

**City of Stevens Point
SPECIAL COUNCIL MEETING**

**Lincoln Center
1519 Water Street**

**October 24, 2016
5:45 P.M.**

1. Roll Call.

Consideration and Possible Action on the Following:

2. Settlement agreement with Associated Bank, Portage County Case No. 15CV204.
3. Resolution: Property line settlement with Doug Lynch, 100 Bukolt Park property.
4. Certified Survey Map: 100 Bukolt Park property.
5. Ordinance Amendment – Establishing Elected Official salaries for City Clerk, Comptroller/Treasurer, and City Attorney for the 2017-2021 term (Section 3.39 of the RMC).
6. Adjournment.

RMC – Revised Municipal Code

Persons who wish to address the Common Council may make a statement as long as it pertains to a **specific** agenda item. Persons who wish to speak on an agenda item will be limited to a five (5) minute presentation. Any person who wishes to address the Common Council on a matter which is not on the agenda will be given a maximum of three (3) minutes and the time strictly enforced under the item, "Persons who wish to address the mayor and council on non-agenda items." Individuals should not expect to engage in discussion with members of the City Council and City staff.

Any person who has special needs while attending this meeting or needing agenda materials for this meeting should contact the City Clerk as soon as possible to ensure a reasonable accommodation can be made. The City Clerk can be reached by telephone at (715) 346-1569 or by mail at 1515 Strongs Avenue, Stevens Point, WI 54481.

Copies of ordinances, resolutions, reports and minutes of the committee meetings are on file at the office of the City Clerk for inspection during the regular business hours from 7:30 A.M. to 4:00 P.M.

SETTLEMENT AGREEMENT

This Agreement is between Associated Bank N.A. ("Associated"), a corporation organized and existing under the laws of the State of Wisconsin, and the City of Stevens Point, Wisconsin (the "City"), a municipal corporation organized and existing under the laws of the State of Wisconsin.

1. Definitions. In this Agreement:

(a) The "Property" means the land and improvements located at 1305 Main Street, Tax Parcel Nos. 240832100628 and 240832100511 within the City.

(b) "Case" means the action pending in the circuit court for Portage County, Wisconsin titled *Associated Bank N.A. v. City of Stevens Point*, Case No. 15-CV-204.

(c) "Court" means the Circuit Court for Portage County.

(d) A "tax year" means a year in which an assessment is made as of January 1, with taxes based on the assessment payable in the year following the tax year.

2. Refund of Taxes. The City shall issue a refund payable to Reinhart Boerner Van Deuren S.C. Trust Account, or to another account designated by Associated in writing, pursuant to Wis. Stat. § 74.37, in the amount of \$21,049.55 for 2014, and \$21,609.79 for 2015 for a total of \$42,659.34 as a refund of property taxes previously paid by or billed to Associated based on the property tax assessments of the Property for the tax years 2014 and 2015. The parties agree that no portion of this amount constitutes interest.

3. 2017 Assessment. The parties agree that the 2017 assessment of the Property will reflect an assessed value not to exceed \$5,400,000. In the event the 2017 assessment exceeds this amount, then Associated shall have the right to file a claim for refund for any taxes paid with respect to the 2017 assessment of the Property in excess of \$5,400,000 and the City shall grant any such claim for refund. Associated agrees not to object to the 2017 assessment of the Property if it is at no more than \$5,400,000.

4. Waiver of Costs. Each party waives all claims for costs.

5. Time of Payments. The City shall pay the refund of taxes for the 2014 and 2015 tax years in full, as provided in Section 2 of this Agreement, within 30 days of the date this Agreement is signed by both parties.

6. Stipulation for Dismissal. No later than ten days after Associated receives payment in full of the refund of taxes provided in section 2 of this Agreement, the parties shall (a) enter into a stipulation, attached hereto as Exhibit A, signed by their respective attorneys, for the dismissal of the Case (including, but not limited to, all claims asserted in the Complaint in the Case) on the merits, with prejudice, and without costs to either party; and (b) file the stipulation with the Court.

7. Responsibility for Fees and Expenses of Attorneys and Experts. Each party shall

be solely responsible for the fees of its attorneys and experts.

8. No Representations. Each party acknowledges and agrees that no representation or promise not expressly contained in this Agreement has been made by the opposing party or any of its employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or implied.

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

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

11. Interpretation of Agreement. The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this Agreement: (a) neither party shall be deemed the drafter of this Agreement for purposes of its interpretation; and (b) the parties shall attempt in good faith to resolve the dispute. The parties agree that the Court retains jurisdiction to enforce this Agreement and that a party may ask the Court to enforce this Agreement by filing a motion in the Case and serving the same on the other party.

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

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

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

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

16. No Admissions of Liability or Concerning Assessments or Fair Market Value.

This Agreement is the settlement of disputed claims. By entering into this Agreement, the City does not admit any liability to Associated for any of the claims asserted in the Case or Associated' objections to the assessments, and the payments made under this Agreement shall not be construed as an admission of any such liability. Except as explicitly provided herein, neither Party makes an admission about the assessments or the fair market value of the Property as of January 1, 2014 and January 1, 2015 or any other date nor any other admission concerning the assessment of Associated' property. In addition, none of the agreed upon values or assessments as of January 1, 2014 and January 1, 2015 shall be admissible in any proceeding or assessment challenge in any subsequent year.

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

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

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

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

Dated: _____, 2016.

ASSOCIATED BANK N.A.

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

Don M. Millis
State Bar ID 1015755
Jessica Hutson Polakowski
State Bar ID 1061368
Sara L. Stellpflug
State Bar ID 1076539

Dated: _____, 2016.

CITY OF STEVENS POINT

BY: City Attorney
1515 Strongs Avenue
Stevens Point, WI 54481

Andrew Logan Beveridge
State Bar ID No. 1078864

EXHIBIT A

STATE OF WISCONSIN

CIRCUIT COURT
CIVIL DIVISION, BRANCH 2

PORTAGE COUNTY

ASSOCIATED BANK N.A.,

Plaintiff,

v.

CITY OF STEVENS POINT,

Defendant.

Case No. 15-CV-204
Money Judgment - 30301

STIPULATION AND ORDER FOR DISMISSAL

IT IS STIPULATED by the parties, through their respective counsel, as follows:

1. This action involves Associated Bank N.A. and the City of Stevens Point (the "City's") assessment of the land and improvements located at 1305 Main Street, within the City and are identified in the City's records as Tax Parcel Nos. 240832100628 and 240832100511 (the "Property").
2. This action shall be dismissed with prejudice and without costs and fees to any party.
3. The parties have entered into a separate Settlement Agreement resolving, among other things, the claims raised in this action. The Court shall retain jurisdiction and competency over this matter in order to enforce this Stipulation or the Settlement Agreement. Any party may reopen this matter by motion to this Court in the event of a violation or alleged violation of this Stipulation or of the Settlement Agreement.

IT IS FURTHER STIPULATED that an Order to this effect may be entered without further notice to either party.

Dated: _____, 2016.

ASSOCIATED BANK N.A.

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

Don M. Millis
State Bar ID No. 1015755
Jessica Hutson Polakowski
State Bar ID 1061368
Sara L. Stellpflug
State Bar ID 1076539

Dated: _____, 2016.

CITY OF STEVENS POINT

BY: City Attorney
1515 Strongs Avenue
Stevens Point, WI 54481

Andrew Logan Beveridge
State Bar ID No. 1078864

ORDER

Based upon the foregoing Stipulation and upon the pleadings on file with the Court,

IT IS HEREBY ORDERED that the above-entitled action, including all claims that were asserted or that could have been asserted, is hereby dismissed in its entirety upon its merits, with prejudice and without costs to any party.

Dated this ____ day of _____, 2016.

BY THE COURT:

Honorable Robert Shannon
Circuit Court Judge
Branch 2

35014731

RESOLUTION

[100 BUKOLT PARK STREET, STEVENS POINT, WISCONSIN]

WHEREAS, Douglas Lynch and Cheryl Lynch presented the City of Stevens Point with a Notice of Circumstances of Claim involving property having a street address of 100 Bukolt Park Street, Stevens Point, WI 54481, asserting their predecessors in interest owned and they continue to own property described therein and identified as Outlot 1 by virtue of adverse possession; and

WHEREAS, the Common Council of the City of Stevens Point approved that certain Settlement Agreement between Douglas Lynch and Cheryl Lynch, on the one hand, and the City of Stevens Point, on the other hand relating to the property located at 100 Bukolt Park Street, Stevens Point, Wisconsin. See agenda item #16 for the Regular Council meeting of the City of Stevens Point of August 15, 2016;

BE IT RESOLVED by the Common Council of the City of Stevens Point, Portage County, Wisconsin, that, in furtherance of such Settlement Agreement, its Mayor and Clerk are authorized to execute and deliver to Douglas James Lynch and Cheryl Lynch as co-trustees of the Lynch Family Revocable Living Trust Dated June 8, 2007, a Quit Claim Deed, an exemplar of which is attached hereto as Exhibit 1; and

BE IT FURTHER RESOLVED that the City of Stevens Point, in furtherance of such Settlement Agreement, graciously accept a donation in the sum of \$20,000 to the City of Stevens Point recognizing that Douglas Lynch and Cheryl Lynch have asserted they at all times material were and remain the owners of the real estate described in the accompanying Quit Claim Deed by virtue of adverse possession.

Dated this ___ day of _____, 2016.

**CITY OF STEVENS POINT,
WISCONSIN**

Approved: _____

Michael Wiza, its Mayor

Attest: _____

John Moe, City Clerk

Dated: _____, 2016

Adopted: _____, 2016

Drafted by: City Attorney

Return to: City Clerk

CERTIFIED SURVEY MAP NO.

CERTIFIED SURVEY MAP FOR DOUG LYNCH LOCATED IN PART OF GOVERNMENT LOTS 1 AND 4, SECTION 30, TOWN 24 NORTH, RANGE 8 EAST, CITY OF STEVENS POINT, PORTAGE COUNTY, WISCONSIN

PRELIMINARY



SCALE

0 100 200

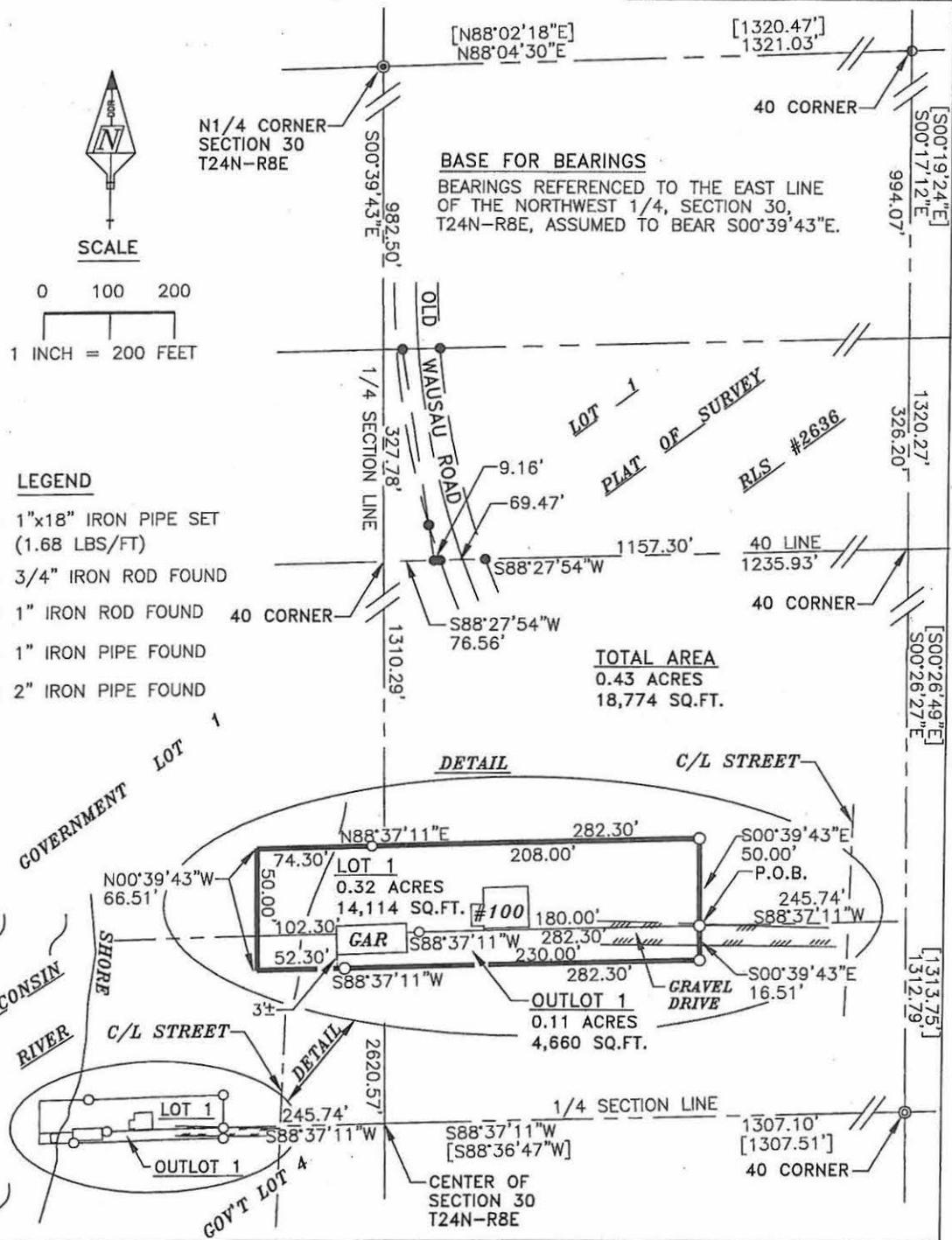
1 INCH = 200 FEET

LEGEND

- 1"x18" IRON PIPE SET (1.68 LBS/FT)
- 3/4" IRON ROD FOUND
- ⊙ 1" IRON ROD FOUND
- 1" IRON PIPE FOUND
- ⊙ 2" IRON PIPE FOUND

BASE FOR BEARINGS

BEARINGS REFERENCED TO THE EAST LINE OF THE NORTHWEST 1/4, SECTION 30, T24N-R8E, ASSUMED TO BEAR S00°39'43"E.



THIS INSTRUMENT DRAFTED BY: DALE D. ROSICKY
 DALE ROSICKY LAND SURVEYING, LLC.

2925 POST ROAD
 STEVENS POINT, WI 54481
 715-342-9649

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SURVEYOR'S CERTIFICATE

I, DALE D. ROSICKY, PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY:

THAT I HAVE SURVEYED, DIVIDED, AND MAPPED THIS CERTIFIED SURVEY LOCATED IN PART OF GOVERNMENT LOTS 1 AND 4, SECTION 30, TOWN 24 NORTH, RANGE 8 EAST, CITY OF STEVENS POINT, PORTAGE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS.

COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 30, THENCE S00°39'43"E, 2,620.57 FEET TO THE CENTER OF SAID SECTION 30, THENCE S88°37'11"W, ALONG THE 1/4 SECTION LINE, 245.74 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE S00°39'43"E, 16.51 FEET;
THENCE S88°37'11"W, 282.30 FEET;
THENCE N00°39'43"W, 66.51 FEET;
THENCE N88°37'11"E, 282.30 FEET;
THENCE S00°39'43"E, 50.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION CONTAINING 0.43 ACRES, (18,774 SQUARE FEET), AND SUBJECT TO RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY AND EASEMENTS OF RECORD.

THAT I HAVE MADE SUCH SURVEY AND MAP AT THE DIRECTION OF DOUG LYNCH. THAT SAID MAP IS A TRUE AND CORRECT REPRESENTATION OF ALL THE EXTERIOR BOUNDARIES OF THE LAND SURVEYED, AND THAT I HAVE COMPLIED WITH ALL THE PROVISIONS OF CHAPTER 236.34 OF THE WISCONSIN STATUTES IN SURVEYING AND MAPPING THE SAME.

APRIL 7, 2016

PRELIMINARY

DALE D. ROSICKY
PROFESSIONAL LAND SURVEYOR #2237

**ORDINANCE AMENDING THE REVISED MUNICIPAL CODE
OF THE CITY OF STEVENS POINT, WISCONSIN**

The Common Council of the City of Stevens Point do ordain as follows:

SECTION I: That Section 3.39 of the Revised Municipal Code of the City of Stevens Point is hereby amended to read as follows:

3.39 That the annual salary for the office of City Clerk shall be as follows:

Commencing May 1, 2017 - \$64,575.00
Commencing May 1, 2018 - \$66,190.00
Commencing May 1, 2019 - \$67,845.00
Commencing May 1, 2020 - \$69,540.00

That the annual salary for the office of City Comptroller-Treasurer shall be as follows:

Commencing May 1, 2017 - \$87,360.00
Commencing May 1, 2018 - \$89,545.00
Commencing May 1, 2019 - \$91,785.00
Commencing May 1, 2020 - \$94,080.00

That the annual salary for the office of City Attorney shall be as follows:

Commencing May 1, 2017 - \$95,325.00
Commencing May 1, 2018 - \$97,700.00
Commencing May 1, 2019 - \$100,145.00
Commencing May 1, 2020 - \$102,650.00

SECTION II: That annual salary shall be payable in bi-weekly installments.

SECTION III: This ordinance shall take effect upon passage and publication as provided by law.

APPROVED: _____
Mike Wiza, Mayor

ATTEST: _____
John V. Moe, Clerk

Dated: October 17, 2016
Adopted: October 24, 2016
Published: October 28, 2016