this Agreement.

15. ASSIGNMENT OF AGREEMENT

The Company agrees not to assign, transfer, convey, sublet, or otherwise dispose of the Agreement or its rights, titles, or interest in this Agreement without the previous consent and written approval of the City.

16. COMPANY RIGHT TO STOP WORK FOR NON-PAYMENT

Payment of billings is due within thirty (30) days after the date of each billing. Failure of the City to make payment when due shall entitle the Company, in addition to its other rights and remedies, to suspend, temporarily, further performance of the Agreement without liability.

17. GOVERNING LAW

This Agreement shall be interpreted under the substantive law of Wisconsin, as it existed and was interpreted on the effective date of this Agreement. In the event that the laws of the State of Wisconsin change, so as to create additional work for the Company not provided for in this Agreement, the City shall allow the Company a reasonable extension of the completion date and additional compensation to be negotiated. The methods and procedures used in performance of this Agreement shall comply with Chapter 70 of the Wisconsin State Statutes.

18. CONFLICT

In the case of conflict between the terms of this Agreement and the terms of Schedule A or Schedule B, the terms of this Agreement shall control.

19. ENTIRE AGREEMENT

This Agreement represents the entire agreement of the City and the Company with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied or statutory. This Agreement may not be altered or amended except in writing, executed, making specific references to this Agreement, by a duly authorized officer of the Company and by a duly authorized official of the City.

20. SEVERABILITY

If any provision of this Agreement shall be declared invalid or unenforceable, such invalidity or unenforceability shall not affect the whole Agreement, but the whole Agreement shall be construed and enforced accordingly.

21. TERMINATION

This Agreement may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination. In the event of termination or suspension, the Company shall be entitled to receive payment in full (at the amounts and rates set forth herein, or if not specifically set forth in the Agreement, at the Company's standard or published rates) for all services, software, licenses and/or bonding delivered by the Company up to the effective date of the termination or suspension, as the case may be, plus such other charges as may be agreed upon by the parties.

22. AUTHORITY

The City and Company represent that the undersigned have been duly authorized to sign this agreement in behalf of the City and the Company.

23. NOTICES

All notices required to be sent to the Company shall be sent to the following address:

Tyler Technologies Inc., CLT
10617 W. Oklahoma Ave. Suite U1
West Allis, WI 53227
Attention: Mark Link | State Manager |

All notices required to be sent to the City shall be sent to the following address:

Ms. Barbara Guckenberger, City Treasurer
City of Oak Creek
8640 S. Howell Ave.
PO Box 27
Oak Creek, Wisconsin 53154

IN WITNESS WHEREOF, the parties hereto have set their hand to the Agreement on this
_____ day of _____, 2013.

CITY OF OAK CREEK, WISCONSIN

ATTEST:

BY: _____

Stephen A. Scaffidi, Mayor

BY: _____

Catherine A. Roeske, City Clerk

BY: _____

TYLER TECHNOLOGIES INC., CLT

BY: Troy D. Fryman

Troy D. Fryman

Senior Sales Executive

(SCHEDULE A)

ANNUAL MAINTENANCE SERVICES TO BE PROVIDED

1.0 WORK TO BE PERFORMED BY THE COMPANY

SECTION I. General Provisions

- A. The Company will perform the municipal assessment services as the Statutory Assessor for City of Oak Creek, pursuant to Chapter 70 of the Wisconsin Statutes (as amended from time to time) as hereinafter set forth. The Company shall report and be accountable to the City Treasurer.
- B. Meeting Hours - The Statutory Assessor, or in the absence of the Statutory Assessor a qualified designee approved by the City, shall attend the twice-monthly department manager meetings and; upon the request of the City Treasurer, other prescribed meetings not directly related to specific assessment issues, upon reasonable prior notice. The Company shall meet with the City Treasurer on each assessor office day or mutually agreed to day, to discuss areas of work; such as, but not limited to, progress and quality of work, procedures in valuations and other assessment related items, assessment and procedural problems, and any other items that may occur during the normal course of business in the assessor's office.
- C. City Staff Supervision - The Company will provide supervisory guidance and training to current and future municipal staff, as directed by the City Treasurer, in the use of assessment related computer programs and in understanding the location and interpretation of assessment property tax information and other material generally utilized by the Company. Such training shall be accomplished within a reasonable time of need and within the Company's regular hours of availability hereunder during the entire term of this contract.
- D. Correspondence – The Company shall provide the City Treasurer with samples of public correspondence for approval, at least two (2) weeks prior to mailing such correspondence.

SECTION II. Assessment Duties

The prescribed duties of the Company shall include, but not necessarily be limited to, the following:

- A. Maintain the Municipality's real and personal property assessment roll as required pursuant to Chapter 70 of the Wisconsin Statutes, as amended from time to time. All work will be accomplished in accordance with the provisions of the laws of the State of Wisconsin and in full compliance with all the rules

and regulations officially adopted and promulgated by the Wisconsin Department of Revenue.

- B. The Company understands it will not be permitted to assign, subcontract or transfer the work without written approval from the City. The Company will begin work on or before November 1, 2013. The Company will complete all work under this Agreement by all dates indicated in the Agreement. The City Treasurer may extend the due date for completed work for one (1) period of thirty (30) additional calendar days for sufficient reason, without penalty, upon written request of the Company. The City Council may extend the due date for completed work for a second thirty (30) day period. Such request shall provide documentation of the reasons for the extension of the due date. Failure to complete the appraisal records and office records by all dates indicated in the Agreement or two (2) extension periods as provided will be cause for penalty payment by the Company in the amount of ONE HUNDRED DOLLARS (\$100.00) per day beyond the completion date, Saturdays, Sundays and holidays excluded. Such penalty will be deducted from the contract sum owed the Company. The Company stipulates that this penalty reflects the actual damages that would be suffered by the City should the work not be completed on time.
- C. Provide on-site full facilities management of the Assessor's Office including forty (40) hours per week of clerical support, eight (8) hours per week by the Statutory Assessor, and eight (8) hours per week by the Deputy Assessor, with the exception of days that fall on official City Holidays Said hours are separate and above the work hours needed to complete the annual assessment work and annual revaluation; such as, fielding and valuation of building permits, processing splits and combined parcels, personal property verification and valuation, mobile home verification and valuation, Open Book and Board of Review appeals. Typically, on-site hours by the Statutory Assessor will occur on every Monday. Said hours to begin the first Monday following November 1, 2013 and continue through the last Monday of October 2016. As mutually agreeable, on-site hours may change to each Thursday of each month to participate in bi-monthly department manager meetings. Regardless, the Statutory Assessor or qualified designee shall attend the bi-weekly department manager meetings.
- D. The Company will be responsible for the following clerical duties relating to real estate:
 - 1. Entering permits and maintaining data changes in the City's Unvers CAMA software as needed.
 - 2. Updating ownership, mailing information and assessment information for real estate and personal property into the City's GCS tax software.

3. Ordering plat pages from Milwaukee County Register of Deeds, archiving previous plat pages, routing new plat pages to city staff and saving new plat pages to the city's shared directory. The City shall incur all costs associated with ordering of new plat pages.
 4. Maintaining the annual split listing and routing a completed copy to the City Treasurer and Civil Engineer – Environmental by November 1st of each year.
 5. Answering general assessment questions and providing basic assessment information to the public as requested, as part of the daily routine office coverage.
- E. The Company will change and keep updated property record data and review assessments in 2014, 2015 and 2016 including for the following reasons:
1. Partial construction as of January 1st of the previous year, including providing a list of all partial assessments of improvements as of January 1 of each assessment year, to the City, so that they may be readily identified and appraised for the subsequent assessment roll.
 2. New construction or remodeling (as provided for by permits) w/ photos
 3. Miscellaneous permits, such as, decks, detached buildings, exterior remodeling and basement finish
 4. New (recorded) plats, certified surveys and other land divisions
 5. Formerly exempt, now assessed parcels
 6. Buildings destroyed, significantly damaged or removed (as provided for by permits or by notification from the Fire Department)
 7. Change to higher land use
 8. Change in class or legal description
 9. Agricultural Use value of assessments as prescribed by state statutes
 10. For each tax year, data and final valuations shall be in accordance and equity with the most current Unvers database for the City of Oak Creek
 11. Perform field review as the Company deems necessary on sale properties and properties for which no building permit has been issued
 12. Perform review of the assessment of a property upon request by a property owner or upon request by an authorized agent of a property owner.
- F. Annual Revaluations
1. The Company shall perform annual statistical revaluations for assessment years 2014, 2015 and 2016.

2. The Company shall make all assessments in accordance with the Assessor's manual as specified in section 70.32 (1) Wisconsin Statutes, and the Company shall be responsible for all final values arrived at in compliance with same. Specifically, the Company will follow the Interim Market Update (IMU) process identified on pages 4-3 and 4-4 of the WPAM, Volume I.
3. Upon request of the City, the Company shall periodically batch record cards and computer-generated output and submit them to the City at the following intervals:
 - i. Completion of Land Value Analysis
 - ii. Completion of Cost Approach Analysis
 - iii. Completion of Income Analysis
 - iv. Completion of Market Analysis
 - v. Prior to sending Notices of Assessment

G. Mobile Home Units

1. The Company shall data collect permits issued for Mobile Homes by the 3rd Friday in January of each assessment year.
2. The Company shall enter all data changes to Mobile Homes into the Mobile Home database and create values for January 1 of each assessment year, by January 31 of each assessment year.
3. The Company shall deliver to the City Treasurer a full valuation listing to be used to issue annual parking fees by January 31 of each assessment year.
4. The Company shall field verify any new Mobile Homes or Mobile Homes that have been removed as reported from the Mobile Home park owner.

H. Personal Property accounts are to be assessed as per the value reported on the returns filed pursuant to law of property to be assessed as follows:

1. Mailings
 - i. The Company shall be responsible for generating labels and forms from the existing personal property database, including all known accounts to be added or deleted as discovered throughout the calendar year, as of the close of the previous year's Board of Review, and shall mail blank personal property forms to all holders of personal property as known as of January 1 of each assessment year, by January 15 of each assessment year.

- ii. The Company shall be responsible for opening and dating all returned personal property forms. The Company shall also return forms to the preparer when signatures or any additional information is missing.
 - iii. The Company shall be responsible for mailing out reminder letters to all personal property owners that do not return a form by March 1 of each assessment year. The mailing of reminder letters shall be by April 15 of each assessment year.
 - iv. The Company shall be responsible for generating a file of personal property notices of assessment.
 - v. The Company shall be responsible for mailing the personal property notices of assessment.
 - vi. The Company shall send out letters and/or forms, as needed, upon discovery of any new personal property accounts.
 - vii. The City shall be responsible for the costs of materials and postage relating to mailings of personal property and mobile homes.
2. Maintaining New/Deleted Accounts
- i. The Company shall be responsible for creating new accounts in GCS and assigning the new account number. The Company shall also be responsible for deactivating accounts from GCS for businesses no longer in operation as of January 1 of each assessment year.
 - ii. The Company shall be responsible for creating new accounts in the Personal Property Database. The Company shall be responsible for deleting accounts no longer in business as of January 1 of each assessment year from the Personal Property Database.
 - iii. The Company shall provide to the City Treasurer a list of all new accounts and deleted accounts for the January 1 of each assessment year. The list shall be provided prior to the Company deleting accounts from the Personal Property Database.
3. Valuation
- i. The Company shall prepare a list of personal property accounts to be field verified prior to the start of valuation.
 - ii. The Company shall be responsible for entering values as received on all returned personal property forms in the Personal Property Database.
 - iii. Values reported will be reviewed for uniformity between similar types of property.

- iv. Personal property subject to assessment but not reported, shall be field inspected as to physical location and actual operation, then “doomage” assessed by the Company as described in Chapter 70 of the Wisconsin Statutes.
 - v. The Company shall be responsible for pulling historical Personal Property files on an as needed basis.
- I. The Statutory Assessor, or in the absence of the Statutory Assessor a qualified designee approved by the City, shall respond to all assessment related Open Record Requests by the date determined by the City Clerk, and shall respond timely to all other City and public requests for information.
- J. Prepare all forms as follows: the Municipal Assessor’s Report (MAR), the Tax Incremental District Assessor’s Report (TAR), the Annual Assessment Report (AAR) and the Computer Exemption Report, and file same with the appropriate units of government. The PC201, Rescinded/Refunded Tax Reports shall be completed and submitted to the Treasurer by the end of the 2nd office day in August, annually. The Statement of Assessment information shall be submitted to the City Clerk. The City Clerk may request the Statutory Assessor to complete the TID Statement of Assessment directly to the Department of Revenue. If requested by the City Clerk, the Statutory Assessor shall file said report to the Department of Revenue, by the end of the 1st office day in August. The Top twenty-five taxpayer excel spreadsheet for the MMSD report shall be submitted to the City Treasurer by the 1st office day in December. All other pertinent reports (i.e. class shift report, sales reports) shall be provided by the Assessor as requested by the City.
- K. Notices of Assessment – Real Estate
 1. The Company shall ensure that the name and mailing address information for each parcel is as current as possible prior to mailing the Notice of Assessment annually.
 2. The Company shall be responsible for preparing the Notices of Assessment, annually. As the Company is performing annual revaluations, the Company would propose the use of a third party vendor to assist with folding, stuffing and sending a notice by first class mail to each property owner at the last known mailing address.
 3. The Notice form used shall be that approved by the Department of Revenue as provided in Section 70.365 of the Wisconsin Statutes.
 4. The Company shall indicate on the Notice, or attach to the Notice; the time and place the open book conferences will be held.
 5. Mailing shall be five (5) days prior to the first day of conferences for the convenience of the property owners.

6. Expenses related to the printing and mailing of the notices shall be shared by the City and the Company in the following manner:
 - i. The Company shall secure a quote from the vendor that includes the cost of materials and labor separate from the cost of postage.
 - ii. The Company shall be responsible for the non-postage cost for the notices.
 - iii. The Company and the City shall share (equally) the cost of postage for the notices as indicated on the final invoice from the third party vendor.

L. Open Book Conferences

1. Open Book conferences shall be completed by the third week in June, annually. In the event there is an extension granted at a date beyond the contracted completion date, and provided the Company and City agree to such date, the Agreement shall be extended commensurate with the lapse of days between the originally contracted completion date and the revised date for open book conferences. Such extension shall be in writing and signed by both the City and the Company.
2. Upon completion of the City Treasurer and/or City Clerk's review of values and prior to the completion of the assessment rolls, the Company shall hold open book conferences for the purpose of enabling property owners or their agents to review and compare the assessed values.
3. A sufficient number of qualified Company personnel, approved by the City, will be available to conduct open book conferences on selected days as mutually agreeable, between the second and third weeks of June, annually, Monday through Friday, at a place designated by the City.
4. The open book conferences will be held in an orderly manner with the least confusion to the property owner. Conferences on an appointment basis are the preferred method to attain this result.
5. The City and the Company shall mutually agree upon the date and hours of conferences to ensure that all property owners have an equal opportunity to review their assessment. Hearing times shall include evening hours.

M. Assessment Roll

1. The Company shall be responsible for completing the assessment roll in accordance with the current statutes, on an annual basis.

2. The Company shall provide final real estate and personal property assessment figures for each property to the City by the second Friday in July or the first Assessor's office hours following the close of open book, annually, whichever occurs later, and the roll shall be totaled.
3. The Company shall assure that the assessment values by class and district in the GCS tax software and the Unifers CAMA software are in balance with each other prior to the start of the Board of Review. The Company shall also re-balance the totals in GCS and Unifers at the conclusion of the Board of Review, annually.

N. Board of Review

1. The Company shall attend all meetings of the Board of Review to explain and defend the assessed values and shall testify under oath in regard to such values.
2. The Company shall be responsible for working with the City Clerk to arrange for the Board of Review hearings to begin by the fourth week in July, annually.
3. Within fourteen (14) days of the final adjournment of the Board of Review, the Company shall deliver to the City all records prepared including, but not limited to, (a) electronic PRC's, computer generated output, maps, and any other schedules or forms, (b) all records and materials obtained from the City and not previously returned to include maps, plans and Assessor's records, and (c) materials specifically obtained and/or used for performance of assessment work for the City to include aerial photos, land value maps, depth factor tables, copies of leases, correspondence with property owners, sales data, rental schedules, capitalization rate data, gross income multiplier data and operating statements of income properties.

O. Subsequent Appeals

1. In the event of appeal to the Department of Revenue or the courts, it is agreed that the Company and/or qualified representative(s) shall be available upon request by the City to furnish testimony in defense of the values established in all cases which might be filed within one (1) year of the completion date specified for the valuation.
2. After the completion of one (1) year, such service will be available at a rate of One Hundred Dollars (\$100.00) per hour as requested by the City to uphold and defend the assessments subject to this agreement.

- P. The Company will provide a telephone number and email address at which a responsible member of its staff may be located during normal business hours,

Monday through Friday of each week. Return calls shall be made within twenty-four (24) hours.

- Q. Any duties assigned by the City not outlined in Section II, Assessment Duties, shall be considered outside the scope of this Agreement. Those duties will be billed at the Time and Materials rates as provided for in Schedule B.
- R. The Company shall ensure that employees maintain strict confidentiality regarding all privileged information received by reason of this Agreement. Disclosure of this or any appraisal information to any individual, firm, or corporation, other than appropriate public officials or their authorized agents is expressly prohibited unless required by law.
- S. All work shall be accomplished in accordance with the provisions of the laws of the State of Wisconsin and in full compliance with all the rules and regulations officially adopted and promulgated by the Wisconsin Department of Revenue as of the date of the Agreement.
- T. The Company shall supply its field representative with identification cards, provided local identification cards are not available, containing, in addition to the usual information, a photograph of the employee and no Company employee shall be less than 21 years of age. All Tyler employees who work in City Hall or in the City shall wear City ID badges.
- U. The Company shall make all assessments in accordance with the Wisconsin Property Assessment Manual (WPAM) as specified in Sections 70.32(1) of the Wisconsin Statutes, and the Company shall be responsible for all final values arrived at in compliance with same.
- V. The City governing body shall refrain from interfering with, or influencing any value estimate by the Company. The City shall aid the Company in a responsible promotion of public information concerning the work under this Agreement.
- W. The Company shall submit a detailed project plan. The plan will include key completion dates needed for the successful operation of the annual process and are as follows:
 - 1. January 15 – Mail Personal Property Forms
 - 2. The 3rd Friday in January – Mobile Home Field Visits Complete
 - 3. January 31 – Mobile Home Valuation Complete
 - 4. January 31 – Mobile Home Assessed Values Submitted to Treasurer
 - 5. The 3rd week in April – Personal Property Reminder Letters Mailed to owners who have not returned their form and known values entered in Access Program

6. April 30 – Ag Drive Complete
7. The 4th week in May – Field Verification of Potential Doomage Accounts
8. May 31 – Doomage Values Applied and “D” code entered into Access Program
9. The 1st week in June – Mail Notices of Assessment for Real Estate and Personal Property, Including Doomage Account
10. The 1st week in June – Provide Staff with Open Book Appointment Dates and Times
11. The 1st week in June – Preliminary RE & PP Assessment Roll Submitted to City Clerk and Assessor’s Office
12. The 2nd Monday in June – Preliminary MAR & TAR Report
13. The 3rd week in June – Open Book Completed
14. The 1st week of July – Re-notification letters mailed
15. The 2nd Friday in July – Final RE & PP Assessment Roll
16. The 4th week in July – BOR Hearings Begin
17. 1st Assessor Office Day after BOR adjourns– The Assessor Enters all Board of Review Value Changes into GCS and Univers. SOA info submitted to City Clerk and TID SOA submitted directly to DOR by the Assessor if requested by the City Clerk
18. The 2nd Monday in August – Assessor Archives Univers & Access Systems and Creates Univers at all Five Work Stations.
19. The 2nd Monday in August – AG Penalty to Milwaukee County
20. Within fourteen (14) days of the final adjournment of the Board of Review – Final MAR & TAR submitted to the DOR
21. By the start of BOR – Final AAR prepared and submitted to the Department Of Revenue within fourteen (14) days of the close of the Board of Review
22. 2nd Assessor Office Day in August – Assessor Complete Chargeback of Rescinded/Refunded Taxes forms PC201 (with the exception of line 7h – Total Net Tax Rescinded or Refunded) and submit to City Treasurer
23. 1st Assessor Office Day in December –Assessor Complete Top 25 Taxpayer Excel Spreadsheet for MMSD Report and submit to City Treasurer

2.0 SUPPORT OF ASSESSMENT SERVICE BY THE CITY

A. Computer Services

The Company will use the City's CAMA System "UNIVERS" to complete the annual assessment and revaluation work as outlined in Schedule A. The CAMA package performs valuation in accordance with Volume 2 of the Wisconsin Assessor's Manual. Furthermore, the CAMA package performs a market comparison analysis that is based off the local market, as well as a built-in income valuation module that calculates values on commercial properties via the income approach to value.

The CAMA system shall be provided to the City at no additional cost and the City shall retain ownership of the CAMA software. Furthermore, the Company will provide technical assistance in resolving problems associated with operating the CAMA system and will design, code, check out, document and deliver any amendments or alterations to the Company's software that are necessary to correct or avoid any defect in the CAMA system for no additional fee during this contract.

The City shall provide and assure reasonable Company access to the City's GCS tax software on which the Company will encode the data.

The data of current ownership, mailing address, sales, permits, documents and/or notes shall be transferred to the Univers public access computer on a weekly basis.

B. Office Space

The City of Oak Creek shall provide, at no cost to the Company, suitable office space and all necessary accoutrements to allow the Company to perform the functions related to property assessment, including but not limited to desks, file cabinets, chairs, tables, shared personal computer, printer, fax machine, phone system, paper, and other general office materials as needed.

SCHEDULE B

ADDITIONAL SERVICES

1.0 ADDITIONAL SERVICES

Any additional services not described in Schedule A will be provided to the City upon written request for the Time and Material Rates as described below.

TIME AND MATERIALS RATES

The Company's time and materials hourly rates for calendar years 2014-2016 are as follows:

<u>Category</u>	<u>On-Site (\$)</u>	<u>Full 8 Hour Day (\$)</u>
Project Supervisor	\$70.00	\$560.00
Senior Appraiser	\$60.00	\$480.00
Appraiser	\$45.00	\$360.00
Data Collector	\$35.00	\$280.00
Clerical/Data Entry Operator	\$25.00	\$200.00

City of Oak Creek Common Council Report

Meeting Date: October 15, 2013

Item No.: 15

Recommendation: The Common Council establish new hours City Hall will be open to the public beginning January 2, 2014.

Background: As part of the staff's reorganization proposal for City Hall operations that has been previously approved in concept by the Personnel Committee and the Common Council, there was a recommendation for new hours for the City Hall to be open to the public. Recommended hours are Monday through Friday, 7:30 a.m. to 4:00 p.m. except when closed for holidays.

Based upon an analysis of when phone calls are received and walk-in traffic from the public occurs, these hours better align with providing efficient and effective service to the public. If approved, these hours would reduce the number of hours City Hall is open to the public by 2.5 hours per week, which has a positive impact on City staffing levels and cost for service as well as with aligning with when our residents most frequently use City services. It should be noted we are also making attempts to provide information and services online so that residents have a variety of options to engage the City for their needs, questions, and services.

Fiscal Impact: Reduction in the number of hours City Hall will be open per week should reduce City staffing expenses by \$15,224 annually.

Fiscal Review by:


Bridget M. Souffrant
Finance Director/Comptroller

Prepared and Submitted by:


Gerald R. Peterson, ICMA-CM
City Administrator

City of Oak Creek Common Council Report

Meeting Date: October 15, 2013

Item No.: 16

Recommendation: That the Common Council approve payment of the obligations as listed on the October 9, 2013 Vendor Summary Report.


Background: Of note are the following payments:

1. \$8,784.80 to Buelow Vetter Buikema Olson (pg #3) for September legal services.
2. \$5,018.40 to Gruen Gruen & Associates LLC (pg #8) for July through September developer evaluations.
3. \$34,850.00 to John's Disposal Service, Inc. (pg #10) for September garbage disposal service.
4. \$61,437.23 to JPMorgan Chase Bank NA (pgs #10-16) for equipment maintenance, recreation bus service for summer playground trips, travel/training, fire department HRA's, license fees, computer hardware/software, August Verizon charges, street lighting supplies, books, audio visual supplies, medical and safety supplies.
5. \$6,567.18 to Minnesota Life Insurance Co. (pgs #17-18) for group life insurance.
6. \$51,909.00 to Monroe Truck Equipment (pg #18) for replacement truck.
7. \$26,844.43 to North American Salt Co. (pg #18) for snow and ice removal.
8. \$47,092.50 to One West Drexel, LLC (pg #18) for WEDC site assessment grant.
9. \$11,270.00 to Tyler Technologies, Inc. (pg #23) for assessment consulting services.
10. \$7,026.17 to WE Energies (pgs #24-25) for street lighting.
11. \$8,985.00 to WI Dept. of Transportation (pg #25) for expressway downtown Oak Creek signs.

Fiscal Impact: Total claims paid of \$364,416.63

Prepared by/Fiscal Review by:

Respectfully submitted,



Bridget M. Souffrant
Finance Director/Comptroller



Gerald R. Peterson
City Administrator

City of Oak Creek Common Council Report

Meeting Date: October 15, 2013

Item No.: 17

Recommendation: That the Council adopt Resolution No. 11411-101513 expressing opposition to Wisconsin Assembly Bill 385 regarding changes to the local hotel room tax.

Background: 2013 Wisconsin Assembly Bill 385, a copy of which is attached would fundamentally alter the manner in which local municipalities collect and utilize local hotel room tax revenues.

The City first enacted its six percent (6%) hotel room tax in February of 1982. Room tax collections total approximately \$556,000 annually, of which the Council, per Resolution No. 10894 directed any amount over \$400,000 be transferred to Fund 31 for economic development purposes. This hotel room tax revenue promotes business development activities that attribute to the demand for lodging in the community. It also funds a portion of salaries and benefits for personnel engaged in economic development activities. In addition, the vital funding provided by the annual \$400,000 transfer to the general fund directly pays for police, fire, public works and other services that directly benefit the local hospitality industry.

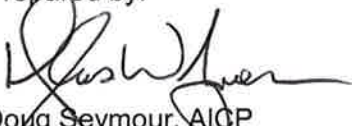
Current law permits a municipality that imposed the room tax on or before May 31, 1994 to retain the same percentage of proceeds for as it retained on that date. If the room tax was imposed after May 31, 1994, or if the room tax rate was increased after that date, at least 70% of the proceeds from the new tax or increase in tax rates must be spent on tourism or forwarded to the municipality's tourism commission. Under the bill, any municipality that retains more than 30% of its room tax proceeds would be required to reduce that percentage to no more than 30% in equal amounts over a six-year beginning January 1, 2015 and ending January 1, 2020.

The proposed legislation, if enacted would impact Fund 31 as early as 2015, and could potentially eliminate that funding source by 2017. Likewise, the changes could impact the general fund contribution as early as 2017, and would result in a potential annual shortfall of \$241,114 by 2020. This funding could not be replaced with property taxes because of levy limits.

A possible recourse would be to increase the local hotel room tax from six percent (6%) to eight percent (8%). Doing so would delay, but not eliminate the impact of this legislation on Fund 31 until 2016 and on the general fund until 2018.

Fiscal Impact: An analysis (attached) of the proposed legislation indicates that there will be a significant negative fiscal impact on both the Economic Development fund (Fund 31) as well as the City's General Fund if this legislation is approved.


Prepared by:


Doug Seymour, AICP
Director of Community Development

Respectfully Submitted,


Gerald Peterson, ICMA-CM
City Administrator

Fiscal Review by:


Bridget M. Souffrant
Finance Director/Comptroller

RESOLUTION NO. 11411-101513

BY: _____

RESOLUTION EXPRESSING OPPOSITION TO WISCONSIN 2013 ASSEMBLY BILL 385
REGARDING CHANGES TO THE LOCAL HOTEL ROOM TAX

WHEREAS, under current Wisconsin law, a municipality may impose a room tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators, and other persons who furnish accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations; and

WHEREAS, on February 16, 1982 the Common Council adopted Ordinance No. 929 recreating Section 3.09 of the Municipal Code establishing the room tax for hotels and motels at six percent (6%), and

WHEREAS, proposed 2013 Assembly Bill 385 (AB 385) would fundamentally change the manner in which municipalities that first imposed a room tax prior to May 13, 1994 collect and utilize room tax revenue; and

WHEREAS, AB 385 would eliminate municipal discretion to spend room tax revenue on tourism promotion and economic development; and

WHEREAS, AB 385 would require municipalities that retain more than 30 percent of the room tax revenue under ordinances adopted prior to 1994 to reduce the amount retained to no more than 30 percent over a six-year period, and

WHEREAS, AB 385 mandates that municipal governing bodies must forward room tax revenues designated for tourism promotion and development to a tourism entity or commission, a body not directly accountable to the taxpayers, and

WHEREAS, AB 385, if approved would create a substantial negative fiscal impact on Oak Creek and like municipalities by diverting general revenue funds, which have historically been used to provide services to the hospitality industry to a tourism commission, thereby creating a revenue shortfall which cannot be replaced because of levy limits, and

WHEREAS, the City of Oak Creek currently designates approximately twenty-seven percent (27%) of hotel room taxes collected to its Economic Development Fund, which is used to promote business development activities that in turn create demand for lodging in the community.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Oak Creek, Wisconsin, that for and on behalf of themselves and the taxpayers of the City of Oak Creek, and for the reasons hereinabove set forth go on record as opposing the changes to the local use of hotel and motel room tax as proposed in 2013 Assembly Bill 385.

Introduced at a regular meeting of the Common Council of the City of Oak Creek held this 15th Day of October, 2013.

Passed and adopted this _____ day of _____, 2013.

President, Common Council

Approved this _____ day of _____, 2013.

Mayor

ATTEST:

VOTE: Ayes _____ Noes _____

City Clerk

Analysis of Fiscal Impact of AB 385 (using current revenues and tax rates)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
City	100%	88.3%	76.7%	65.0%	53.3%	41.7%	30%
Tourism Commission	0%	11.7%	23.3%	35.0%	46.7%	58.3%	70.0%
Total	100%	100%	100%	100%	100%	100%	100%

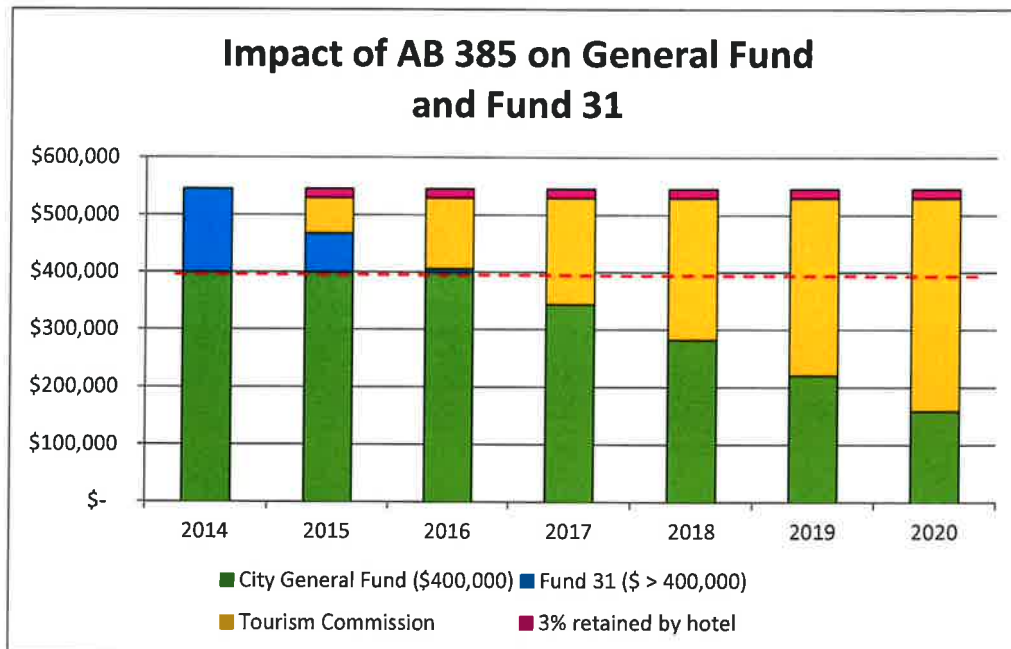
Anticipated Revenues (Total)	\$ 546,000	\$ 546,000	\$ 546,000	\$ 546,000	\$ 546,000	\$ 546,000	\$ 546,000
- 3% (retained by hotel)		\$ 529,620	\$ 529,620	\$ 529,620	\$ 529,620	\$ 529,620	\$ 529,620
Total City Revenue	\$ 546,000	\$ 467,829	\$ 406,038	\$ 344,248	\$ 282,457	\$ 220,666	\$ 158,886
<i>General Fund split (existing)</i>	\$ 400,000	\$ 400,000	\$ 400,000	\$ 344,248	\$ 282,457	\$ 220,666	\$ 158,886
<i>Fund 31 split (existing)</i>	\$ 146,000	\$ 67,829	\$ 6,038	\$ -	\$ -	\$ -	\$ -
Tourism Commission	\$ -	\$ 61,791	\$ 123,582	\$ 185,372	\$ 247,163	\$ 308,954	\$ 370,734

Projected Deficits from Existing Funding Levels

(\$400,000 General Fund)

(\$156,000 Fund 31 - Economic Development)

General Fund	\$ -	\$ -	\$ -	\$ 55,752	\$ 117,543	\$ 179,334	\$ 241,114
Fund 31	\$ -	\$ 78,171	\$ 139,962	\$ 146,000	\$ 146,000	\$ 146,000	\$ 146,000
Total	\$ -	\$ 78,171	\$ 139,962	\$ 201,752	\$ 263,543	\$ 325,334	\$ 387,114



Analysis of Fiscal Impact of AB 385 (using current revenues and 8% tax rate)

City	2014	2015	2016	2017	2018	2019	2020
	100%	88.3%	76.7%	65.0%	53.3%	41.7%	30%
	100 % of original 6% (\$546,000)						
	30% of additional 2% (\$54,600)						
	70% of additional 2% (\$127,400)						
Tourism Commission		11.7%	23.3%	35.0%	46.7%	58.3%	70.0%
Total	100%	100%	100%	100%	100%	100%	100%

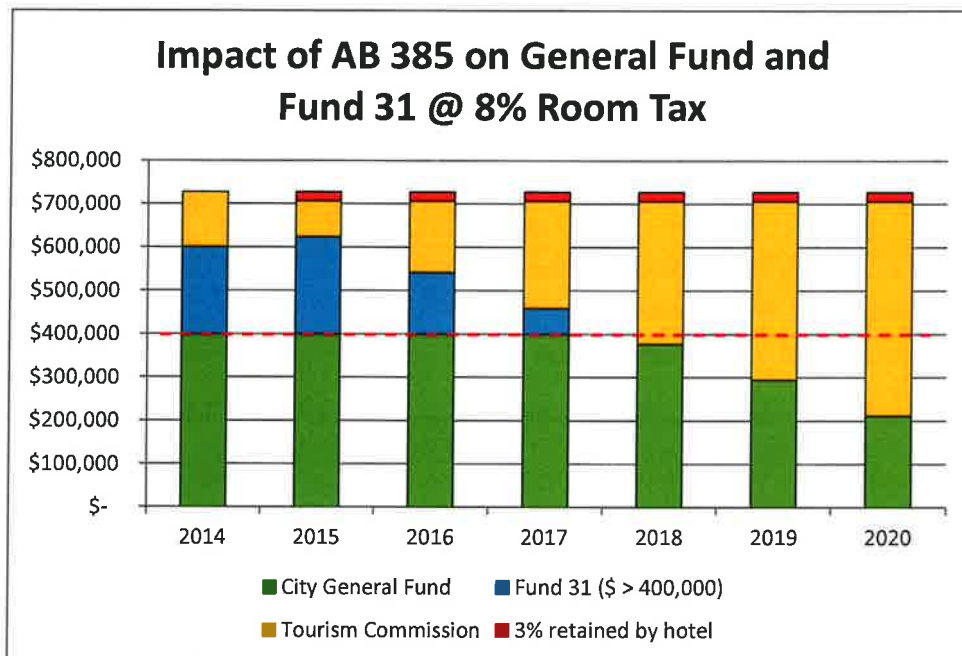
Anticipated Revenues (Total)	\$ 728,000	\$ 728,000	\$ 728,000	\$ 728,000	\$ 728,000	\$ 728,000	\$ 728,000
- 3% (retained by hotel)		\$ 21,840	\$ 21,840	\$ 21,840	\$ 21,840	\$ 21,840	\$ 21,840
Total Available Revenue	\$ 728,000	\$ 706,160	\$ 706,160	\$ 706,160	\$ 706,160	\$ 706,160	\$ 706,160
Total City Revenue	\$ 600,600	\$ 623,772	\$ 541,385	\$ 458,997	\$ 376,609	\$ 294,222	\$ 211,848
<i>General Fund split (existing)</i>	\$ 400,000	\$ 400,000	\$ 400,000	\$ 400,000	\$ 376,609	\$ 294,222	\$ 211,848
<i>Fund 31 split (existing)</i>	\$ 200,600	\$ 223,772	\$ 141,385	\$ 58,997			
Tourism Commission	\$ 127,400	\$ 82,388	\$ 164,775	\$ 247,163	\$ 329,551	\$ 411,938	\$ 494,312
Total (should = Row 17)	\$ 728,000	\$ 728,000	\$ 728,000	\$ 728,000	\$ 728,000	\$ 728,000	\$ 728,000

Projected Deficits from Existing Funding Levels
(\$400,000 General Fund)

(\$156,000 Fund 31 - Economic Development)

General Fund	\$ -	\$ -	\$ -	\$ -	\$ 23,391	\$ 105,778	\$ 188,152
Fund 31 (not inc. fund balance)	\$ -	\$ -	\$ 4,615	\$ 87,003	\$ 146,000	\$ 146,000	\$ 146,000
Total	\$ -	\$ -	\$ 4,615	\$ 87,003	\$ 169,391	\$ 251,778	\$ 334,152

City General Fund	\$ 400,000	\$ 400,000	\$ 400,000	\$ 400,000	\$ 376,609	\$ 294,222	\$ 211,848
Fund 31 (\$ > 400,000)	\$ 200,600	\$ 223,772	\$ 141,385	\$ 58,997	\$ -	\$ -	\$ -
Tourism Commission	\$ 127,400	\$ 82,388	\$ 164,775	\$ 247,163	\$ 329,551	\$ 411,938	\$ 494,312
3% retained by hotel	\$ -	\$ 21,840	\$ 21,840	\$ 21,840	\$ 21,840	\$ 21,840	\$ 21,840





122 W. Washington Avenue
Suite 300
Madison, Wisconsin 53703-2715

608/267-2380
800/991-5502
Fax: 608/267-0645

E-mail: league@lwm-info.org
www.lwm-info.org

To: Assembly Committee on Tourism
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities
Date: October 2, 2013
Re: **AB 385, Room Tax Law Changes**

The League of Wisconsin Municipalities strongly opposes AB 385, making several significant but unnecessary modifications to the room tax law designed to benefit the lodging and tourism industry at the expense of municipal property taxpayers. The bill makes the following changes harmful to municipalities:

1. Eliminates municipal discretion to spend room tax revenues directly on tourism promotion and development. Under current law, the required expenditure on tourism promotion or development may be spent directly by the municipal governing body or forwarded to a local tourism entity or commission. AB 385 mandates that municipal governing bodies must forward room tax revenues designated for tourism promotion and development to a tourism entity or commission, a body not directly accountable to taxpayers .
2. Requires municipalities that retain more than 30 percent of the room tax revenue under ordinances adopted prior to 1994 to reduce the amount retained to no more than 30 percent over a six-year period. This will require communities that have retained, in some cases, up 90-100 percent of room tax revenue for their general fund, to forgo that revenue. Municipalities will be unable to replace the room tax revenue with property taxes because of levy limits. This bill will create a hole in some municipal budgets.
3. Authorizes DOR to impose a \$3,000 penalty on communities that fail to file an annual room tax report with the agency. While we are not opposed to the reporting requirements, we are concerned about creating a \$3,000 penalty for communities that may inadvertently fail to file the report.

Municipalities are frustrated by the state's recent tendency to interfere with matters of local control. This bill continues that pattern. Given the severe financial stress municipalities are under, it doesn't make sense to reduce a source of revenue that some municipalities use to pay off convention center debt, to pay for police and fire services provided to hotels, or to pay for other municipal services necessary for tourism to thrive. We urge you to vote against recommending passage of AB 385. Thanks for considering our concerns.

STRONG COMMUNITIES MAKE WISCONSIN WORK



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2963/1
MES:jld:ph

2013 ASSEMBLY BILL 385

September 23, 2013 - Introduced by Representatives BIES, BALLWEG, BROOKS, CLARK, GENRICH, KLEEFISCH, MURSAU, MURTHA, A. OTT, PETERSEN, SWEARINGEN and THIESFELDT, cosponsored by Senators OLSEN, COWLES, GUDEX, HANSEN, HARSDORF, LASEE, LEHMAN and TIFFANY. Referred to Committee on Tourism.

1 **AN ACT to amend** 66.0615 (1) (a), 66.0615 (1) (f), 66.0615 (1) (fm) (intro.), 66.0615
2 (1m) (a), 66.0615 (1m) (c) 1., 66.0615 (1m) (c) 2. a., 66.0615 (1m) (d) 1., 66.0615
3 (1m) (d) 2., 66.0615 (1m) (d) 3. and 66.0615 (1m) (d) 7.; and **to create** 66.0615
4 (1) (fi), 66.0615 (1m) (d) 8., 66.0615 (1m) (d) 9., 66.0615 (1m) (dm) and 66.0615
5 (4) and (5) of the statutes; **relating to:** changes to the local room tax.

Analysis by the Legislative Reference Bureau

Under current law, a city, village, or town (municipality) and a local exposition district may impose a room tax. The room tax is a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators, and other persons who furnish accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations.

Generally, the maximum room tax that a municipality may impose is 8 percent. A single municipality that imposes a room tax may create a commission, which is defined as an entity to coordinate tourism promotion and tourism development (tourism). If two or more municipalities in a zone impose a room tax, they must create a commission. Current law defines a zone as an area made up of two or more municipalities that, those municipalities agree, is a single destination as perceived by the traveling public.

Current law requires a commission to contract with an organization to provide staff, development, or promotional services for the tourism industry in a municipality if a tourism entity does not exist in that municipality. A tourism entity

*Factor 14
also*

ASSEMBLY BILL 385

is defined under current law as a nonprofit organization that existed before January 1, 1992, and provides staff, development, or promotional services for the tourism industry in a municipality. The bill changes the definition of tourism entity to be a nonprofit organization that spends at least 51 percent of its revenue on tourism promotion and development and provides destination marketing staff and services for the tourism industry in a municipality. Also, under the bill, a tourism entity must have come into existence before January 1, 2013, unless such an entity does not exist in the municipality on January 1, 2013.

Under the bill, the majority of the members of a commission, and the majority of the members of the governing body of a tourism entity that spends between 51 percent and 70 percent of its revenue on tourism promotion and tourism development, must be owners or operators of restaurants, tourist attractions, or lodging facilities that collect the room tax and that are located in the municipality for which the room tax is collected, except that this membership requirement for a tourism entity does not generally apply to an entity that receives room tax revenue solely under contract with a commission. Also under the bill, the governing body of a tourism entity must include at least one owner or operator of a lodging facility in the municipality for which the room tax is collected.

Under current law, a municipality that first imposes a room tax after May 13, 1994, must spend at least 70 percent of the amount collected on tourism; the expenditure may be spent directly by the municipality or forwarded to the commission for its municipality or zone. The 30 percent or less of the room tax revenue that is not spent on tourism may be retained by the municipality and used for any other purpose. If a municipality collected a room tax on May 13, 1994, it may retain up to the same percentage of the room tax that it retained on that date, even if that percentage is more than 30 percent.

Under this bill, any revenue that is not retained by the municipality must be forwarded to a tourism entity or a commission, although the person collecting the room tax may retain 3 percent of the tax collected, or a higher percentage if authorized by the municipality, to cover the person's processing fees if the person pays the tax to the municipality as prescribed by the municipality. Also under the bill, a municipality that retains more than 30 percent of the room tax must reduce the amount that it retains to no more than 30 percent. The reduction must be made in equal amounts over a six-year period beginning on January 1, 2015.

The bill requires municipalities annually to certify and report to the Department of Revenue (DOR) the amount of room tax revenue collected, and the room tax rate imposed, by the municipality in the previous year as well as a detailed accounting of amounts that were forwarded to a commission or tourism entity and such an accounting for amounts of at least \$1,000 expended by a commission or tourism entity. DOR is required to collect the reports and make them available to the public. In addition, the report must identify the members of a commission or tourism entity, and their business or employment affiliation, if any.

This bill authorizes a tourism entity or tourism organization to file a written complaint with a municipality alleging that the municipality is not allocating or

ASSEMBLY BILL 385

using room tax revenue as required by the statutes. A municipality that receives such a complaint must reply in writing within 60 days of receipt of the complaint.

If the complainant is unsatisfied by the reply, or if the municipality fails to reply, the complainant may submit to the municipality a written request for mediation. If both parties agree to mediation, they may jointly choose the mediator or agree that one party shall pick the mediator. The cost of the mediator is paid by the party that picks the mediator or, if the parties jointly pick the mediator, the municipality pays if the mediator finds that the municipality is not complying with the room tax statute and the complainant pays if the mediator finds that the municipality is in compliance. If the mediator is unable to determine compliance, the parties split the cost of mediation.

The mediator must provide both parties with a written decision on the allegations alleged in the complaint within 60 days of the end of the mediation. If the mediator finds that the municipality is not complying with the room tax statute, he or she must recommend actions the municipality may take to be in compliance. The mediator's decision and findings are not binding on the parties.

If the parties follow the mediator's decision, the complainant may not file suit against the municipality alleging the same issues raised in the complaint during the municipality's fiscal year in which the decision is provided to the parties. If the municipality does not agree to mediation, or does not follow the mediator's recommendations on how to comply with the room tax statute, the complainant may file a suit against the municipality to enforce compliance with the room tax statute.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0615 (1) (a) of the statutes is amended to read:

2 66.0615 (1) (a) "Commission" means an entity created by one municipality or
3 by 2 or more municipalities in a zone, to coordinate tourism promotion and tourism
4 development for the zone.

5 **SECTION 2.** 66.0615 (1) (f) of the statutes is amended to read:

6 66.0615 (1) (f) "Tourism entity" means a nonprofit organization that came into
7 existence before January 1, 1992, and ~~provides staff, development or promotional~~
8 2013, spends at least 51 percent of its revenues on tourism promotion and tourism
9 development, and provides destination marketing staff and services for the tourism

ASSEMBLY BILL 385**SECTION 2**

1 industry in a municipality, except that if no such organization exists in a
2 municipality on January 1, 2013, a municipality may contract with such an
3 organization if one is created in the municipality.

4 **SECTION 3.** 66.0615 (1) (fi) of the statutes is created to read:

5 66.0615 (1) (fi) "Tourism organization" means a statewide organization that
6 represents any of the following:

- 7 1. Tourism entities.
- 8 2. The lodging industry.
- 9 3. An owner or operator, or a group of owners or operators, of a lodging facility
10 that collects a room tax.
- 11 4. Tourism businesses.

12 **SECTION 4.** 66.0615 (1) (fm) (intro.) of the statutes is amended to read:

13 66.0615 (1) (fm) (intro.) "Tourism promotion and tourism development" means
14 any of the following that are significantly used by transient tourists and reasonably
15 likely to generate paid overnight stays at more than one establishment on which a
16 tax under sub. (1m) (a) may be imposed, that are owned by different persons and
17 located within a municipality in which a tax under this section is in effect; or, if the
18 municipality has only one such establishment, reasonably likely to generate paid
19 overnight stays in that establishment:

20 **SECTION 5.** 66.0615 (1m) (a) of the statutes, as affected by 2013 Wisconsin Act
21 20, is amended to read:

22 66.0615 (1m) (a) The governing body of a municipality may enact an ordinance,
23 and a district, under par. (e), may adopt a resolution, imposing a tax on the privilege
24 of furnishing, at retail, except sales for resale, rooms or lodging to transients by
25 hotelkeepers, motel operators and other persons furnishing accommodations that

ASSEMBLY BILL 385

1 are available to the public, irrespective of whether membership is required for use
2 of the accommodations. A tax imposed under this paragraph may be collected from
3 the consumer or user, but may not be imposed on sales to the federal government and
4 persons listed under s. 77.54 (9a). A tax imposed under this paragraph by a
5 municipality shall be paid to the municipality within a time frame prescribed by the
6 municipality and may, with regard to any tax revenue that may not be retained by
7 the municipality, shall be forwarded to a tourism entity or a commission if one is
8 created under par. (c), as provided in par. (d), except that before the person collecting
9 the tax pays it to the municipality within the time frame prescribed by the
10 municipality, the person may retain 3 percent of the tax collected, or a higher
11 percentage if the municipality has a higher percentage in effect on the effective date
12 of this paragraph [LRB inserts date], to cover the person's processing costs.
13 Except as provided in par. (am), a tax imposed under this paragraph by a
14 municipality may not exceed 8%. Except as provided in par. (am), if a tax greater
15 than 8% under this paragraph is in effect on May 13, 1994, the municipality
16 imposing the tax shall reduce the tax to 8%, effective on June 1, 1994.

17 **SECTION 6.** 66.0615 (1m) (c) 1. of the statutes is amended to read:

18 66.0615 (1m) (c) 1. If a commission is created by a single municipality, the
19 commission shall consist of 4 to 6 members. ~~One~~ At least one of the commission
20 members shall represent the Wisconsin hotel and motel industry. Members shall be
21 appointed under subd. 3. A majority of the members of a commission shall be owners
22 or operators of restaurants, tourist attractions, or lodging facilities that collect the
23 room tax described in this section, and that are located in the municipality for which
24 the room tax is collected.

25 **SECTION 7.** 66.0615 (1m) (c) 2. a. of the statutes is amended to read:

ASSEMBLY BILL 385**SECTION 7**

1 66.0615 (1m) (c) 2. a. If the commission is created by more than one
2 municipality in a zone, the commission shall consist of 3 members from each
3 municipality in which annual tax collections exceed \$1,000,000, 2 members from
4 each municipality in which annual tax collections exceed \$300,000 but are not more
5 than \$1,000,000 and one member from each municipality in which annual tax
6 collections are \$300,000 or less. A majority of the members of a commission shall be
7 owners or operators of restaurants, tourist attractions, or lodging facilities that
8 collect the room tax described in this section and that are located in the
9 municipalities for which the room tax is collected. Except as provided in subd. 2. b.,
10 members shall be appointed under subd. 3.

11 **SECTION 8.** 66.0615 (1m) (d) 1. of the statutes is amended to read:

12 66.0615 (1m) (d) 1. A municipality that first imposes a room tax under par. (a)
13 after May 13, 1994, shall spend at least 70% of the amount collected on tourism
14 promotion and tourism development. Any amount of room tax collected that must
15 be spent on tourism promotion and tourism development shall either be ~~spent~~
16 ~~directly by the municipality on tourism promotion and development or shall be~~
17 forwarded to the commission for its municipality or zone if the municipality has
18 created a commission, or forwarded to a tourism entity.

19 **SECTION 9.** 66.0615 (1m) (d) 2. of the statutes is amended to read:

20 66.0615 (1m) (d) 2. ~~If Subject to par. (dm), if~~ a municipality collects a room tax
21 on May 13, 1994, it may retain not more than the same percentage of the room tax
22 that it retains on May 13, 1994. If a municipality that collects a room tax on May 1,
23 1994, increases its room tax after May 1, 1994, the municipality may retain not more
24 than the same percentage of the room tax that it retains on May 1, 1994, except that
25 if the municipality is not exempt under par. (am) from the maximum tax that may

ASSEMBLY BILL 385

1 be imposed under par. (a), the municipality shall spend at least 70% of the increased
2 amount of room tax that it begins collecting after May 1, 1994, on tourism promotion
3 and tourism development. Any amount of room tax collected that must be spent on
4 tourism promotion and tourism development shall either be ~~spent directly by the~~
5 ~~municipality on tourism promotion and development or shall be~~ forwarded to the
6 commission for its municipality or zone if the municipality has created a commission,
7 or forwarded to a tourism entity.

8 **SECTION 10.** 66.0615 (1m) (d) 3. of the statutes is amended to read:

9 66.0615 (1m) (d) 3. A commission shall use the room tax revenue that it
10 receives from a municipality for tourism promotion and tourism development in the
11 zone or in the municipality.

12 **SECTION 11.** 66.0615 (1m) (d) 7. of the statutes is amended to read:

13 66.0615 (1m) (d) 7. Notwithstanding the provisions of subds. 1. and 2., any
14 amount of room tax revenue that a municipality described under s. 77.994 (3) is
15 required to spend on tourism promotion and tourism development shall be forwarded
16 to, and spent by, the municipality's tourism entity, unless the municipality creates
17 a commission and forwards the revenue to the commission.

18 **SECTION 12.** 66.0615 (1m) (d) 8. of the statutes is created to read:

19 66.0615 (1m) (d) 8. The governing body of a tourism entity shall include at least
20 one owner or operator of a lodging facility that collects the room tax described in this
21 section and that is located in the municipality for which the room tax is collected.
22 Subdivision 4., as it applies to a commission, applies to a tourism entity.

23 **SECTION 13.** 66.0615 (1m) (d) 9. of the statutes is created to read:

24 66.0615 (1m) (d) 9. With regard to a tourism entity that spends at least 51
25 percent, but not more than 70 percent, of its revenues on tourism promotion and

ASSEMBLY BILL 385**SECTION 13**

1 tourism development, a majority of the members of the tourism entity's governing
2 body shall be owners or operators of restaurants, tourism attractions, or lodging
3 facilities which collect the room tax described in this section, and which are located
4 in the municipality for which the room tax is collected. This subdivision does not
5 apply to a tourism entity that receives room tax revenue solely under contract with
6 a commission under par. (b).

7 **SECTION 14.** 66.0615 (1m) (dm) of the statutes is created to read:

8 66.0615 (1m) (dm) Beginning with the room tax collected on January 1, 2015,
9 by a municipality that collected a room tax on May 13, 1994, as described in par. (d)
10 2., and retained more than 30 percent of the room tax collected for purposes other
11 than tourism promotion and tourism development, such a municipality shall reduce
12 the amount retained that exceeds 30 percent by one-sixth on January 1, 2015,
13 January 1, 2016, January 1, 2017, January 1, 2018, January 1, 2019, and January
14 1, 2020, so that on and after January 1, 2020, the municipality retains not more than
15 30 percent of the room tax collected for purposes other than tourism promotion and
16 tourism development.

17 **SECTION 15.** 66.0615 (4) and (5) of the statutes are created to read:

18 66.0615 (4) (a) Annually, on a form created and provided by the department of
19 revenue, every municipality that imposes a tax under sub. (1m) shall certify and
20 report to the department all of the following:

21 1. The amount of room tax revenue collected, and the room tax rate imposed,
22 by the municipality in the previous year.

23 2. A detailed accounting of the amounts of such revenue that were forwarded
24 in the previous year for tourism promotion and tourism development, specifying the
25 commission or tourism entity that received the revenue. The detailed accounting

ASSEMBLY BILL 385

1 shall include expenditures of at least \$1,000 made by a commission or a tourism
2 entity.

3 3. A list of each member of the commission and each member of the governing
4 body of a tourism entity to which the municipality forwarded room tax revenue in the
5 previous year, and the name of the business entity the member owns, operates, or is
6 employed by, if any.

7 (b) The department of revenue shall collect the reports described in par. (a) and
8 shall make them available to the public.

9 (c) The department of revenue may impose a penalty of not more than \$3,000
10 on a municipality that does not submit to the department the reports described in
11 par. (a). A municipality may not use room tax revenue to pay a penalty imposed
12 under this paragraph. The penalty shall be paid to the department of revenue.

13 (5) (a) A tourism entity or a tourism organization may file a written complaint
14 with municipality alleging that the municipality is not allocating or using the room
15 tax revenue it receives as required under this section. The complaint shall be filed
16 on a form prepared by the department of revenue and shall specify the statute with
17 which the municipality is not complying, and how it is not complying. A municipality
18 that receives such a complaint shall provide the complaining party with a written
19 response to the complaint not later than 60 days after the municipality receives the
20 complaint.

21 (b) If the complainant is not satisfied with the municipality's response, or if the
22 municipality does not respond within the time period prescribed in par. (a), the
23 complainant may submit to the municipality a written request for mediation.

24 (c) If both parties agree to mediation, the parties shall either agree on a
25 mediator or the parties may stipulate that one party will choose the mediator. If one

ASSEMBLY BILL 385**SECTION 15**

1 party chooses the mediator, that party shall pay all costs associated with the
2 mediation. If the parties jointly choose the mediator, the costs associated with the
3 mediation shall be paid by one of the following:

4 1. The complainant, if the mediator finds that the municipality is in compliance
5 with this section.

6 2. The municipality, if the mediator finds that the municipality is not in
7 compliance with this section.

8 3. Both parties, equally, if the mediator is not able to determine whether the
9 municipality is in compliance with this section.

10 (d) Not later than 60 days after the mediation is concluded, the mediator shall
11 provide both parties with a written decision on the complaint filed by the
12 complainant. If the mediator upholds the allegations in the complaint, his or her
13 written findings shall specify how the municipality is not complying with this section
14 and shall recommend actions the municipality should take to comply with this
15 section. The mediator's written decision and findings are not binding on the parties.

16 (e) If the parties voluntarily follow the mediator's written decision and findings
17 the complainant may not commence an action in circuit court, during the
18 municipality's fiscal year in which the written decision is provided to the parties, that
19 alleges the same issues as the complainant raised in the complaint filed under par.

20 (a).

21 (f) If a municipality does not agree to a request for mediation under par. (b), or
22 if the mediator's written decision under par. (d) finds that the municipality is not
23 complying with this section and the municipality refuses to follow the mediator's

ASSEMBLY BILL 385

1 nonbinding written findings and recommendations, the complainant may commence
2 an action in circuit court to enforce compliance with the requirements of this section.

3

(END)

Local Hotel Room Tax Rates ¹

Municipality	Local Room Tax Rate
Oak Creek	6%
Greenfield	7%
Brookfield	8%
Franklin	6%
Wauwatosa	7%
New Berlin	8%
Milwaukee	7%

Milwaukee County Hotel Room Tax (additional 2.5%)

¹ Survey by Dept of Community Development (10-28-10)

**MINUTES
LICENSE COMMITTEE
THURSDAY, OCTOBER 3, 2013 AT 9:00 A.M.**

This meeting was called to order at 9:00 a.m. Present were: Ald. Gehl and Ald. Ruetz. Ald. Kurkowski was excused. Also in attendance were Mayor Scaffidi (arrived at 9:15 a.m.), Assistant City Attorney Melissa Karls and Deputy City Clerk Christa Miller.

1. The Committee reviewed the application for an Operator's license submitted by Troy Reichenberger, 10524 W. Cortez Cir., Franklin (Buffalo Wild Wings). Mr. Reichenberger was in attendance.

Mr. Reichenberger disclosed a felony battery conviction (Kenosha) in 1997.

The police report showed the following convictions:

- Disorderly Conduct Misdemeanor (Waukesha) – convicted 11/14/08
- Party to Aggravated Battery-Intend Sub Bodily Harm (Kenosha) – convicted 9/18/1997

Mr. Reichenberger did not disclose the disorderly conduct conviction and the License Committee reviewed whether or not he falsified his application by omission.

Additionally, as Mr. Reichenberger has a felony conviction, the License Committee needed to determine whether the felony conviction is grounds for denial.

Mr. Reichenberger explained his convictions.

Ald. Gehl, seconded by Ald. Ruetz, moved to grant the Operator's license submitted by Troy Reichenberger, 10524 W. Cortez Cir., Franklin (Buffalo Wild Wings). On roll call, all voted aye.

2. The Committee reviewed the application for an Operator's license submitted by Gabrielle Hanley, 3807 E. Holmes Ave., Cudahy (Branded Steer). Ms. Hanley in attendance.

Ms. Hanley disclosed the following convictions on her application:

- Misdemeanor disorderly conduct (Cudahy) 2011
- Traffic violations
- Driving without a license
- Suspended plates
- Underage drinking (2)
- Disorderly
- Loud noise ordinance
- Diving without insurance
- Damage obstruct property

The police report showed the following convictions:

- Disorderly conduct non-criminal (Oak Creek) – convicted 5/11/10
- Underage alcohol possess/consume (Cudahy) – convicted 3/22/10
- Disorderly Conduct (Cudahy) - convicted 3/22/10
- Loud and Unnecessary noise (St. Francis) – convicted 11/28/11
- Disorderly conduct (Cudahy) – convicted 10/27/11
- Underage alcohol (Milwaukee) – convicted 2/9/12
- Criminal damage to property – convicted 10/27/11

The Committee discussed whether or not Ms. Hanley was considered a "habitual offender". A person can be considered a habitual offender if within the five years prior to the application, they

have been arrested or convicted of at least two offenses which substantially relate to the licensed activity. The Committee acknowledged that Ms. Hanley has two underage alcohol convictions in the past five years substantially related to obtaining a bartender/operator license. The License Committee asked Ms. Hanley questions regarding her convictions and she explained the circumstances to those convictions.

Ms. Hanley disclosed that she has been employed by the Branded Steer for the past two and one half years and that she has been asked by management to obtain her bartender license. Ald. Gehl requested that Ms. Hanley provide the Council with a letter of recommendation / referral from her employer on her behalf. It was noted that this letter is requested by October 10, 2013.

Ald. Gehl, seconded by Ald. Ruetz, moved to grant an Operator's license submitted by Gabrielle Hanley, 3807A East Holmes Ave., Cudahy (Branded Steer). On roll call, all voted aye.

4. The Committee reviewed the application for an Operator's license submitted by Robin Atwood, 580 W. Riverwood Dr., Oak Creek (Legion). Ms. Atwood was in attendance.

Ms. Atwood disclosed no convictions on her application.

The police report showed a conviction for Issuance of Worthless Checks.

The Committee asked Ms. Atwood to explain her conviction.

Ald. Gehl, seconded by Ald. Ruetz, moved to grant an Operator's license to Robin Atwood, 580 W. Riverwood Dr., Oak Creek (Legion). On roll call, all voted aye.

Ald. Gehl, seconded by Ald. Ruetz, moved to adjourn this meeting at 9:28 a.m. On roll call, all voted aye.