Memorandum

To: Common Council
From: Greg Keil, CDD
Date: June 1, 2011
RE: Menasha Redevelopment Authority

Per Alderman Taylor's request, Resolution R-23-05 Creating the Redevelopment Authority of the City of Menasha is attached along with the authority's bylaws. I've also attached for your information a Powerpoint presentation prepared by the law firm Quarles and Brady that summarizes the structure and function of redevelopment authorities.

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www.cityofmenasha-wi.gov

COMMON COUNCIL
OF THE
CITY OF MENASHA, WISCONSIN

Resolution No. R-23-05

RESOLUTION CREATING THE REDEVELOPMENT AUTHORITY OF THE CITY OF MENASHA, WISCONSIN

WHEREAS, the City of Menasha, Wisconsin (the "City") is a municipal corporation organized and existing under and pursuant to the laws of the State of Wisconsin and is authorized by Section 66.1333 of the Wisconsin Statutes, (the "Redevelopment Authority Law"), by proper resolution of the Common Council, to declare that there is a need in the City for a redevelopment authority which, upon the making of certain findings and declarations by this Common Council, shall be a public body corporate and politic authorized to transact business and exercise any and all powers, duties and functions set out in Section 66.1333 of the Wisconsin Statutes for redevelopment authorities; and

WHEREAS, it is the finding, determination and declaration of this Common Council that there exists within the City a need for blight elimination, clearance of undesirable conditions, urban renewal programs and projects; and

WHEREAS, it is the finding, determination and declaration of this Common Council that the City would derive public benefits from the creation of a redevelopment authority and the exercise by the redevelopment authority of its powers under the Redevelopment Authority Law, including by way of illustration but not limitation, the following public benefits: the elimination or prevention of substandard, deteriorated, unsanitary, and blighted areas; the provision and retention of gainful employment opportunities for the citizens of the City; an increase in the City's tax base; and the stimulation of the flow of investment capital into the City with resultant beneficial effects upon the economy in the City; and

WHEREAS, it is the finding, determination and declaration of this Common Council that the public interest will be served if the City were to create a redevelopment authority in the City.

NOW, THEREFORE, BE IT RESOLVED:

1. On the basis of the findings and determinations herein recited, this Common Council declares that there is a need for and does hereby create a redevelopment authority in the City, to be known as the "Redevelopment Authority of the City of Menasha, Wisconsin" (the "Authority"), authorized to transact business and exercise any and all powers granted to a redevelopment authority under the Redevelopment Authority Law as amended from time to time.

2. This Resolution shall be effective immediately upon its passage and approval. Upon such approval, the Clerk shall promptly notify the Mayor of the adoption of this Resolution by delivering a certified copy hereof to him, and the Mayor shall, with the confirmation of a four-fifths vote of this Common Council, appoint seven (7) qualified resident persons to serve as commissioners of the Authority for the staggered initial terms provided in Section 66.1333(3)(b) of the Wisconsin Statutes. One commissioner shall be a member of this Common Council and no more than 2 of the commissioners shall be officers of the City.

Adopted and approved this 20th day of June, 2005

(SEAL)

Mayor Joseph F. Laux

Deborah A. Galeazzi

City Clerk Deborah A. Galeazzi

BY-LAWS AND RULES OF PROCEDURE OF THE REDEVELOPMENT AUTHORITY
Of the City of Menasha, Wisconsin

As adopted by the Redevelopment Authority on December 6, 2005, and
As approved by the Menasha Common Council on December 19, 2005

ARTICLE 1 – THE AUTHORITY

Section 1 – Constitution of Authority. The name of the Authority shall be The Redevelopment Authority of the City of Menasha.

Section 2 – Office of Authority. The office of the Authority shall be the City of Menasha Community Development Department, City Hall, 140 Main Street, Menasha, Wisconsin, 54952.

Section 3 – General Rules. The Authority shall be governed by Wisconsin Statutes and as the same may hereafter be amended; by all ordinances of the City of Menasha as they relate to the Authority, and as such ordinances may hereafter be amended; and by the By-Laws set forth herein. All provisions of Wisconsin Statutes, or ordinances of the City of Menasha as may be enacted from time to time, shall take precedence over these By-Laws. The Authority shall exercise all powers conferred, and perform all duties imposed by Wisconsin Statutes and ordinances of the City of Menasha and shall perform such further and other duties as may be properly required by the Common Council. Specific action taken related to the following powers shall be subject to review and approval by the Common Council:

a. Acquisition and transfer of real estate.
b. Exercise of powers of eminent domain.
c. Issuance of debt.
d. Establishment of an annual budget.

ARTICLE 2 – OFFICERS

Section 1 – Officers. The officers of the Authority shall be a Chairperson, Vice-Chairperson, Executive Director, and Treasurer. The Authority may appoint at its discretion such other officers as may be deemed necessary.

Section 2 – Chairperson. The Chairperson shall act as presiding officer of all meetings of the Authority, and shall be elected from among the commissioners at the meeting of the Authority in May of each and every year. The Chairperson shall have the right to vote and make motions; shall rule on matters of procedure, subject to appeal from such rulings by proper motion; and shall conduct the meetings in accordance with these By-Laws.

Section 3 – Vice-Chairperson. The Vice-Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson. The Vice-Chairperson shall be elected from among the commissioners at the meeting of the Authority in May of each and every year.

Section 4 – Executive Director. The City of Menasha Community Development Director shall act as the Executive Director and Secretary of the Authority. The Executive Director is an ex-officio member of the Authority with the right to participate in all deliberations and actions thereof, but shall not have the power to vote on any matters that may come before the Authority. The Executive Director shall manage and supervise the administrative operation of the Authority in accordance with the direction of the Board. The Executive Director shall also (a) execute

documents, in conjunction with the Chairperson, on behalf of the Authority; (b) keep the minutes of the meetings of the Authority; (c) ensure that all notices are duly given in accordance with the provisions of these By-Laws or as otherwise required by law; (d) serve as custodian of the records of the Authority; and, (e) in general, perform all duties incidental to the operation of the Authority. The Executive Director may delegate to an appropriate person the responsibility for recording the minutes of the meetings of the Authority.

Section 5 – Treasurer. The City of Menasha Comptroller/Treasurer shall perform the duties of Treasurer of the Authority. The Treasurer is an ex-officio member of the Authority with the right to participate in all deliberations and actions thereof, but shall not have the power to vote on any matters that may come before the Authority. The Comptroller/Treasurer shall have the care and custody of all funds of the Authority. Such funds shall be deposited in the manner provided by law in the name of the Authority in such banks as designated as official depositories for City of Menasha, as authorized by the Common Council. The Comptroller/Treasurer may properly commingle and invest Authority funds with City funds, provided that a concise and accurate accounting record of the Authority's funds is maintained. The Comptroller/Treasurer, City Clerk, and Mayor or Common Council President by original signature or authorized facsimile shall sign all orders and checks for the payment of money and shall pay out and disburse such monies under the direction of the Authority, as submitted by the Executive Director. The Comptroller/Treasurer shall keep regular books of accounts showing receipts and expenditures and shall render to the Treasurer of the Authority, monthly, an account of his or her transactions and also the financial condition of the Authority.

Section 6 – Terms of Office, Vacancies. Officers shall be elected annually. Should the offices of Chairperson or Vice-Chairperson become vacant, the Authority shall elect a successor from its membership at the next regular meeting, and such election shall be for the remainder of the unexpired term of said office.

ARTICLE 3 – MEETINGS

Section 1 – Annual Meeting. The annual meeting of the Authority shall be held the first Tuesday of May of each and every year.

Section 2 – Regular Meetings. Regular meetings shall be held at a place, time and date established by the Authority.

Section 3 – Special Meetings. The Chairperson may, when deemed expedient, and shall, upon the request of two members of the Authority, call a special meeting of the Authority for the purpose of transacting only that business designated in the call. No other business shall be considered at such a special meeting. All meetings of the Authority shall be called and held in accordance with the Open Meetings Law, Chapters 19.81 through 19.98 of the Wisconsin Statutes.

Section 4 – Quorum. The powers of the Authority shall be vested in the commissioners thereof. Four commissioners shall constitute a quorum for the purpose of conducting business.

Section 5 – Conduct of Business. All meetings of the Authority shall be conducted in accordance with parliamentary procedure as determined by the most recent edition of Robert's Rules of Order.

Section 6 – Voting. In the event that any member shall disqualify himself or herself to vote on any matter, he/she shall, nonetheless, be counted in determining whether a quorum is present, but his/her disqualification shall not decrease the number of votes required for passage of any motion, resolution or the taking of any other action.

ARTCILE 4 – LEGAL COUNSEL

Legal Counsel. The Menasha City Attorney/Human Resources Director shall act as legal counsel to the Authority, consulting with outside legal authority as needed. Said provision of legal counsel shall be subject to any potential conflict of interest with regard to representation of the City of Menasha. The City Attorney/Human Resources Director is an ex-officio member of the Authority with the right to participate in all deliberations and actions thereof, but shall not have the power to vote on any matters that may come before the Authority.

ARTICLE 5 – SUBCOMMITTEES

Subcommittees. The Authority, by a majority vote of its members, may establish working subcommittees to review and act on matters relevant to community development, revitalization, and housing. The roles and responsibilities of such subcommittees shall be as prescribed by the Authority. Furthermore, the Chairperson, or the membership of the Authority by a majority vote of its members, may establish ad hoc groups for the purpose of study and review of issues as determined by the Authority. Such ad hoc groups shall have no power to act except to report findings and recommendations to the Authority.

ARTICLE 6 – AMENDMENTS

Amendments. Proposed amendments to the By-Laws of the Authority shall be in writing, and shall be delivered to all commissioners at least five days in advance of the date of the meeting when action on the proposed change(s) is scheduled. All action on the By-Laws shall be by a 2/3 vote of the total membership of the Authority and shall subsequently be approved by the Common Council on a simple majority vote.

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Community Development and Redevelopment Authority Lease Revenue Bond Financing

Q&B Public Finance

Julianna Ebert
Brian G. Lanser
Michael L. Roshar
Rebecca A. Speckhard
Jeffrey D. Peelen

Quarles & Brady LLP

Community Development and Redevelopment Authorities

- What are they?
- How do you create one?
- What powers do they have?
- What are the preconditions to their exercise of power?
- How do you use them to undertake financings in combination with Tax Incremental Districts?
- What are the pros and cons of Community Development or Redevelopment Authority Lease Revenue Bond financing?

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What are Community Development Authorities (CDA's) and Redevelopment Authorities (RDA's)?

- Separate body politic
- Created by city, village or town
- Governed by 7 member commission
- For purpose of carrying out blight elimination and urban renewal (and, for CDA's, housing projects)

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Governing Statutes

- Section 66.1333 for RDA's
- Section 66.1335 for CDA's (combines powers of Redevelopment Authorities under 66.1333 and Housing Authorities under 66.1201)

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Creation

- Adoption of Resolution by Common Council or Village Board by two-thirds vote, stating that need exists
- Appointment of Governing Body (Commission)
- Election of Officers (Chairperson)
- Adoption of Bylaws
- Appointment of Executive Director/Secretary

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Commission

- 7 Members
- Appointed by Mayor or Village President, confirmed by Council or Board (for RDA's by 4/5ths vote)
- Residents
- Ability and Experience in the Field
- For CDA's, 2 must be Council or Village Board members and serve during their term of office, balance must be non-Council or -Board members and serve for staggered 4 year terms
- For RDA's, 1 commissioner must be a Council or Board member and no more than 2 commissioners may be officers of the City or Village. All commissioners serve staggered 5 year terms

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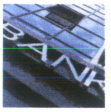
Powers



- Within Blighted Areas:
  - Acquire and Hold Real and Personal Property
  - Exercise Eminent Domain
  - Mortgage Property
  - Transfer, Sale or Lease of Property
  - Employ Personnel
  - Enter into Contracts
  - Prepare Plans and Carry Out Projects; Assist Private Redevelopment

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Powers *(cont'd)*

- Within Blighted Areas *(cont'd)*:
  - Invest Funds
  - Obtain Insurance
  - Undertake Tests/Demonstrations
  - Issue Bonds, Accept Financial Aid
  - Maintain Records
  - Sue and be Sued
- No Taxing Powers

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Preconditions to Exercise of Powers

- Blight Determination
  1. "Spot Blight" Procedure, or
  2. Redevelopment Area/Plan Procedure
- "Spot Blight" is a more expedited procedure available for individual parcels
- Both procedures involve public hearing and approval by Authority and Council/Board by 2/3rd vote
- If TID is involved, all property on which improvements are to be financed must be included in TID and project costs must be included in the TID Project Plan

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"Spot Blight" Procedure

- Expedited Procedure under Section 66.1333(5)(c)
- Applies to Single Site
- No need for Redevelopment Plan

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"Spot Blight" Procedure Steps

- Tentatively identify blighted property and schedule public hearing
- Mail notice of public hearing, by certified mail, return receipt requested, to each affected property owner at least 20 days prior to public hearing (unless notice is waived by property owner)
- Informational public hearing on blight determination held by Authority

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"Spot Blight" Procedure Steps *(cont'd)*

- Authority adopts resolution making blight determination and approving redevelopment of property, and forwards to Council/Board
- Council or Board adopts Resolution approving blight finding and redevelopment of property by 2/3 vote of members
  - Must include finding that comprehensive redevelopment plan is not necessary for particular project

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"Blighted Property"

- Defined in Section 66.1333(2m)(bm)
- Statutory Definition Broader Than Dictionary Definition
- Three Pronged Definition:
  1. Property which by reason of dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air or sanitation, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and is detrimental to the public health, safety, morals or welfare, or

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"Blighted Property" *(cont'd)*

2. Property which by reason of faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair market value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provisions of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use, or

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"Blighted Property" *(cont'd)*

3. Property which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements or otherwise, substantially impairs or arrests the sound growth of the community

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Redevelopment Plan/Area Procedure

- More Involved Procedure under Section 66.1333(6)(b)
- Applies to larger area containing multiple sites
- Involves preparation and approval of a Redevelopment Plan
- Statute provides list of topics that must be addressed in Redevelopment Plan

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Redevelopment Plan/Area Procedure Steps

- Tentatively identify boundaries, prepare draft redevelopment plan, schedule public hearing date
- Mail notice of public hearing, by certified mail, return receipt requested, to property owners within proposed boundaries, at least 20 days before public hearing, including statement that their property may be taken for urban renewal
- Publish class 2 notice in newspaper at least 17 and again 10 days prior to public hearing

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Redevelopment Plan/Area Procedure Steps *(cont'd)*

- Authority holds informational public hearing on Redevelopment Plan
- Authority adopts Resolution approving Plan and boundaries and finding blight, and forwards to Council/Board
- Council or Board adopts Resolution approving plan and boundaries and finding blight, by two-thirds vote of all members

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"Blighted Area"

- Defined in Section 66.1333(2m)(b)
- Similar to "Blighted Property" Definition
- Also More Expansive Than Dictionary Definition
- Three-Pronged Definition:
  1. An area, including a slum area, in which there is a predominance of buildings or improvements, whether residential or non-residential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare, or

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"Blighted Area" *(cont'd)*

2. An area which by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use, or

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"Blighted Area" *(cont'd)*

3. An area which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

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"Blighted Property" or "Blighted Area" Finding

- Typically, report prepared by engineers, staff or others with expertise to support the Council or Board's blight finding.
- Finding is legislative determination made by Council or Board

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CDA Lease Revenue Bond Financing Concept

- Commonly used in combination with TID
- Authority issues bonds to finance TID project costs
- Authority leases public improvements in TID to City or Village
- City or Village uses TID increment to make lease rental payments to Authority
- Authority uses lease rental payments to pay debt service on Bonds

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Features of Lease Revenue Bonds

- Bonds issued by Authority to finance TID project costs
- Bonds payable solely from lease rental payments to be received from Municipality
- Lease rental payments are subject to annual appropriation
- Typically, Reserve Account funded with Bond proceeds provides additional security
- Bonds are <u>not</u> an obligation of the Municipality

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Lease Revenue Bond Steps

- Authority holds public hearing on Lease, preceded by class 2 notice publication
- Authority adopts Bond Resolution approving acquisition of property to be leased, Bonds, Lease, and Contribution Agreement
- Council or Village Board adopts Resolution approving sale of property to Authority, Bonds, Lease and Contribution Agreement
- Bond Closing

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Standard Lease Revenue Bond Documents

- Authority Bond Resolution
- Council Approving Resolution
- Lease
- Contribution and Cooperation Agreement
- Fiscal Agency and Trust Agreement

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Transfer of Property

- Property simultaneously transferred from City or Village to the Authority, usually by quit claim deed, and leased back to Municipality
- Property typically consists of municipally-owned public rights-of-way or other property to remain in public ownership
- Preparation of recordable legal description so deed of conveyance can be recorded with County Register of Deeds

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Lease Procedure

- Authority must hold public hearing on the lease preceded by a Class 2 notice publication
- Authority approval of lease
- Preparation of report on the lease to the Common Council or Village Board
- Common Council or Village Board approval of lease
- Execution and recording of lease

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Substance of Lease

- Fair market value of lease payments
- Use in accordance with approved redevelopment plan
- Rental payments subject to "quiet enjoyment" and annual appropriation
- Rental payments provide 100% debt service coverage on Bonds
- Municipality to retain all responsibility for construction and maintenance of projects

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Contribution and Cooperation Agreement

- Provides additional security and marketability for Bonds
- Municipality agrees to replenish Bond Reserve Account if it is ever drawn upon
- Municipality's obligation to make payments subject to annual appropriation

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Fiscal Agency and Trust Agreement

- Typically, third party bank is appointed to serve as fiscal agent and trustee
- Bank makes debt service payments on Bonds
- Bank holds and administers Bond Debt Service Fund and Reserve Account
- Municipality makes Lease payments and payments under Contribution Agreement directly to Bank for deposit in the Debt Service Fund and Reserve Account

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Considerations in Use of CDA Lease Revenue Bonds

- Do not count against debt limit (due to annual appropriation feature of Lease and Contribution Agreement)
- Qualify for double tax-exemption (federal and state)
- No limit on length of financing (vs. 20 years for general obligation debt)
- Do count against municipal $10 million "bank-qualified" limit
- Increased complexity and transactional costs when compared to traditional municipal financings
- Policy issues relating to novel structure

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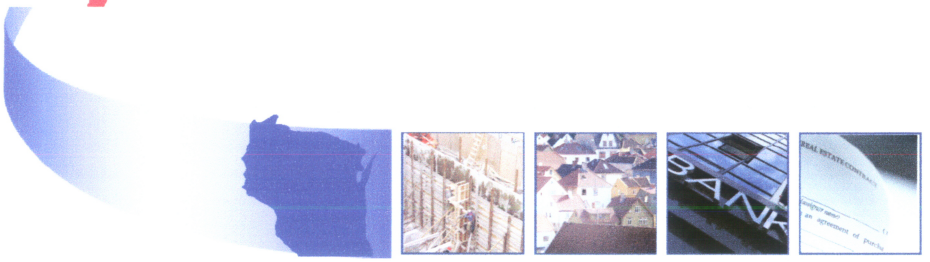

Community Development and Redevelopment Authority Lease Revenue Bond Financing

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