MULTIBAND CORP
Form 10-Q
November 14, 2012

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One) QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES AND EXCHANGE ACT OF 1934

x
FOR THE QUARTERLY PERIOD ENDED **SEPTEMBER 30, 2012**
OR
.. TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES AND EXCHANGE ACT OF 1934
FOR THE TRANSITION PERIOD FROM _____ TO ______
COMMISSION FILE NUMBER 0 – 1325

MULTIBAND CORPORATION

(Exact name of registrant as specified in its charter)

MINNESOTA

(State or other jurisdiction of incorporation or organization)

41 - 1255001

(IRS Employer Identification No.)

5605 Green Circle Drive Minnetonka, Minnesota 55343

(Address of principal executive offices) (Zip code)

Telephone (763) 504-3000

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities and Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 229.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes x No ¨

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of “large accelerated filer”, “accelerated filer“ and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer o Accelerated filer o

Non-accelerated filer o (do not check if a smaller reporting company) Smaller reporting company x

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes o No x

On November 2, 2012, there were 21,640,959 shares outstanding of the registrant's common stock, no par value, and 281,696 outstanding shares of the registrant's convertible preferred stock.

PART I. FINANCIAL INFORMATION

ITEM 1. CONSOLIDATED FINANCIAL STATEMENTS

MULTIBAND CORPORATION AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(in thousands, except per share amounts)

	Three Months Ended		Nine Months Ended	
	September 30, 2012 (unaudited)	September 30, 2011 (unaudited)	September 30, 2012 (unaudited)	September 30, 2011 (unaudited)
REVENUES	$ 85,695	$ 86,366	$ 227,727	$ 222,623
COSTS AND EXPENSES				
Cost of products and services (exclusive of depreciation and amortization shown separately below)	62,893	60,332	167,750	160,201
Selling, general and administrative	17,557	17,014	51,218	45,131
Depreciation and amortization	1,789	1,566	5,277	4,986
Total costs and expenses	82,239	78,912	224,245	210,318
INCOME FROM OPERATIONS	3,456	7,454	3,482	12,305
OTHER EXPENSE				
Interest expense	(935)	(1,038)	(2,774)	(2,989)
Interest income	6	7	19	19
Proceeds from life insurance	-	-	-	409
Gain on bargain purchase	177	-	177	-
Losses attributable to available for-sale securities	(71)	-	(652)	-
Other income	9	125	54	246
Total other expense	(814)	(906)	(3,176)	(2,315)
INCOME BEFORE INCOME TAXES	2,642	6,548	306	9,990
PROVISION FOR INCOME TAXES	1,015	2,869	185	4,369

NET INCOME	1,627	3,679	121	5,621
Preferred stock dividends	68	70	303	729
INCOME (LOSS) ATTRIBUTABLE TO COMMON STOCKHOLDERS	$1,559	3,609	$(182)	$ 4,892
INCOME (LOSS) PER COMMON SHARE – BASIC:				
INCOME ATTRIBUTABLE TO COMMON STOCKHOLDERS	$0.07	$ 0.17	$(0.01)	$ 0.32
INCOME (LOSS) PER COMMON SHARE – DILUTED:				
INCOME ATTRIBUTABLE TO COMMON STOCKHOLDERS	$0.07	$ 0.16	$(0.01)	$ 0.26
Weighted average common shares outstanding – basic	21,690	21,595	21,744	15,418
Weighted average common shares outstanding - diluted	22,427	23,047	21,744	19,791

See accompanying notes to the unaudited condensed consolidated financial statements

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MULTIBAND CORPORATION AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

(in thousands)

	Three Months Ended		Nine Months Ended	
	September 30, 2012 (unaudited)	September 30, 2011 (unaudited)	September 30, 2012 (unaudited)	September 30, 2011 (unaudited)
NET INCOME	$1,627	$ 3,679	$121	$ 5,621
OTHER COMPREHENSIVE LOSS, NET OF TAX:				
Unrealized losses on securities:				
Unrealized holding losses arising during period	-	(669)	-	(825)
COMPREHENSIVE INCOME	$1,627	$ 3,010	$121	$ 4,796

See accompanying notes to the unaudited condensed consolidated financial statements

MULTIBAND CORPORATION AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS

ASSETS

(in thousands)

	September 30, 2012 (unaudited)		December 31, 2011 (audited)	
CURRENT ASSETS				
Cash and cash equivalents	$	10,129	$	18,169
Available-for-sale securities		-		1,191
Accounts receivable, net		31,735		28,359
Inventories		11,065		14,276
Costs and estimated earnings in excess of billings on uncompleted contracts		1,633		998
Prepaid expenses and other		2,447		1,361
Income tax receivable		833		42
Deferred tax assets – current		6,814		6,862
Total Current Assets		64,656		71,258
PROPERTY AND EQUIPMENT, NET		11,815		6,304
OTHER ASSETS				
Goodwill		37,796		37,796
Intangible assets, net		12,451		14,597
Restricted cash – certificate of deposit		1,682		-
Insurance collateral		10,898		8,061
Other assets		1,470		2,452
Deferred tax assets – long-term		949		1,134
Total Other Assets		65,246		64,040
TOTAL ASSETS	$	141,717	$	141,602

See accompanying notes to the unaudited condensed consolidated financial statements

MULTIBAND CORPORATION AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS

LIABILITIES AND STOCKHOLDERS' EQUITY

(in thousands, except share and liquidation preference amounts)

	September 30, 2012 (unaudited)	December 31, 2011 (audited)
CURRENT LIABILITIES		
Short-term debt	$ 1,498	$ 457
Related parties debt – short term	650	-
Current portion of long-term debt, net of original issue discount	34,369	4,936
Current portion of capital lease obligations	538	324
Accounts payable	28,031	32,354
Billings in excess of costs and estimated earnings on uncompleted contracts	24	41
Accrued liabilities - current	21,978	24,113
Deferred service obligations and revenue	503	1,570
Total Current Liabilities	87,591	63,795
LONG-TERM LIABILITIES		
Accrued liabilities – long-term	5,889	5,352
Long-term debt, net of current portion and original issue discount	3,521	29,229
Capital lease obligations, net of current portion	884	274
Total Liabilities	97,885	98,650
COMMITMENTS AND CONTINGENCIES		
STOCKHOLDERS' EQUITY		
Cumulative convertible preferred stock, no par value:		
8% Class A (12,696 shares issued and outstanding, $133,308 liquidation preference)	191	191
10% Class C (109,000 shares issued and outstanding, $1,090,000 liquidation preference)	1,411	1,411
10% Class F (150,000 shares issued and outstanding, $1,500,000 liquidation preference)	1,500	1,500
8% Class G (10,000 shares issued and outstanding, $100,000 liquidation preference)	41	41
6% Class H (0.00 and 1.00 shares issued and outstanding, $0 and $100,000 liquidation preference)	-	-
Common stock, no par value (21,640,959 and 21,612,380 shares issued and outstanding)	66,495	66,290
Stock-based compensation	49,857	49,000
Accumulated deficit	(75,663)	(75,481)
Total Stockholders' Equity	43,832	42,952
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	$ 141,717	$ 141,602

See accompanying notes to the unaudited condensed consolidated financial statements

MULTIBAND CORPORATION AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)

	NINE MONTHS ENDED SEPTEMBER 30,	
	2012	2011
OPERATING ACTIVITIES	(unaudited)	(unaudited)
Net income	$ 121	$ 5,621
Adjustments to reconcile net income to cash flow from operating activities:		
Depreciation and amortization	5,277	4,986
Amortization of original issue discount	72	72
Amortization and expense related to debt issuance costs	27	329
Change in allowance for doubtful accounts receivable	261	(8)
Gain on sale of property and equipment	(362)	-
Losses attributable to available-for-sale securities	652	-
Gain on bargain purchase	(177)	-
Stock based compensation expense	984	947
Deferred income taxes, net	411	2,502
Changes in operating assets and liabilities:		
Accounts receivable	(3,590)	(13,445)
Costs and estimated earnings in excess of billings on uncompleted contracts	(635)	17
Inventories	3,211	(3,708)
Prepaid expenses and other	3,452	5,214
Income tax receivable	18	1,581
Insurance collateral	(2,346)	-
Other assets	626	(62)
Accounts payable and accrued liabilities	(6,519)	11,724
Billings in excess of costs and estimated earnings on uncompleted contracts	(16)	25
Deferred service obligations and revenue	(1,057)	(175)
Net cash flows from operating activities	410	15,620
INVESTING ACTIVITIES		
Purchases of property and equipment	(3,618)	(1,229)
Purchases of intangible assets	(744)	(439)
Purchases of securities available for sale	-	(2,270)
Acquisition of subsidiaries	-	(2,000)
Checks issued in excess of bank balance with the purchase of subsidiaries	-	(7)
Proceeds from sale of intangibles and equipment	386	-
Proceeds from purchase of land and building	685	-
Proceeds from sales of available-for-sale securities	335	-
Increase in restricted cash – certificate of deposit	(1,682)	-
Collections on notes receivable	2	5
Net cash flows from investing activities	(4,636)	(5,940)

FINANCING ACTIVITIES		
Proceeds from issuance of common stock – net of related expenses	-	16,176
Proceeds from short-term debt – related party	700	-
Stock issuance costs	(5)	(70)
Payments on long-term debt	(147)	(62)
Payments on short-term debt	(3,506)	(8,932)
Payments on short-term debt – related party	(50)	(165)
Payments on capital lease obligations	(400)	(304)
Net repayment of line of credit	-	(49)
Repurchase of common stock	(351)	-
Proceeds from stock options and warrants exercised	-	82
Redemption of preferred stock	-	(1,979)
Payments of preferred stock dividends	(55)	(474)
Net cash flows from financing activities	(3,814)	4,223
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	(8,040)	13,903
CASH AND CASH EQUIVALENTS - Beginning of Period	18,169	1,204
CASH AND CASH EQUIVALENTS - END OF PERIOD	$ 10,129	$ 15,107

See accompanying notes to the unaudited condensed consolidated financial statements

MULTIBAND CORPORATION AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)

	NINE MONTHS ENDED SEPTEMBER 30,	
	2012 (unaudited)	2011 (unaudited)
Cash paid for interest, net of amortization of OID and interest discount	$2,648	$ 2,760
Net cash received (paid) for federal and state income taxes	(614)	238
Non-cash investing and financing transactions:		
Intrinsic value of preferred dividends	100	24
Conversion of accrued dividends into common stock	75	547
Conversion of preferred stock into common stock	100	10,024
Conversion of accrued interest into common stock	-	1
Increase in prepaid expenses via short-term debt issued	4,546	5,709
Increase in insurance collateral via short-term debt issued	-	4,300
Reduction of long-term debt via offset against life insurance proceeds	-	49
Reduction of short-term debt via other receivable	-	500
Reduction of long-term debt via other receivable	3	282
Reduction of accrued expenses by the issuance of stock options	258	169
Purchase of land and building via mortgage assumed	3,803	-
Purchase of property and equipment by the increase in capital lease obligations	1,224	-

See accompanying notes to the unaudited condensed consolidated financial statements

MULTIBAND CORPORATION AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

SEPTEMBER 30, 2012 AND 2011

(in thousands, except for share and per share amounts)

NOTE 1 - Unaudited Consolidated Financial Statements

The information furnished in this report is unaudited and reflects all adjustments which are normal recurring adjustments that, in the opinion of management, are necessary to fairly present the operating results for the interim periods. The operating results for the interim periods presented are not necessarily indicative of the operating results to be expected for the full fiscal year. The unaudited interim condensed consolidated financial statements for the three and nine months ended September 30, 2012, should be read in conjunction with the audited consolidated financial statements and footnotes thereto included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2011, previously filed with the Securities and Exchange Commission.

NOTE 2 - Summary of Significant Accounting Policies

A detailed description of our significant accounting policies can be found in our most recent Annual Report filed on Form 10-K for the year ended December 31, 2011. There were no material changes in significant accounting policies during the quarter ended September 30, 2012.

Accounts Receivable

The Company reviews customers' credit history before extending unsecured credit and establishes an allowance for uncollectible amounts based upon factors surrounding the credit risk of specific customers and other information. For the Multi-Dwelling Unit Segment (MDU) and Field Services Segment(FS) , the Company has concentrations of credit risk with 75.3% of accounts receivable at September 30, 2012 due from one customer (see Note 8). Invoices are due 30 days after presentation. Accounts receivable over 30 days are considered past due. The Company does not accrue interest on past due accounts receivable. Receivables are written off only after all collection attempts have failed and are based on individual credit evaluation and specific circumstances of the customer. Accounts receivable are shown net of an allowance for uncollectible accounts of $372 and $112 at September 30, 2012 and December 31, 2011, respectively.

Stock-Based Compensation

The Company measures and recognizes compensation expense for all stock-based awards at fair value. The financial statements for the nine months ended September 30, 2012 and 2011 recognize compensation cost for the portion of outstanding awards which have vested during those periods. The Company recognizes stock-based compensation costs on a straight-line basis over the requisite service period of the award, which is generally the option vesting term. For the three months ended September 30, 2012 and 2011 total share-based compensation expense of $205 ($0.01 per share, basic and diluted) and $181 ($0.01 per share, basic and diluted), respectively, was included in selling, general and administrative expenses in the accompanying consolidated statements of operations. For the nine months ended September 30, 2012 and 2011 total share-based compensation expense of $614 ($0.03 per share, basic and diluted) and $649 ($0.04 per share, basic and diluted), respectively, was included in selling, general and administrative expenses in the accompanying consolidated statements of operations.

Restricted Stock

The Company awards restricted common shares to selected employees and directors. Recipients are not required to provide any consideration other than continued service. Company share awards are subject to certain restrictions on transfer, and all or part of the shares awarded may be subject to forfeiture upon the occurrence of certain events, including the termination of employment. The restricted stock is valued at the grant date fair value of the common stock and is expensed over the requisite service period or vesting term of the awards. The Company recognized stock-based compensation expense of $(130) and $58, for the three months ended September 30, 2012 and 2011, respectively, and $370 and $298, for the nine months ended September 30, 2012 and 2011, respectively, which is included in selling, general and administrative expenses in the accompanying consolidated statements of operations. The expense adjustment in the quarter ended September 30, 2012, was due to a finalization of restricted stock grants to various employees.

Common Stock Offering

On June 1, 2011, the Company completed a public offering of 12,880,000 shares of its common stock, of which the Company sold 5,974,932 shares and the selling shareholder DirecTECH Holding Company, Inc. (DTHC) sold 6,905,068 shares at a price of $3.00 per share. The Company received net proceeds of $16,176 after deducting offering expenses, underwriting discounts and commissions. The Company did not receive any proceeds from the sale of shares by DTHC. DTHC converted its Class J preferred shares as part of its participation in the offering.

MULTIBAND CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
SEPTEMBER 30, 2012 AND 2011
(in thousands, except for share and per share amounts)

Common Stock Repurchase Plan

On June 4, 2012, the Company announced that its Board of Directors had approved the repurchase of up to 2.0 million shares of its common stock over a six month period commencing on June 6, 2012. On June 13, 2012, the Company entered into a Stock Repurchase Plan pursuant to SEC Rule10b-18, which documents the guidelines, rules and limitations of the program. During the three and nine months ended September 30, 2012, the Company repurchased 154,701 and 164,701 shares pursuant to this program, respectively. The repurchased amounts were recorded against common stock in the consolidated balance sheet at September 30, 2012.

Income (loss) per Common Share

Basic income (loss) per common share is computed by dividing income (loss) attributable to common stockholders by the weighted average number of common shares outstanding for the reporting period. Diluted income (loss) per common share reflects the weighted average number of common shares outstanding plus all potentially dilutive common shares outstanding during the period. Potentially dilutive shares consists of shares issuable upon the exercise of stock options, stock warrants and unvested restricted stock (using treasury stock method) and conversion of preferred shares (using the as converted method). All options, warrants, convertible preferred shares, and unvested restricted stock during the nine months ending September 30, 2012 were excluded from the calculation of diluted income (loss) per share as their effect was anti-dilutive due to the Company's net loss in the period. A reconciliation of the weighted average number of common and common equivalent shares outstanding and awards excluded from the diluted income per share calculation, as they were anti-dilutive, are as follows:

	Three Months Ended		Nine Months Ended	
	September 30, 2012 (unaudited)	September 30, 2011 (unaudited)	September 30, 2012 (unaudited)	September 30, 2011 (unaudited)
Numerator:				
Income (loss) attributable to common stockholders	$1,559	$3,609	$(182)	$4,892
Additions: Dividends paid on convertible preferred stock	-	1	-	333
Net income (loss) for diluted earnings per share	$1,559	$3,610	$(182)	$5,225
Denominator:				
Weighted average common shares outstanding – basic	21,690,456	21,594,855	21,743,689	15,418,373
Assumed conversion of diluted securities:				
Convertible preferred shares	12,500	32,500	-	2,796,296
Stock options	293,295	890,601	-	1,047,070
Restricted stock	387,149	270,545	-	270,307
Warrants	43,150	258,644	-	258,644

Potentially dilutive common shares	736,094	1,452,290	-	4,372,317
Weighted average common shares outstanding - diluted	22,426,550	23,047,145	21,743,689	19,790,690
Earnings (loss) per common share:				
Basic	$0.07	$0.17	$(0.01)	$0.32
Diluted	$0.07	$0.16	$(0.01)	$0.26
Awards excluded from diluted income per share	1,965,544	788,869	3,934,395	823,734

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MULTIBAND CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
SEPTEMBER 30, 2012 AND 2011
(in thousands, except for share and per share amounts)

Recent Accounting Pronouncements

In May 2011, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2011-04, *Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements.* This ASU clarifies the concepts related to highest and best use and valuation premise, blockage factors and other premiums and discounts, the fair value measurement of financial instruments held in a portfolio and of those instruments classified as a component of shareowners' equity. The guidance includes enhanced disclosure requirements about recurring Level 3 fair value measurements, the use of nonfinancial assets, and the level in the fair value hierarchy of assets and liabilities not recorded at fair value. The provisions of this ASU are effective prospectively for interim and annual periods beginning on or after December 15, 2011. This ASU requires changes in presentation only. The Company adopted this guidance as of the period ended March 31, 2012, and the adoption did not have a material effect on its consolidated financial statements, financial position or cash flows.

In September 2011, the FASB issued ASU No. 2011-08, *Intangibles—Goodwill and Other (Topic 350): Testing Goodwill for Impairment*. This ASU amends the *FASB Accounting Standards Codification* (Codification) to allow an entity to first assess qualitative factors to determine whether it is necessary to perform the two-step quantitative goodwill impairment test. Under these amendments, an entity would not be required to calculate the fair value of a reporting unit unless the entity determines, based on a qualitative assessment, that it is more likely than not that its fair value is less than its carrying amount. The amendments include a number of events and circumstances for an entity to consider in conducting the qualitative assessment. This ASU is effective for fiscal years beginning after December 15, 2011. The Company adopted this guidance as of the period ended March 31, 2012, and the adoption did not have a material effect on its consolidated financial statements, financial position or cash flows.

NOTE 3 – Business Acquisitions

Effective September 1, 2011, the Company purchased from WPCS International, Inc. (WPCS), the outstanding stock of two of their subsidiary corporations, WPCS International-Sarasota, Inc. and WPCS International-St. Louis, Inc. Effective November 1, 2011, these entities were renamed Multiband Engineering and Wireless, Southeast, Inc. (SE) and Multiband Engineering and Wireless, Midwest, Inc. (MW). The consideration for the purchase was $2,000, $750 of which was taken from an escrow account previously set up between the parties. SE and MW provide design, engineering and construction services for the wired and wireless telecommunications industry, including public safety networks, renewable energy services including wind and solar applications and other design and construction services. This acquisition allowed the Company to diversify its sources of revenue and expand its customer base. Also, the purchase added an engineering component to the Company which may improve the design and delivery of current services it already provides. The Company evaluated the purchase price based on the fair value of assets acquired and liabilities assumed and determined that there was a gain on a bargain purchase of $166 which was included in the consolidated statement of operations for the year ended December 31, 2011. The bargain purchase was a result of the deferred tax assets acquired as part of the purchase. In the third quarter of 2012, within the one-year measurement period, the Company recorded an additional bargain purchase of $177. The increased bargain purchase amount was the result of additional deferred tax assets acquired as part of the purchase as determined after reviewing the seller's preliminary 2011 federal income tax return.

The Company had, through February, 2012, an exclusive arrangement to purchase the balance of WPCS, pursuant to a non-binding letter of intent (LOI). The exclusivity period lapsed on February 1, 2012 and a deposit of $250 was forfeited which was included in selling, general and administrative expenses in the consolidated statement of operations for the year ended December 31, 2011.

Effective October 4, 2011, the Company purchased certain assets of Groupware International, Inc. (Groupware) for $300. As a result of this acquisition, the Company performs installations for a broadband cable company in certain markets in North Carolina. Effective January 1, 2012, the Company purchased certain other assets of Groupware for $700. This acquisition allows the Company to perform installation services for another broadband cable company in certain markets in Florida.

MULTIBAND CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
SEPTEMBER 30, 2012 AND 2011
(in thousands, except for share and per share amounts)

NOTE 4 – Fair Value Measurements

The Company classifies investments in marketable securities at the time of purchase. At September 30, 2012 and December 31, 2011, all marketable securities are classified as available-for-sale and as such, the investments are recorded at fair value with the unrealized gains and losses deemed to be temporary reported in stockholders’ equity. Available-for-sale securities are investments in debt and equity securities that have a readily determinable fair value not classified as trading securities or as held-to-maturity securities. Realized gains and losses and declines in value judged to be other-than-temporary are included in other expenses in the statements of operations. On an ongoing basis, the Company evaluates its available-for-sale securities to determine if a decline in value is other-than-temporary. A decline in market value of any available-for-sale security below cost that is determined to be other-than-temporary, results in impairment to the fair value of the investment. Gains and losses on the sale of marketable securities are recognized in operations based on the specific identification method. Other-than-temporary impairments are charged to earnings and a new cost basis for the security is established.

Fair value is the price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. To measure fair value, the Company uses a three-tier valuation hierarchy based upon observable and non-observable inputs:

Level 1 — Unadjusted quoted prices that are available in active markets for the identical assets or liabilities at the measurement date.

Level 2 — Significant other observable inputs available at the measurement date, other than quoted prices included in Level 1, either directly or indirectly, including:

• Quoted prices for similar assets or liabilities in active markets;

• Quoted prices for identical or similar assets in non-active markets;

• Inputs other than quoted prices that are observable for the asset or liability; and

• Inputs that are derived principally from or corroborated by other observable market data.

Level 3 — Significant unobservable inputs that cannot be corroborated by observable market data and reflect the use of significant management judgment. These values are generally determined using pricing models for which the assumptions utilize management's estimates of market participant assumptions.

The fair value hierarchy requires the use of observable market data when available. In instances in which the inputs used to measure fair value fall into different levels of the fair value hierarchy, the fair value measurement has been determined based on the lowest level input that is significant to the fair value measurement in its entirety. Our assessment of the significance of a particular item to the fair value measurement in its entirety requires judgment, including the consideration of inputs specific to the asset or liability. The following tables set forth by level within the fair value hierarchy, our financial assets and liabilities that were accounted for at fair value on a recurring basis at September 30, 2012, and December 31, 2011, according to the valuation techniques we used to determine their fair values.

	Fair Value Measurements at September 30, 2012			
(in thousands)	Fair Value	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets at Fair Value:				
Cash and cash equivalents (1)	$ 10,129	$ 10,129	$ -	$ -
Restricted cash – certificate of deposit (3)	1,682	1,682	-	-
Total Assets at Fair Value	$ 11,811	$ 11,811	$ -	$ -
Fair Value Measurements of Other Instruments:				
Debt (4)	$ 37,890	$ -	$ -	$ 37,890
Total Fair Value Measurements of Other Instruments:	$ 37,890	$ -	$ -	$ 37,890

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MULTIBAND CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
SEPTEMBER 30, 2012 AND 2011
(in thousands, except for share and per share amounts)

	Fair Value Measurements at December 31, 2011			
(in thousands)	Fair Value	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets at Fair Value:				
Cash and cash equivalents (1)	$ 18,169	$ 18,169	$ -	$ -
Available-for-sale securities (2)	1,191	1,191	-	-
Total Assets at Fair Value	$ 19,360	$ 19,360	$ -	$ -
Fair Value Measurements of Other Instruments:				
Debt (4)	$ 34,165	$ -	$ -	$ 34,165
Total Fair Value Measurements of Other Instruments:	$ 34,165	$ -	$ -	$ 34,165

(1) The Company’s cash equivalents consist of money market savings accounts.

(2) The Company’s available-for-sale securities, marketable equity securities, were measured at fair value using quoted market prices. They were classified as Level 1 as they trade in an active market for which closing stock prices are readily available.

(3) The Company’s restricted cash – certificate of deposit consists of one certificate of deposit which has a maturity date of 7/1/13.

(4) The Company’s debt consists of current portion of long-term debt of $34,369 and $4,936, and long-term debt of $3,521 and $29,229, at September 30, 2012 and December 31, 2011, respectively, and has a carrying value which approximates fair value as determined using level 3 inputs which include the exit price of the debt.

The Company reviews the methodologies utilized to determine fair value on a quarterly basis. Any change in methodologies or significant inputs used in determining fair values are further reviewed to determine if a fair value level hierarchy change has occurred. Transfers in and out of Level 1, 2, and 3 are considered to be effective as of the end of the quarter in which they occur. There were no transfers between the levels in the fair value hierarchy during the nine months ended September 30, 2012.

The summary of available-for-sale securities consisted of the following at:

September 30, 2012			**December 31, 2011**		
Carrying Amount	Gross Unrealized	Fair Value	Carrying Amount	Gross Unrealized	Fair Value

		Loss			Loss	
Available-for-sale securities	$-	$ -	$ -	$1,191	$ -	$1,191

At December 31, 2011, our investments consisted of common shares of WPCS International, Inc. (WPCS) which were purchased in June 2011. The Company recorded losses attributable to available for sale securities of $71 and $652 for the three and nine months ended September 30, 2012, respectively, and $0 for both the three and nine months ended September 30, 2011, which are included in other expenses in the consolidated statement of operations. The gross realized losses on sales of available-for-sale securities, were $71 and $121 for the three and nine months ended September 30, 2012, respectively and $0 for both the three and nine months ended September 30, 2011. The Company has sold all of its common shares of WPCS as of September 30, 2012. During the period that the Company held the investment, it determined that the trading history, along with the financial performance of WPCS in 2011 and 2012, were indicators of an other-than-temporary impairment. The net adjustment to unrealized holding losses on available for sale securities included in other comprehensive income was $0 and $2 at September 30, 2012 and December 31, 2011, respectively.

MULTIBAND CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
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(in thousands, except for share and per share amounts)

NOTE 5 – Inventories

Inventories consisted of the following at:

	September 30, 2012	December 31, 2011
DIRECTV – serialized	$ 184	$ 3,661
DIRECTV – nonserialized	8,254	7,358
Other	2,627	3,257
Total	$ 11,065	$ 14,276

The Company's inventories are segregated into three major categories. Serialized DIRECTV inventories consist primarily of satellite receivers and similar devices. Non-serialized DIRECTV inventories consist primarily of satellite dishes, poles and similar devices which are supplied by DIRECTV. Other inventory consists primarily of cable, switches and various small parts used in the installation of DIRECTV satellite dishes.

NOTE 6 – Land and Building

In January 2012, the Company formed a wholly-owned subsidiary, Multiband Special Purpose, LLC (MBSP). In February 2012, MBSP purchased land and an office building for $4,500. Pursuant to the transaction, MBSP assumed a mortgage held by the seller in the amount of $3,800. The mortgage is payable over the next seventy-nine months and carries an interest rate of 5.92% per annum. Monthly payments of principle and interest are due as follows: $36 from March 2012 through September 2016 and then $40 from October 2016 through August 2018. A final payment of $2,102 is due in September 2018. As additional collateral for the mortgage, MBSP posted a letter of credit in the lender's favor of $1,682, which is fully backed by a certificate of deposit held by the lender and is classified as restricted cash in the balance sheet as of September 30, 2012.

Prior to this transaction, the building was leased by the seller to a third party lessee under a long-term lease. In connection with the closing of the transaction, the third party lessee made payments totaling $1,350 as consideration for the termination of that lease. Of the total amount paid, $1,100 was credited against the MBSP's purchase price. The balance of the lease termination fee ($250) was paid to the MBSP in cash. The total amount paid by the third party lessee was recorded as a reduction in the MBSP's basis in the property acquired.

At closing, MBSP received a total of $685 in net proceeds after all transaction costs.

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NOTE 7 - Business Segments

A business segment is a distinguishable component of an enterprise that is engaged in providing an individual product or service or a group of related products or services and that is subject to risks and returns that are different from those of other business segments. The Company believes that it has three operating segments: (1) Field Services Segment (FS), where the Company provides installation services to pay television (satellite and broadband cable) providers, internet providers and commercial customers, (2) Multi-Dwelling Unit Segment (MDU), where the Company bills voice, internet and video services to subscribers as owner/operator and also acts as a master system operator for DIRECTV, receiving net cash payments for managing video subscribers through its network of system operators and (3) Engineering, Energy & Construction Segment (EE&C) where the Company provides engineering and construction services for the wired and wireless telecommunications industry, including public safety networks, renewable energy services including wind and solar applications and other design and construction services, mostly done on a project basis. The MBCorp Segment includes corporate expenses (e.g. corporate administrative costs), interest income, interest expense, depreciation and amortization. Segment disclosures are provided to the extent practicable under the Company's accounting system. Transactions within and between the segments are generally made on a basis to reflect the market value of the services and have been eliminated in consolidation.

The EE&C business activity, which was acquired in September 2011, with its emphasis on design and construction, is materially different from the Company’s previous lines of business, which lead to a change in our segment reporting. As part of this change, the Company added EE&C Segment and realigned the FS Segment to be all types of installation services. As part of this realignment certain construction activities in the MDU segment were moved to the newly created EE&C Segment. Amounts reported for the three and nine months ended September 30, 2011 have been restated to reflect the new segments.

Segment disclosures are as follows:

Three months ended September 30, 2012	FS	MDU	EE&C	MBCorp	Total
Revenues	$74,798	$7,534	$3,363	$-	$85,695
Income (loss) from operations	3,771	329	(81)	(563)	3,456
Income (loss) before income taxes	3,222	266	96	(942)	2,642
Identifiable assets	93,007	10,086	4,173	34,451	

This standard is to be applied retrospectively or using a cumulative effect transition method as of the date of adoption. We are currently evaluating which transition method to use, but believe the impact this standard will have on our consolidated financial statements and related disclosures will be immaterial upon adoption.

In March 2016, the FASB issued ASU No. 2016-09, Compensation-Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting. This standard is intended to simplify various aspects of accounting for share-based compensation arrangements, including the income tax impact, classification on the statement of cash flows and forfeitures. This standard is effective for annual reporting periods beginning after December 15, 2016, and interim periods within that reporting period, with early adoption permitted. As such, we will be required to adopt this standard in fiscal 2018 and will classify the excess tax benefits from share-based compensation arrangements, which were $4.0 million in the first quarter of 2017, as a discrete item within income tax expense on the consolidated statements of earnings, rather than recognizing such excess income tax benefits in capital in excess of par value on the consolidated statements of stockholders' deficit. This reclassification will be made on a prospective basis and will also impact the related classification on our consolidated statements of cash flows as excess tax benefits from share-based compensation arrangements are currently reported in cash flows from operating activities and cash flows used in investing activities. Other than these reclassifications, we do not believe the adoption of this ASU will materially impact our consolidated financial statements.

In August 2016, the FASB issued ASU 2016-15, Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments. This standard is intended to address eight classification issues related to the statement of cash flows to reduce diversity in practice in how certain transactions are classified. This standard is effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years, with early adoption permitted. As such, we will be required to adopt this standard in the first quarter of fiscal 2019. This standard requires adoption based upon a retrospective transition method. We are currently evaluating this standard, but do not believe it will have a material impact on the classification of cash flows within our statement of cash flows.

In October 2016, the FASB issued ASU No. 2016-16, Income Taxes (740): Intra-Entity Transfers of Assets Other Than Inventory. This standard requires that an entity recognize the income tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs, rather than deferring the recognition until the asset has been sold to an outside party. This standard is effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years, with early adoption permitted. As such, we will be required to adopt this standard in the first quarter of fiscal 2019. The standard requires adoption on a modified retrospective basis through a cumulative-effect adjustment to retained earnings. We are currently evaluating this standard, but do not believe it will have a material impact on our consolidated financial statements.

In December 2016, the FASB issued ASU 2016-19, Technical Corrections and Improvements. This standard contains amendments that affect a wide variety of topics in the Accounting Standards Codification. The amendments include differences between original FASB guidance and the Accounting Standards Codification, guidance clarification and reference corrections, simplification and minor improvements. This standard is effective for annual reporting periods beginning after December 15, 2016, and interim periods within that reporting period, with early adoption permitted. As such, we will be required to adopt this standard in the first quarter of fiscal 2018. This standard is not expected have a significant effect on our accounting policies or on our consolidated financial statements and related disclosures.

JACK IN THE BOX INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

2. DISCONTINUED OPERATIONS

Distribution business — During fiscal 2012, we entered into an agreement with a third party distribution service provider pursuant to a plan approved by our Board of Directors to sell our Jack in the Box distribution business. During fiscal 2013, we completed the transition of our distribution centers. The operations and cash flows of the business have been eliminated and in accordance with the provisions of the FASB authoritative guidance on the presentation of financial statements, the results are reported as discontinued operations for all periods presented.

In 2017 and 2016, results of discontinued operations were immaterial to our condensed consolidated results of operations. Our liability for lease commitments related to our distribution centers is immaterial to our consolidated balance sheets as of January 22, 2017 and October 2, 2016. The lease commitment balance relates to one distribution center lease that expires in fiscal 2017 and is currently subleased at a loss.

2013 Qdoba Closures — During fiscal 2013, we closed 62 Qdoba restaurants. The decision to close these restaurants was based on a comprehensive analysis that took into consideration levels of return on investment and other key operating performance metrics. Since the closed locations were not predominantly located near those remaining in operation, we did not expect the majority of cash flows and sales lost from these closures to be recovered. In addition, we did not anticipate any ongoing involvement or significant direct cash flows from the closed stores. Therefore, in accordance with the provisions of the FASB authoritative guidance on the presentation of financial statements, the results of operations for these restaurants are reported as discontinued operations for all periods presented.

The following table summarizes the results related to the 2013 Qdoba Closures for each period (in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Unfavorable lease commitment adjustments	$(2,060)	$ (1,006)
Bad debt expense related to subtenants	389	(124)
Broker commissions	(26)	—
Ongoing facility related and other costs	(18)	(38)
Loss before income tax benefit	$(1,715)	$ (1,168)

We do not expect the remaining costs to be incurred related to these closures to be material; however, our estimates related to our future lease obligations, primarily sublease income, are subject to a high degree of judgment and may differ from actual sublease income due to changes in economic conditions, desirability of the sites and other factors.

Our liability for lease commitments related to the 2013 Qdoba Closures is included in accrued liabilities and other long-term liabilities in the accompanying condensed consolidated balance sheets and has changed as follows in 2017 (in thousands):

Balance as of October 2, 2016	$2,943
Adjustments (1)	2,060
Cash payments	(1,123)
Balance as of January 22, 2017 (2)	$3,880

(1) Adjustments relate to revisions to certain sublease assumptions due to changes in market conditions, as well as a charge to terminate two lease agreements, and includes interest expense.

(2) The weighted average remaining lease term related to these commitments is approximately three years.

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JACK IN THE BOX INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

3. SUMMARY OF REFRANCHISINGS, FRANCHISEE DEVELOPMENT AND ACQUISITIONS

Refranchisings and franchisee development — The following table summarizes the number of restaurants sold to franchisees, the number of restaurants developed by franchisees, and the related fees and gains recognized in each period(dollars in thousands):

	Sixteen Weeks Ended January 22, 2017	January 17, 2016
Restaurants sold to Jack in the Box franchisees	—	1
New restaurants opened by franchisees:		
Jack in the Box	7	5
Qdoba	8	6
Initial franchise fees	$425	$ 385
Proceeds from the sale of company-operated restaurants (1)	$138	$ 1,021
Net assets sold (primarily property and equipment)	—	(193)
Goodwill related to the sale of company-operated restaurants	(1)	(10)
Gains on the sale of company-operated restaurants	$137	$ 818

(1) Amounts in 2017 and 2016 include additional proceeds related to restaurants sold in a prior year of $0.1 million and $1.0 million, respectively.

Franchise acquisitions —There was no acquisition activity in 2017. In 2016, we acquired one Jack in the Box franchise restaurant. We account for the acquisition of franchised restaurants using the acquisition method of accounting for business combinations. The 2016 purchase price allocation was based on fair value estimates determined using significant unobservable inputs (Level 3). The 2016 acquisition was not material to our condensed consolidated financial statements.

4. FAIR VALUE MEASUREMENTS

Financial assets and liabilities — The following table presents our financial assets and liabilities measured at fair value on a recurring basis (in thousands):

	Total	Quoted Prices in Active Markets for Identical Assets (3) (Level 1)	Significant Other Observable Inputs (3) (Level 2)	Significant Unobservable Inputs (3) (Level 3)
Fair value measurements as of January 22, 2017:				
Non-qualified deferred compensation plan (1)	$(38,664)	$ (38,664)	$—	$ —
Interest rate swaps (Note 5) (2)	(22,613)	—	(22,613)	—
Total liabilities at fair value	$(61,277)	$ (38,664)	$(22,613)	$ —
Fair value measurements as of October 2, 2016:				
Non-qualified deferred compensation plan (1)	$(36,933)	$ (36,933)	$—	$ —
Interest rate swaps (Note 5) (2)	(47,765)	—	(47,765)	—
Total liabilities at fair value	$(84,698)	$ (36,933)	$(47,765)	$ —

(1) We maintain an unfunded defined contribution plan for key executives and other members of management. The fair value of this obligation is based on the closing market prices of the participants' elected investments.

(2) We entered into interest rate swaps to reduce our exposure to rising interest rates on our variable rate debt. The fair values of our interest rate swaps are based upon Level 2 inputs which include valuation models as reported by our counterparties. The key inputs for the valuation models are quoted market prices, discount rates and forward yield curves.

(3) We did not have any transfers in or out of Level 1, 2 or 3.

JACK IN THE BOX INC. AND SUBSIDIARIES
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The fair values of our debt instruments are based on the amount of future cash flows associated with each instrument discounted using our borrowing rate. At January 22, 2017, the carrying value of all financial instruments was not materially different from fair value, as the borrowings are prepayable without penalty. The estimated fair values of our capital lease obligations approximated their carrying values as of January 22, 2017.

Non-financial assets and liabilities — Our non-financial instruments, which primarily consist of property and equipment, goodwill and intangible assets, are reported at carrying value and are not required to be measured at fair value on a recurring basis. However, on an annual basis or whenever events or changes in circumstances indicate that their carrying value may not be recoverable, non-financial instruments are assessed for impairment. If applicable, the carrying values are written down to fair value.

In connection with our impairment reviews performed during 2017, no material fair value adjustments were required. Refer to Note 6, Impairment and Other Charges, Net, for additional information regarding impairment charges.

5. DERIVATIVE INSTRUMENTS

Objectives and strategies — We are exposed to interest rate volatility with regard to our variable rate debt. In April 2014, to reduce our exposure to rising interest rates, we entered into nine forward-starting interest rate swap agreements that effectively converted $300.0 million of our variable rate borrowings to a fixed-rate basis from October 2014 through October 2018. Additionally, in June 2015, we entered into eleven forward-starting interest rate swap agreements that effectively converted an additional $200.0 million of our variable rate borrowings to a fixed rate from October 2015 through October 2018, and $500.0 million from October 2018 through October 2022.

These agreements have been designated as cash flow hedges under the terms of the FASB authoritative guidance for derivatives and hedging. To the extent that they are effective in offsetting the variability of the hedged cash flows, changes in the fair values of the derivatives are not included in earnings, but are included in other comprehensive income (“OCI”). These changes in fair value are subsequently reclassified into net earnings as a component of interest expense as the hedged interest payments are made on our variable rate debt.

Financial position — The following derivative instruments were outstanding as of the end of each period (in thousands):

	Balance Sheet Location	Fair Value January 22, 2017	Fair Value October 2, 2016
Derivatives designated as cash flow hedging instruments:			
Interest rate swaps (Note 4)	Accrued liabilities	$(4,100)	$(5,857)
Interest rate swaps (Note 4)	Other long-term liabilities	(18,513)	(41,908)
Total derivatives		$(22,613)	$(47,765)

Financial performance — The following table summarizes the OCI activity related to our interest rate swap derivative instruments (in thousands):

	Location of Loss in Income	Sixteen Weeks Ended January 22, 2017	Sixteen Weeks Ended January 17, 2016
Gain (loss) recognized in OCI	N/A	$23,086	$(11,437)
Loss reclassified from accumulated OCI into net earnings	Interest expense, net	$2,066	$1,444

Amounts reclassified from accumulated OCI into interest expense represent payments made to the counterparties for the effective portions of the interest rate swaps. During the periods presented, our interest rate swaps had no hedge ineffectiveness.

JACK IN THE BOX INC. AND SUBSIDIARIES
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6. IMPAIRMENT AND OTHER CHARGES, NET

Impairment and other charges, net in the accompanying condensed consolidated statements of earnings is comprised of the following (in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Restructuring costs	$2,048	$ —
Costs of closed restaurants (primarily lease obligations) and other	1,997	560
Losses on disposition of property and equipment, net	699	651
Accelerated depreciation	313	446
	$5,057	$ 1,657

Restructuring costs — Restructuring charges in 2017 are the result of a plan that management initiated in fiscal 2016 to reduce our general and administrative costs. This plan includes cost saving initiatives from workforce reductions, relocation and consolidation of our Qdoba corporate support center, refranchising initiatives, and the consolidation of information technology across both brands.

The following is a summary of our restructuring costs (in thousands):

Facility closing costs	$1,202
Employee severance and related costs	477
Other (1)	369
	$2,048

(1) Other primarily represents moving expenses related to the relocation of our Qdoba corporate support center and early lease termination costs.

Approximately $0.1 million and $1.8 million of the 2017 restructuring costs are related to our Jack in the Box and Qdoba restaurant operating segments, respectively, and approximately $0.1 million is related to shared services functions, such as accounting/finance, information technology, human resources, audit services, legal, tax and treasury. At this time, we are unable to estimate additional charges to be incurred subsequent to 2017, but they are not expected to be material.

Total accrued severance costs related to our restructuring activities are included in accrued liabilities and changed as follows during 2017 (in thousands):

Balance as of October 2, 2016	$4,198
Additions	477
Cash payments	(3,568)
Balance as of January 22, 2017	$1,107

Restaurant closing costs — Costs of closed restaurants primarily consist of future lease commitments and expected ancillary costs, net of anticipated sublease rentals. Accrued restaurant closing costs, included in accrued liabilities and other long-term liabilities, changed as follows during 2017 (in thousands):

Balance as of October 2, 2016	$7,231
Adjustments (1)	742
Interest expense	363
Cash payments	(1,122)
Balance as of January 22, 2017 (2) (3)	$7,214

(1) Adjustments relate primarily to revisions of certain sublease and cost assumptions. Our estimates related to our future lease obligations, primarily the sublease income we anticipate, are subject to a high degree of judgment and

may differ from actual sublease income due to changes in economic conditions, desirability of the sites and other factors.

(2) The weighted average remaining lease term related to these commitments is approximately four years.

(3) This balance excludes $2.6 million of restaurant closing costs that are included in accrued liabilities and other long-term liabilities, which were initially recorded as losses on the sale of company-operated restaurants upon sale to Jack in the Box franchisees in prior years.

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JACK IN THE BOX INC. AND SUBSIDIARIES
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Accelerated depreciation — When a long-lived asset will be replaced or otherwise disposed of prior to the end of its estimated useful life, the useful life of the asset is adjusted based on the estimated disposal date and accelerated depreciation is recognized. In 2017, accelerated depreciation primarily relates to the anticipated closure of two Jack in the Box and three Qdoba company-operated restaurants. In 2016, accelerated depreciation was primarily related to expenses at Jack in the Box company-operated restaurants for exterior facility enhancements and the replacement of technology equipment.

7. INCOME TAXES

The income tax provisions reflect tax rates of 38.7% in 2017 and 37.6% in 2016. The major components of the year-over-year change in tax rates were a decrease in tax credits partially offset by a decrease in losses from the market performance of insurance products used to fund certain non-qualified retirement plans which are excluded from taxable income. The Company recognized a benefit from the retroactive reenactment of the Work Opportunity Tax Credit for calendar year 2015 during the first quarter of 2016. This credit was extended continuously through December 31, 2019. Therefore, a similar retroactive reenactment was not applicable during the first quarter of 2017. The final annual tax rate cannot be determined until the end of the fiscal year; therefore, the actual 2017 rate could differ from our current estimates.

8. RETIREMENT PLANS

Defined benefit pension plans — We sponsor two defined benefit pension plans, a “Qualified Plan” covering substantially all full-time employees hired prior to January 1, 2011, and an unfunded supplemental executive retirement plan (“SERP”) which provides certain employees additional pension benefits and was closed to new participants effective January 1, 2007. In fiscal 2011, the Board of Directors approved the sunset of our Qualified Plan whereby participants no longer accrue benefits effective December 31, 2015. Benefits under both plans are based on the employee’s years of service and compensation over defined periods of employment.

Postretirement healthcare plans — We also sponsor two healthcare plans, closed to new participants, that provide postretirement medical benefits to certain employees who have met minimum age and service requirements. The plans are contributory; with retiree contributions adjusted annually, and contain other cost-sharing features such as deductibles and coinsurance.

Net periodic benefit cost — The components of net periodic benefit cost in each period were as follows (in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Defined benefit pension plans:		
Interest cost	$6,996	$ 7,440
Service cost	673	1,616
Expected return on plan assets	(8,659)	(6,694)
Actuarial loss (1)	1,881	1,257
Amortization of unrecognized prior service costs (1)	47	74
Net periodic benefit cost	$938	$ 3,693
Postretirement healthcare plans:		
Interest cost	$309	$ 389
Actuarial loss (1)	50	67
Net periodic benefit cost	$359	$ 456

(1)

Amounts were reclassified from accumulated OCI into net earnings as a component of selling, general and administrative expenses.

JACK IN THE BOX INC. AND SUBSIDIARIES
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Future cash flows — Our policy is to fund our plans at or above the minimum required by law. As of January 1, 2016, the date of our last actuarial funding valuation, there was no minimum contribution funding requirement. Details regarding 2017 contributions are as follows (in thousands):

	SERP	Postretirement Healthcare Plans
Net year-to-date contributions	$1,122	$ 318
Remaining estimated net contributions during fiscal 2017	$3,400	$ 1,000

We continue to evaluate contributions to our Qualified Plan based on changes in pension assets as a result of asset performance in the current market and the economic environment. We do not anticipate making any contributions to our Qualified Plan in fiscal 2017.

9. SHARE-BASED COMPENSATION

We offer share-based compensation plans to attract, retain and motivate key officers, employees and non-employee directors to work towards the financial success of the Company. During 2017, we granted the following shares related to our share-based compensation awards:

Nonvested stock units	59,248
Performance share awards	29,625
Stock options	89,792

The components of share-based compensation expense recognized in each period are as follows (in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Nonvested stock units	$2,146	$ 1,815
Performance share awards	824	1,271
Stock options	817	975
Nonvested stock awards	27	27
Total share-based compensation expense	$3,814	$ 4,088

10. STOCKHOLDERS' EQUITY

Repurchases of common stock — In fiscal 2017, we repurchased 992,000 common shares at an aggregate cost of $108.1 million. As of January 22, 2017, there was approximately $27,000 remaining under a stock-buyback program which expires in November 2017, and $300.0 million remaining under a stock-buyback program which expires in November 2018. In our condensed consolidated statement of cash flows for the 16 weeks ended January 22, 2017, repurchases of common stock includes $7.2 million related to repurchase transactions traded in the prior fiscal year that settled in the current fiscal year.

Dividends — In fiscal 2017, the Board of Directors declared a cash dividend of $0.40 per common share which was paid on December 16, 2016 to shareholders of record as of the close of business on December 5, 2016, and totaled $13.0 million. Future dividends are subject to approval by our Board of Directors.

11. AVERAGE SHARES OUTSTANDING

Our basic earnings per share calculation is computed based on the weighted-average number of common shares outstanding. Our diluted earnings per share calculation is computed based on the weighted-average number of common shares outstanding adjusted by the number of additional shares that would have been outstanding had the potentially dilutive common shares been issued. Potentially dilutive common shares include stock options, nonvested stock awards and units, and non-management director stock equivalents. Performance share awards are included in the average diluted shares outstanding each period if the performance criteria have been met at the end of the respective periods.

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JACK IN THE BOX INC. AND SUBSIDIARIES
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The following table reconciles basic weighted-average shares outstanding to diluted weighted-average shares outstanding (in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Weighted-average shares outstanding – basic	32,168	35,458
Effect of potentially dilutive securities:		
Nonvested stock awards and units	181	187
Stock options	76	176
Performance share awards	17	125
Weighted-average shares outstanding – diluted	32,442	35,946
Excluded from diluted weighted-average shares outstanding:		
Antidilutive	44	149
Performance conditions not satisfied at the end of the period	79	—

12. CONTINGENCIES AND LEGAL MATTERS

Legal matters — We assess contingencies, including litigation contingencies, to determine the degree of probability and range of possible loss for potential accrual in our financial statements. An estimated loss contingency is accrued in the financial statements if it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. Because litigation is inherently unpredictable, assessing contingencies is highly subjective and requires judgments about future events. When evaluating litigation contingencies, we may be unable to provide a meaningful estimate due to a number of factors, including the procedural status of the matter in question, the availability of appellate remedies, insurance coverage related to the claim or claims in question, the presence of complex or novel legal theories, and/or the ongoing discovery and development of information important to the matter. In addition, damage amounts claimed in litigation against us may be unsupported, exaggerated or unrelated to possible outcomes, and as such are not meaningful indicators of our potential liability or financial exposure. We regularly review contingencies to determine the adequacy of the accruals and related disclosures. The ultimate amount of loss may differ from these estimates.

Gessele v. Jack in the Box Inc. — In August 2010, five former employees instituted litigation in federal court in Oregon alleging claims under the federal Fair Labor Standards Act and Oregon wage and hour laws. The plaintiffs alleged that the Company failed to pay non-exempt employees for certain meal breaks and improperly made payroll deductions for shoe purchases and for workers' compensation expenses, and later added additional claims relating to timing of final pay and related wage and hour claims involving employees of a franchisee. In December 2016, the court dismissed the federal claims and those relating to franchise employees. In fiscal 2012, we accrued for a single claim for which we believe a loss is both probable and estimable; this accrued loss contingency did not have a material effect on our results of operations. We have not established a loss contingency accrual for those claims as to which we believe liability is not probable or estimable, and we plan to vigorously defend against this lawsuit. Nonetheless, an unfavorable resolution of this matter in excess of our current accrued loss contingencies could have a material adverse effect on our business, results of operations, liquidity or financial condition.

Other legal matters — In addition to the matter described above, we are subject to normal and routine litigation brought by former, current or prospective employees, customers, franchisees, vendors, landlords, shareholders or others. We intend to defend ourselves in any such matters. Some of these matters may be covered, at least in part, by insurance. Our insurance liability (undiscounted) and reserves are established in part by using independent actuarial estimates of expected losses for reported claims and for estimating claims incurred but not reported. We believe that the ultimate determination of liability in connection with legal claims pending against us, if any, in excess of amounts already provided for such matters in the condensed consolidated financial statements, will not have a material adverse effect on our business, our annual results of operations, liquidity or financial position; however, it is possible that our business, results of operations, liquidity, or financial condition could be materially affected in a particular future reporting period by the unfavorable resolution of one or more matters or contingencies during such period.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

13. SEGMENT REPORTING

Our principal business consists of developing, operating and franchising our Jack in the Box and Qdoba restaurant concepts, each of which we consider a reportable operating segment. This segment reporting structure reflects our current management structure, internal reporting method and financial information used in deciding how to allocate our resources. Based upon certain quantitative thresholds, each operating segment is considered a reportable segment. We measure and evaluate our segments based on segment revenues and earnings from operations. The reportable segments do not include an allocation of the costs related to shared service functions; nor do they include unallocated costs such as pension expense, share-based compensation and restructuring expense. These costs are reflected in the caption "Shared services and unallocated costs." The following table provides information related to our operating segments in each period (in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Revenues by segment:		
Jack in the Box restaurant operations	$353,181	$347,583
Qdoba restaurant operations	134,752	123,240
Consolidated revenues	$487,933	$470,823
Earnings from operations by segment:		
Jack in the Box restaurant operations	$92,404	$85,690
Qdoba restaurant operations	8,732	8,737
Shared services and unallocated costs	(28,156)	(32,731)
Gains on the sale of company-operated restaurants	137	818
Consolidated earnings from operations	73,117	62,514
Interest expense, net	12,717	8,175
Consolidated earnings from continuing operations and before income taxes	$60,400	$54,339
Total depreciation expense by segment:		
Jack in the Box restaurant operations	$19,289	$20,473
Qdoba restaurant operations	6,492	5,588
Shared services and unallocated costs	1,974	2,225
Consolidated depreciation expense	$27,755	$28,286

We do not evaluate, manage or measure performance of segments using asset, interest income and expense, or income tax information; accordingly, this information by segment is not prepared or disclosed.

The following table provides detail of the change in the balance of goodwill for each of our reportable segments (in thousands):

	Jack in the Box	Qdoba	Total
Balance at October 2, 2016	$48,415	$117,631	$166,046
Sale of company-operated restaurants to franchisees	(1)	—	(1)
Balance at January 22, 2017	$48,414	$117,631	$166,045

Refer to Note 3, Summary of Refranchisings, Franchisee Development and Acquisitions, for information regarding the transactions resulting in the changes in goodwill.

JACK IN THE BOX INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

14. SUPPLEMENTAL CONSOLIDATED CASH FLOW INFORMATION (in thousands)

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Cash paid during the year for:		
Interest, net of amounts capitalized	$12,209	$ 8,378
Income tax payments	$47	$ 16,012
Decrease in obligations for purchases of property and equipment	$7,290	$ 6,025
Decrease in obligations for treasury stock repurchases	$7,208	$ —
Non-cash transactions:		
Equipment capital lease obligations incurred	$254	$ 271
Increase in dividends accrued or converted to common stock equivalents	$74	$ 53

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JACK IN THE BOX INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

15. SUPPLEMENTAL CONSOLIDATED BALANCE SHEET INFORMATION (in thousands)

	January 22, 2017	October 2, 2016
Accounts and other receivables, net:		
Trade	$45,688	$66,837
Notes receivable	1,608	1,603
Other	10,065	7,680
Allowance for doubtful accounts	(2,650)	(2,760)
	$54,711	$73,360
Prepaid expenses:		
Prepaid rent	$5,690	$18,613
Prepaid income taxes	—	12,113
Other	6,941	9,672
	$12,631	$40,398
Other assets, net:		
Company-owned life insurance policies	$105,631	$105,957
Deferred tax assets	104,851	117,587
Deferred rent receivable	47,815	47,485
Other	20,319	19,440
	$278,616	$290,469
Accrued liabilities:		
Insurance	$39,389	$38,368
Payroll and related taxes	31,892	44,627
Advertising	11,168	21,827
Sales and property taxes	8,131	14,311
Gift card liability	6,484	5,183
Deferred rent income	4,430	15,909
Deferred franchise fees	1,147	929
Other	32,060	40,096
	$134,701	$181,250
Other long-term liabilities:		
Defined benefit pension plans	$158,892	$161,003
Straight-line rent accrual	46,998	47,070
Other	119,636	140,852
	$325,526	$348,925

16. SUBSEQUENT EVENTS

On February 21, 2017, the Board of Directors declared a cash dividend of $0.40 per common share, to be paid on March 20, 2017 to shareholders of record as of the close of business on March 7, 2017.

Subsequent to the end of the first quarter, we signed non-binding letters of intent with franchisees to sell approximately 75 company restaurants in several different markets. Pre-tax gross proceeds related to these sales are estimated at $40.0 million to $45.0 million.

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ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

GENERAL

All comparisons between 2017 and 2016 refer to the 16 weeks ("quarter") ended January 22, 2017 and January 17, 2016, respectively, unless otherwise indicated.

For an understanding of the significant factors that influenced our performance during 2017 and 2016, our Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") should be read in conjunction with the consolidated financial statements and related notes included in this Quarterly Report and our Annual Report on Form 10-K for the fiscal year ended October 2, 2016.

Our MD&A consists of the following sections:

- Overview — a general description of our business and 2017 highlights.
- Financial reporting — a discussion of changes in presentation, if any.
- Results of operations — an analysis of our condensed consolidated statements of earnings for the periods presented in our condensed consolidated financial statements.
- Liquidity and capital resources — an analysis of our cash flows including pension and postretirement health contributions, capital expenditures, our credit facility, share repurchase activity, dividends, known trends that may impact liquidity and the impact of inflation, if applicable.
- Discussion of critical accounting estimates — a discussion of accounting policies that require critical judgments and estimates.
- New accounting pronouncements — a discussion of new accounting pronouncements, dates of implementation and the impact on our consolidated financial position or results of operations, if any.
- Cautionary statements regarding forward-looking statements — a discussion of the risks and uncertainties that may cause our actual results to differ materially from any forward-looking statements made by management.

We have included in our MD&A certain performance metrics that management uses to assess company performance and which we believe will be useful in analyzing and understanding our results of operations. These metrics include the following:

- Changes in sales at restaurants open more than one year ("same-store sales") and average unit volumes ("AUVs") are presented for franchised restaurants and on a system-wide basis, which includes company and franchise restaurants. Franchise sales represent sales at franchise restaurants and are revenues of our franchisees. We do not record franchise sales as revenues; however, our royalty revenues and percentage rent revenues are calculated based on a percentage of franchise sales. We believe franchise and system same-store sales and AUV information is useful to investors as a significant indicator of the overall strength of our business. Due to the transition from a 53-week year in fiscal 2016 to a 52-week year in fiscal 2017, year-over-year same-store sales comparisons are off by one week. As such, we have included changes in same-store sales on a calendar basis to provide a clearer comparison. Same-store sales data that matches the periods presented in our financial statements is referred to as fiscal basis same-store sales.
- Company restaurant margin ("restaurant margin") is defined as company restaurant sales less expenses incurred directly by our restaurants in generating those sales (food and packaging costs, payroll and employee benefit costs, and occupancy and other costs). We also present restaurant margin as a percentage of company restaurant sales.
- Franchise margin is defined as franchise rental revenues and franchise royalties and other, less franchise occupancy expenses, and franchise support and other costs, and is also presented as a percentage of franchise revenues.

Same-store sales, AUVs, restaurant margin, and franchise margin are not measurements determined in accordance with generally accepted accounting principles ("GAAP") and should not be considered in isolation, or as an alternative to income from operations, or other similarly titled measures of other companies.

OVERVIEW

As of January 22, 2017, we operated and franchised 2,261 Jack in the Box quick-service restaurants, primarily in the western and southern United States, including one in Guam, and 712 Qdoba fast-casual restaurants operating primarily throughout the United States and Canada.

Our primary source of revenue is from retail sales at Jack in the Box and Qdoba company-operated restaurants. We also derive revenue from Jack in the Box and Qdoba franchise restaurants, including rental revenue, royalties (based upon a percent of sales) and franchise fees. In addition, we recognize gains or losses from the sale of company-operated restaurants to franchisees, which are included as a line item within operating costs and expenses, net in the accompanying condensed consolidated statements of earnings.

The following summarizes the most significant events occurring in fiscal 2017, and certain trends compared to a year ago:

- Calendar Basis Same-Store Sales — Calendar basis same-store sales increased 3.1% at Jack in the Box system restaurants compared with a year ago primarily driven by the impact of menu price increases and favorable mix, which were partially offset by a decline in transactions. Qdoba's calendar basis same-store sales decreased 1.4% at company-operated restaurants compared with a year ago, driven primarily by declines in traffic, partially offset by menu price increases and catering growth.
- Commodity Costs — Commodity costs decreased approximately 5.6% and 3.0% at our Jack in the Box and Qdoba restaurants, respectively, in 2017 compared with a year ago. We expect our overall commodity costs in fiscal year 2017 to be approximately flat to down 1% at both our Jack in the Box and Qdoba restaurants. Beef represents the largest portion, or approximately 20%, of the Company's overall commodity spend. We typically do not enter into fixed price contracts for our beef needs. For the full year, we currently expect beef costs to decrease approximately 5%.
- Restaurant Margins — Our consolidated company-operated restaurant margin decreased in 2017 to 18.6% from 19.5% a year ago. Jack in the Box's company-operated restaurant margin improved to 21.6% in 2017 from 20.9% in the prior year due primarily to lower costs for food and packaging, partially offset by minimum wage increases in California that went into effect in January 2016, and higher maintenance costs. Company-operated restaurant margins at our Qdoba restaurants decreased to 13.1% in 2017 from 16.6% a year ago primarily reflecting the impact of new restaurant activity, sales deleverage, labor staffing inefficiencies and wage inflation, and higher costs for food and packaging.
- Jack in the Box Franchise Margin — Franchise margin increased in 2017 to 52.9%, from 50.1% in the prior year, due primarily to an increase in franchise rental revenue and royalties that were driven by the increase in franchise same-store sales on a fiscal basis, and a decrease in occupancy costs and savings realized in connection with our restructuring plan.
- Jack in the Box Franchising Program — Franchisees opened a total of seven restaurants in the first quarter of 2017. In fiscal year 2017, we expect to open approximately 20-25 Jack in the Box restaurants system-wide, the majority of which will be franchise locations. Our Jack in the Box system was 81% franchised as of January 22, 2017. We plan to increase franchise ownership of the Jack in the Box system to over 90%. Subsequent to the end of the first quarter, we signed non-binding letters of intent with franchisees to sell approximately 75 company restaurants in several different markets. Pre-tax gross proceeds related to these sales are estimated at $40.0 million to $45.0 million.
- Qdoba New Unit Growth — In the first quarter of 2017, we opened nine company-operated restaurants, and franchisees opened eight restaurants of which 7 were in non-traditional locations such as military bases and college campuses. In fiscal year 2017, we expect to open 50 to 60 Qdoba restaurants system-wide, of which approximately 30 are expected to be company-operated restaurants.
- Restructuring Costs — In 2016, we announced a plan to reduce our general and administrative costs. In connection with this plan, we have recorded $2.0 million of restructuring charges in 2017 which are included in impairment and other costs, net in the accompanying condensed consolidated statements of earnings.
- Return of Cash to Shareholders — We returned cash to shareholders in the form of share repurchases and cash dividends. We repurchased 992,000 shares of our common stock in 2017 at an average price of $109.04 per share, totaling $108.1 million, including the costs of brokerage fees. We also declared dividends of $0.40 per share totaling $13.0 million.

FINANCIAL REPORTING

During fiscal 2012, we entered into an agreement to outsource our Jack in the Box distribution business. In fiscal 2013, we closed 62 Qdoba restaurants (the "2013 Qdoba Closures") as part of a comprehensive Qdoba market performance review. All charges related to our distribution business and the 2013 Qdoba Closures are reported as discontinued operations for all periods presented. Refer to Note 2, Discontinued Operations, in the notes to condensed consolidated financial statements for additional information. Unless otherwise noted, amounts and disclosures throughout our MD&A relate to our continuing operations.

In the first quarter of fiscal 2017 we adopted an Accounting Standards Update (“ASU”) which changes the presentation of debt issuance costs on the balance sheet. Under this ASU, debt issuance costs are to be presented on the balance sheet as a direct deduction from the related debt liability rather than as an asset. We retrospectively adopted this guidance which resulted in the reclassification of $3.8 million in debt issuance costs from other assets, net to current maturities of long-term debt and long-term debt, net of current maturities in the amount of $1.6 million and $2.2 million, respectively, in our October 2, 2016 condensed consolidated balance sheet. Refer to Note 1, Basis of Presentation, in the notes to condensed consolidated financial statements for more information.

RESULTS OF OPERATIONS

The following table presents certain income and expense items included in our condensed consolidated statements of earnings as a percentage of total revenues, unless otherwise indicated. Percentages may not add due to rounding.

CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS DATA

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Revenues:		
Company restaurant sales	75.3 %	75.0 %
Franchise rental revenues	14.6 %	14.8 %
Franchise royalties and other	10.1 %	10.2 %
Total revenues	100.0 %	100.0 %
Operating costs and expenses, net:		
Company restaurant costs:		
Food and packaging (1)	29.7 %	30.8 %
Payroll and employee benefits (1)	29.1 %	27.7 %
Occupancy and other (1)	22.6 %	22.0 %
Total company restaurant costs (1)	81.4 %	80.5 %
Franchise occupancy expenses (2)	72.0 %	74.9 %
Franchise support and other costs (3)	7.8 %	10.2 %
Selling, general and administrative expenses	11.4 %	14.0 %
Impairment and other charges, net	1.0 %	0.4 %
Gains on the sale of company-operated restaurants	— %	(0.2)%
Earnings from operations	15.0 %	13.3 %
Income tax rate (4)	38.7 %	37.6 %

(1) As a percentage of company restaurant sales.
(2) As a percentage of franchise rental revenues.
(3) As a percentage of franchise royalties and other.
(4) As a percentage of earnings from continuing operations and before income taxes.

CHANGES IN SAME-STORE SALES

	Sixteen Weeks Ended		
	Calendar Basis	Fiscal Basis	
	January 22, 2017	January 22, 2017	January 17, 2016
Jack in the Box:			
Company	0.6%	—%	0.5%
Franchise	3.9%	3.3%	1.8%
System	3.1%	2.5%	1.4%
Qdoba:			
Company	(1.4)%	(2.3)%	1.5%
Franchise	(0.5)%	(1.3)%	2.1%
System	(1.0)%	(1.8)%	1.8%

The following table summarizes the changes in Jack in the Box and Qdoba company-operated same-store sales:

	Sixteen Weeks Ended		
	Calendar Basis	Fiscal Basis	
	January 22, 2017	January 22, 2017	January 17, 2016
Jack in the Box:			
Average check (1)	4.9%	4.7%	3.4%
Transactions	(4.3)%	(4.7)%	(2.9)%
Change in fiscal-basis same-store sales	0.6%	—%	0.5%
Qdoba:			
Transactions	(2.5)%	(3.6)%	1.3%
Average Check (2)	0.7%	1.0%	(0.8)%
Catering	0.4%	0.3%	1.0%
Change in fiscal-basis same-store sales	(1.4)%	(2.3)%	1.5%

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(1) Amount in 2017 on a calendar basis includes price increases of 2.9%. Amounts in 2017 and 2016 on a fiscal basis include price increases of approximately 2.9% and 2.8%, respectively.

(2) Amount in 2017 on a calendar basis includes price increases of 0.6%. Amounts in 2017 and 2016 on a fiscal basis include price increases of approximately 0.6% and 0.7%, respectively.

The following table summarizes the changes in the number and mix of Jack in the Box ("JIB") and Qdoba company and franchise restaurants:

	January 22, 2017			January 17, 2016		
	Company	Franchise	Total	Company	Franchise	Total
Jack in the Box:						
Beginning of year	417	1,838	2,255	413	1,836	2,249
New	2	7	9	—	5	5
Refranchised	—	—	—	(1)	1	—
Acquired from franchisees	—	—	—	1	(1)	—
Closed	—	(3)	(3)	—	(1)	(1)
End of period	419	1,842	2,261	413	1,840	2,253
% of JIB system	19 %	81 %	100 %	18 %	82 %	100 %
Qdoba:						
Beginning of year	367	332	699	322	339	661
New	9	8	17	9	6	15
Closed	—	(4)	(4)	(1)	(1)	(2)
End of period	376	336	712	330	344	674
% of Qdoba system	53 %	47 %	100 %	49 %	51 %	100 %
Consolidated:						
Total system end of period	795	2,178	2,973	743	2,184	2,927
% of consolidated system	27 %	73 %	100 %	25 %	75 %	100 %

Jack in the Box Brand

Company Restaurant Operations

The following table presents Jack in the Box company restaurant sales, costs and margin, and restaurant costs and margin as a percentage of the related sales. Percentages may not add due to rounding (dollars in thousands):

	Sixteen Weeks Ended			
	January 22, 2017		January 17, 2016	
Company restaurant sales	$238,571		$236,279	
Company restaurant costs:				
Food and packaging	67,989	28.5%	73,133	31.0%
Payroll and employee benefits	70,183	29.4%	65,689	27.8%
Occupancy and other	48,850	20.5%	48,171	20.4%
Total company restaurant costs	187,022	78.4%	186,993	79.1%
Restaurant margin	$51,549	21.6%	$49,286	20.9%

Jack in the Box company restaurant sales increased $2.3 million in 2017 driven by the addition of six new company restaurants since a year ago, partially offset by a decrease in AUVs. The following table presents the approximate impact of these increases (decreases) on company restaurant sales (in thousands):

Increase in the average number of restaurants	$3,400
AUV decrease	(1,100)
Total change in company restaurant sales	$2,300

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Fiscal basis same-store sales at Jack in the Box company-operated restaurants were flat versus last year as the impact of menu price increases and favorable mix was offset by a decline in transactions. The following table summarizes the change in company-operated fiscal basis same-store sales:

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Average check (1)	4.7 %	3.4 %
Transactions	(4.7)%	(2.9)%
Change in fiscal-basis same-store sales	— %	0.5 %

(1) Amounts in 2017 and 2016 include price increases of approximately 2.9% and 2.8%, respectively.

Food and packaging costs as a percentage of company restaurant sales decreased to 28.5% in 2017 compared with 31.0% in 2016, due to lower commodity costs, favorable product mix changes, and menu price increases. Commodity costs decreased 5.6% in 2017 compared to a year ago, due primarily to lower costs for pork, beef, eggs and produce. Beef, our most significant commodity, decreased approximately 8% in 2017 compared with the prior year. For fiscal 2017, we currently expect commodity costs to be approximately flat to down 1% at our Jack in the Box restaurants compared with fiscal 2016.

Payroll and employee benefit costs as a percentage of company restaurant sales increased to 29.4% in 2017 compared with 27.8% in 2016 due primarily to higher wages from minimum wage increases and higher levels of incentive compensation driven by operating results.

As a percentage of company restaurant sales, occupancy and other costs increased slightly to 20.5% in 2017 from 20.4% a year ago due to higher costs for repairs and maintenance, and increases in property rent due to routine escalations, partially offset by lower costs for depreciation and supplies.

Franchise Operations

The following table presents Jack in the Box franchise revenues, costs and margin in each period and other information we believe is useful in analyzing the change in franchise operating results (dollars in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Franchise rental revenues	$71,436	$69,700
Royalties	42,588	40,870
Franchise fees and other	586	734
Franchise royalties and other	43,174	41,604
Total franchise revenues	114,610	111,304
Rental expense	42,190	42,144
Depreciation and amortization	9,226	10,047
Franchise occupancy expenses	51,416	52,191
Franchise support and other costs	2,537	3,338
Total franchise costs	53,953	55,529
Franchise margin	$60,657	$55,775
Franchise margin as a % of franchise revenues	52.9 %	50.1 %
Average number of franchise restaurants	1,839	1,838
% increase	0.1 %	0.9 %
Increase in franchise-operated fiscal basis same-store sales	3.3 %	1.8 %
Franchise restaurant AUVs	$453	$438
Royalties as a percentage of franchise restaurant sales	5.1 %	5.1 %

Franchise rental revenues increased $1.7 million, or 2.4%, in 2017 as compared with a year ago, primarily reflecting an increase in franchise same-store sales on a fiscal basis resulting in an increase in revenues from percentage rent and increases in rental income due to routine rent increases.

Franchise royalties and other increased $1.6 million, or 3.8%, reflecting an increase in royalties driven by an increase in franchise same-store sales on a fiscal basis.

Franchise occupancy expenses, principally rents and depreciation on properties subleased or leased to franchisees, decreased $0.8 million in 2017 versus a year ago due to a decrease in depreciation expense as our building assets become fully depreciated.

Franchise support and other costs decreased $0.8 million in 2017 as compared with the prior year, primarily due to savings realized in connection with our restructuring plan.

Qdoba Brand

Company Restaurant Operations

The following table presents Qdoba company restaurant sales, costs and margin, and restaurant costs and margin as a percentage of the related sales. Percentages may not add due to rounding (dollars in thousands):

	Sixteen Weeks Ended			
	January 22, 2017		January 17, 2016	
Company restaurant sales	$128,699		$116,942	
Company restaurant costs:				
Food and packaging	40,947	31.8%	35,778	30.6%
Payroll and employee benefits	36,738	28.5%	32,218	27.6%
Occupancy and other	34,194	26.6%	29,528	25.3%
Total company restaurant costs	111,879	86.9%	97,524	83.4%
Restaurant margin	$16,820	13.1%	$19,418	16.6%

Company restaurant sales increased $11.8 million in 2017 as compared with the prior year due primarily to the addition of 46 net restaurants since a year ago, partially offset by a decrease in AUVs driven by a decrease in traffic. The following table presents the approximate impact of these increases (decreases) on company restaurant sales (in thousands):

Increase in the average number of company restaurants	$15,800
AUV decrease	(4,000)
Total change in company restaurant sales	$11,800

Fiscal basis same-store sales at Qdoba company-operated restaurants decreased 2.3% in 2017 as compared with the prior year primarily driven by declines in traffic, partially offset by menu price increases and catering growth. The following table summarizes the change in company-operated fiscal basis same-store sales:

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Transactions	(3.6)%	1.3%
Average check (1)	1.0%	(0.8)%
Catering	0.3%	1.0%
Change in fiscal basis same-store sales	(2.3)%	1.5%

(1) Amounts in 2017 and 2016 include price increases of approximately 0.6% and 0.7%, respectively.

Food and packaging costs as a percentage of company restaurant sales increased to 31.8% in 2017 from 30.6% in 2016. In 2017, unfavorable product mix and higher discounting were partially offset by the benefit of lower commodity costs. Commodity costs decreased 3.0% in 2017 due primarily to lower costs for beef, poultry and tortillas, partially offset by higher costs for avocados. In 2017, beef costs decreased by approximately 8% as compared with a year ago. Avocados increased most significantly by approximately 23% in 2017 as compared with a year ago. For fiscal 2017, we currently expect commodity costs to be approximately flat to down 1% at our Qdoba restaurants compared with fiscal 2016.

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Payroll and employee benefit costs as a percentage of company restaurant sales in 2017 increased to 28.5% in the quarter from 27.6% in 2016. The percent of sales increase is primarily due to the impact of new restaurant openings, labor inefficiencies and wage inflation, and deleverage from a decrease in fiscal basis same-store sales, partially offset by lower levels of incentive compensation.

As a percentage of company restaurant sales, occupancy and other costs increased to 26.6% in 2017 from 25.3% a year ago driven by deleverage from a decrease in fiscal basis same-store sales, higher per store average property rents associated with new restaurants and higher repairs and maintenance costs, partially offset by lower telephone and uniform costs.

Franchise Operations

The following table presents Qdoba franchise revenues, costs and margin in each period and other information we believe is useful in analyzing the change in franchise operating results (dollars in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Franchise rental revenues	$33	$ 38
Royalties	5,431	5,792
Franchise fees and other	589	468
Franchise royalties and other	6,020	6,260
Total franchise revenues	6,053	6,298
Rental expense (1)	33	28
Franchise support and other costs	1,301	1,524
Total franchise costs	1,334	1,552
Franchise margin	$4,719	$ 4,746
Franchise margin as a % of franchise revenues	78.0 %	75.4 %
Average number of franchise restaurants	333	342
% (decrease) increase	(2.6)%	3.3 %
(Decrease) increase in franchise-operated fiscal basis same-store sales	(1.3)%	2.1 %
Franchise restaurant AUVs	$337	$ 344
Royalties as a percentage of franchise restaurant sales	4.8 %	4.9 %

(1) Included in franchise occupancy expenses in the accompanying condensed consolidated statements of earnings.

Franchise royalties and other decreased $0.2 million, or 3.8%, in 2017 as compared with 2016 primarily due to a decrease in the average number of franchise restaurants and a decrease in franchise-operated same-store sales on a fiscal basis resulting in a decrease in revenue from royalties.

Franchise costs, principally support costs, decreased $0.2 million in 2017 versus a year ago due to a decrease in bad debt expense.

Selling, General and Administrative (“SG&A”) Expenses
The following table presents the change in SG&A expenses compared with the prior year (in thousands):

	(Decrease) / Increase 2017 vs. 2016
Pension and postretirement benefits	$(2,852)
Incentive compensation (including share-based compensation and related payroll taxes)	(1,728)
Consulting	(1,245)
Qdoba brand conference	(833)
Pre-opening costs	(613)
Advertising	(408)
Other	(2,485)
	$(10,164)

Pension and postretirement benefit costs decreased primarily due to $80.0 million of accelerated contributions made to our qualified pension plan in 2016 which are expected to result in a higher return on plan assets in fiscal 2017, and a resulting decrease in our fiscal 2017 Pension Benefit Guaranty Corporation premiums, which is a component of our pension expense. To a lesser extent, the sunsetting of our qualified pension plan during fiscal 2016 resulted in a decrease in the service cost component of our expense in 2017.
Incentive compensation decreased due to lower levels of performance as compared to target bonus levels.
In fiscal 2016, as part of its brand evolution, Qdoba held a conference to communicate the vision and direction of the brand strategy to key stakeholders.
Pre-opening costs decreased in 2017 as compared to a year ago due to a decrease in the number of Qdoba restaurants opened and under construction during the period.
Advertising costs at our Jack in the Box brand are primarily contributions to our marketing fund and are determined as a percentage of gross restaurant sales. Jack in the Box advertising costs decreased $0.9 million in 2017 compared with a year ago due to a decrease in discretionary marketing fund contributions. In 2017, advertising costs associated with our Qdoba brand increased $0.5 million versus a year ago due primarily to a shift in the timing of spending, partially offset by a decrease in the Qdoba marketing fund contribution rate to 1.25% of gross restaurant sales from 2.0% last year.
Other includes savings related to our restructuring plan announced in 2016 that includes workforce reductions and the relocation of our Qdoba corporate support center to reduce our corporate general and administrative costs.
Impairment and Other Charges, Net
Impairment and other charges, net is comprised of the following (in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Restructuring costs	$2,048	$ —
Costs of closed restaurants (primarily lease obligations) and other	1,997	560
Losses on disposition of property and equipment, net	699	651
Accelerated depreciation	313	446
	$5,057	$ 1,657

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Impairment and other charges, net increased $3.4 million in 2017 compared with a year ago. The increase was primarily driven by $2.0 million of restructuring charges recognized in 2017 and a $1.4 million increase in costs associated with closed restaurant properties primarily related to revisions of certain sublease assumptions for our lease obligations. Restructuring costs included $1.2 million in accelerated depreciation related to the relocation of our Qdoba corporate support center, $0.5 million of employee severance and related costs, and $0.3 million of other costs. Approximately $0.1 million and $1.8 million of the restructuring costs are related to our Jack in the Box and Qdoba restaurant operating segments, respectively, and approximately $0.1 million is related to shared services functions. Refer to Note 6, Impairment and Other Charges, Net of the notes to the condensed consolidated financial statements for additional information regarding these costs.

Gains on the Sale of Company-Operated Restaurants (dollars in thousands)

Gains on the sale of company-operated restaurants, net are detailed in the following table (dollars in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Number of restaurants sold to Jack in the Box franchisees	—	1
Gains on the sale of company-operated restaurants	$137	$ 818

Gains are impacted by the number of restaurants sold and changes in average gains or losses recognized, which relate to the specific sales and cash flows of those restaurants. In 2017 and 2016, gains on the sale of company-operated restaurants include additional gains of $0.1 million and $1.0 million, respectively, related to proceeds received in connection with Jack in the Box restaurants sold in previous years. Refer to Note 3, Summary of Refranchisings, Franchisee Development and Acquisitions, of the notes to the condensed consolidated financial statements for additional information regarding these gains.

Interest Expense, Net

Interest expense, net is comprised of the following (in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Interest expense	$12,748	$ 8,231
Interest income	(31)	(56)
Interest expense, net	$12,717	$ 8,175

Interest expense, net increased $4.5 million in 2017 compared with a year ago due to higher average borrowings and to a lesser extent, higher average interest rates.

Income Taxes

The tax rate in 2017 was 38.7% in the quarter compared with 37.6% a year ago. We expect the fiscal year tax rate to be approximately 38.0% to 39.0%. The final annual tax rate cannot be determined until the end of the fiscal year; therefore, the actual 2017 rate could differ from our current estimates. Refer to Note 7, Income Taxes, of the notes to the condensed consolidated financial statements for additional information regarding income taxes.

Losses from Discontinued Operations, Net

As described in Note 2, Discontinued Operations, in the notes to condensed consolidated financial statements, the results of operations from our distribution business and the 2013 Qdoba Closures have been reported as discontinued operations for all periods presented. The losses from discontinued operations are immaterial to our condensed consolidated statements of earnings, and the majority of the discontinued operations activity in both years is related to the 2013 Qdoba Closures.

LIQUIDITY AND CAPITAL RESOURCES

General

Our primary sources of short-term and long-term liquidity are expected to be cash flows from operations and our revolving bank credit facility.

We generally reinvest available cash flows from operations to develop new restaurants or enhance existing restaurants, to reduce debt, to repurchase shares of our common stock, and to pay cash dividends. Our cash requirements consist principally of:

- working capital;
- capital expenditures for new restaurant construction and restaurant renovations;
- income tax payments;
- debt service requirements; and
- obligations related to our benefit plans.

Based upon current levels of operations and anticipated growth, we expect that cash flows from operations, combined with other financing alternatives in place or available, will be sufficient to meet our capital expenditure, working capital and debt service requirements for at least the next twelve months and the foreseeable future.

As is common in the restaurant industry, we maintain relatively low levels of accounts receivable and inventories, and our vendors grant trade credit for purchases such as food and supplies. We also continually invest in our business through the addition of new units and refurbishment of existing units, which are reflected as long-term assets and not as part of working capital. As a result, we may at times maintain current liabilities in excess of current assets, which results in a working capital deficit.

Cash Flows

The table below summarizes our cash flows from operating, investing and financing activities (in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Total cash provided by (used in):		
Operating activities	$70,955	$44,909
Investing activities	(19,682)	(27,256)
Financing activities	(62,213)	(28,264)
Effect of exchange rate changes on cash	—	(32)
Net decrease in cash	$(10,940)	$(10,643)

Operating Activities. Operating cash flows in 2017 increased $26.0 million compared with a year ago primarily due to the timing of October rent payments, a $16.0 million decrease in income tax payments made in 2017 compared to 2016, and an increase in net earnings in 2017.

Pension and Postretirement Contributions — Our policy is to fund our pension plans at or above the minimum required by law. As of January 1, 2016, the date of our last actuarial funding valuation, there was no minimum contribution funding requirement for our qualified pension plan ("Qualified Plan"). In fiscal 2016, we made an $80.0 million accelerated contribution to our Qualified Plan and as such do not expect to make any contributions in fiscal 2017. In the first quarter of 2017, we contributed $1.4 million to our non-qualified pension plan and postretirement plans.

Investing Activities. Cash used in investing activities in 2017 decreased $7.6 million compared with a year ago due primarily to a decrease in capital expenditures, partially offset by a decrease in proceeds from assets held for sale and leaseback.

Capital Expenditures — The composition of capital expenditures in each period follows (in thousands):

	Sixteen Weeks Ended January 22, 2017	January 17, 2016
Jack in the Box:		
Restaurant facility expenditures	$5,128	$ 10,113
New restaurants	2,000	3,059
Other, including information technology	417	706
	7,545	13,878
Qdoba:		
New restaurants	8,036	14,394
Restaurant facility expenditures	3,493	1,127
Other, including information technology	748	757
	12,277	16,278
Shared Services:		
Information technology	1,037	1,239
Other, including facility improvements	6	148
	1,043	1,387
Consolidated capital expenditures	$20,865	$ 31,543

Our capital expenditure program includes, among other things, investments in new locations and equipment, restaurant remodeling, and information technology enhancements. Capital expenditures decreased $10.7 million compared to a year ago primarily resulting from a decrease in spending related to building new Qdoba and Jack in the Box restaurants and a decrease in spending related to Jack in the Box restaurant facility expenditures. We expect fiscal 2017 capital expenditures to be approximately $100 million. In fiscal 2017, we plan to open approximately 30 new Qdoba company-operated locations, and approximately four new Jack in the Box company-operated locations.

Assets Held for Sale and Leaseback — We use sale and leaseback financing to limit the initial cash investment in our restaurants to the cost of the equipment, whenever possible. During 2017 and 2016, we exercised our right of first refusal related to one and two leased properties, respectively, which we intend to sell and leaseback within the next 12 months of the respective balance sheet date. The following table summarizes the cash flow activity related to sale and leaseback transactions in each period (dollars in thousands):

	Sixteen Weeks Ended January 22, 2017	January 17, 2016
Number of restaurants sold and leased back	1	3
Proceeds from sale and leaseback transactions	$2,466	$ 5,803
Purchases of assets intended for sale and leaseback	$(1,770)	$ (3,274)

As of January 22, 2017, we had investments of $16.1 million relating to seven restaurant properties that we expect to sell and leaseback during the next 12 months.

Sale of Company-Operated Restaurants — We continue to expand franchise ownership in the Jack in the Box system primarily through the sale of company-operated restaurants to franchisees. The following table details proceeds received in connection with our refranchising activities in each period (dollars in thousands):

	Sixteen Weeks Ended	
	January 22, 2017	January 17, 2016
Number of restaurants sold to Jack in the Box franchisees	—	1
Total proceeds	$138	$ 1,021

In 2017 and 2016, proceeds include additional gains of $0.1 million and $1.0 million, respectively, related to Jack in the Box restaurants sold in previous years. For additional information, refer to Note 3, Summary of Refranchisings, Franchisee Development and Acquisitions, of the notes to condensed consolidated financial statements.

Financing Activities. Cash flows used in financing activities increased $33.9 million in 2017 compared with a year ago primarily due to a net increase in borrowings under our credit facility, and an increase in cash used to repurchase our common stock and pay dividends, partially offset by an increase in proceeds from the issuance of our common stock.

Credit Facility — Our credit facility consists of (i) a $900.0 million revolving credit agreement and (ii) a $700.0 million term loan. Both the revolving credit agreement and the term loan have maturity dates of March 19, 2019. As part of the credit agreement, we may also request the issuance of up to $75.0 million in letters of credit, the outstanding amount of which reduces our net borrowing capacity under the agreement. As of January 22, 2017, we had $680.5 million outstanding under the term loan, borrowings under the revolving credit agreement of $346.4 million and letters of credit outstanding of $31.5 million.

The interest rate on our credit facility is based on our leverage ratio and can range from the London Interbank Offered Rate ("LIBOR") plus 1.25% to 2.25% with a 0% floor on LIBOR. The current interest rate is LIBOR plus 2.00%.

We are subject to a number of customary covenants under our credit facility, including limitations on additional borrowings, acquisitions, loans to franchisees, lease commitments, stock repurchases and dividend payments, and requirements to maintain certain financial ratios as defined in the credit agreement. We were in compliance with all covenants as of January 22, 2017.

Interest Rate Swaps — To reduce our exposure to fluctuating interest rates under our credit facility, we consider interest rate swaps. In April 2014, we entered into nine forward-starting interest rate swap agreements that effectively converted $300.0 million of our variable rate borrowings to a fixed-rate basis from October 2014 through October 2018. In June 2015, we entered into eleven forward-starting interest rate swap agreements that effectively converted an additional $200.0 million of our variable rate borrowings to a fixed-rate from October 2015 through October 2018, and $500.0 million from October 2018 through October 2022. For additional information, refer to Note 5, Derivative Instruments, of the notes to condensed consolidated financial statements and Item 3, Quantitative and Qualitative Disclosures About Market Risk, of this report.

Repurchases of Common Stock — During fiscal 2017, we repurchased 992,000 common shares at an aggregate cost of $108.1 million, compared with 1.3 million common shares at an aggregate cost of $100.0 million in 2016. As of January 22, 2017, there was approximately $27,000 remaining under a stock-buyback program which expires in November 2017, and $300.0 million remaining under a stock-buyback program which expires in November 2018. In our condensed consolidated statement of cash flows for the 16 weeks ended January 22, 2017, repurchases of common stock includes $7.2 million related to repurchase transactions traded in the prior fiscal year that settled in the current fiscal year.

Dividends — In fiscal 2017, the Board of Directors declared a cash dividend of $0.40 per common share totaling $13.0 million. Future dividends are subject to approval by our Board of Directors.

Off-Balance Sheet Arrangements

We have entered into certain off-balance sheet contractual obligations and commitments in the ordinary course of business, which are recognized in our condensed consolidated financial statements in accordance with U.S. generally accepted accounting principles. There has been no material change in these arrangements as disclosed in our

Management's Discussion and Analysis of Financial Condition and Results of Operations included in our Annual Report on Form 10-K for the fiscal year ended October 2, 2016. We are not a party to any other off-balance sheet arrangements that have, or are reasonably likely to have, a current or future material effect on our financial condition, changes in financial condition, results of operations, liquidity, capital expenditures or capital resources.

DISCUSSION OF CRITICAL ACCOUNTING ESTIMATES

Critical accounting estimates are those that we believe are most important for the portrayal of the Company's financial condition and results, and that require management's most subjective and complex judgments. Judgments and uncertainties regarding the application of these policies may result in materially different amounts being reported under various conditions or using different assumptions. There have been no material changes to the critical accounting estimates previously disclosed in the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2016.

NEW ACCOUNTING PRONOUNCEMENTS

Refer to Note 1, Basis of Presentation, of the notes to condensed consolidated financial statements.

CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING STATEMENTS

This report contains forward-looking statements within the meaning of the federal securities laws. Any statements contained herein that are not historical facts may be deemed to be forward-looking statements. Forward-looking statements may be identified by words such as "anticipate," "assume," "believe," "estimate," "expect," "forecast," "goals," "gu "intend," "plan," "project," "may," "will," "would", "should" and similar expressions. These statements are based on managem current expectations, estimates, forecasts and projections about our business and the industry in which we operate. These estimates and assumptions involve known and unknown risks, uncertainties, and other factors that are in some cases beyond our control. Factors that may cause our actual results to differ materially from any forward-looking statements include, but are not limited to:

- Food service businesses such as ours may be materially and adversely affected by changes in consumer preferences or dining habits, and economic, political and socioeconomic conditions. Adverse economic conditions such as unemployment and decreased discretionary spending may result in reduced restaurant traffic and sales, and impose practical limits on pricing. We are also subject to geographic concentration risks, with nearly 70% of system Jack in the Box restaurants located in California and Texas.
- Our profitability depends in part on food and commodity costs and availability, including animal feed costs, fuel costs, and other supply and distribution costs. The risks of increased commodities costs and volatility in costs could adversely affect our profitability and results of operations.
- The success of our business strategy depends on the value and relevance of our brands. Multi-unit food service businesses such as ours can be materially and adversely affected by widespread negative publicity of any type, particularly regarding food quality, food safety or public health issues. Negative publicity regarding our brands or the restaurant industry in general could cause a decline in system restaurant sales and could have a material adverse effect on our financial condition and results of operations.
- We are reliant on third party suppliers and distributors, and any shortages or interruptions in supply could adversely affect the availability, quality and cost of ingredients.
- Our business can be materially and adversely affected by severe weather conditions or natural disasters, which can result in lost restaurant sales, supply chain interruptions and increased costs.
- Growth and new restaurant development involve substantial risks, including risks associated with unavailability of suitable franchisees, limited financing availability, cost overruns and the inability to secure suitable sites on acceptable terms. In addition, our growth strategy includes opening restaurants in new or existing markets where we cannot assure that we will be able to successfully expand or acquire critical market presence, attract customers or otherwise operate profitably.
- There are risks associated with our franchise business model, including the demand for our franchises, the selection of appropriate franchisees and whether our franchisees and new restaurant developers will have the capabilities to be effective operators and remain aligned with us on operating, promotional and capital-intensive initiatives, in an ever-changing competitive environment. Additionally, our franchisees and operators could experience operational, financial or other challenges that could affect payments to us of rents and/or royalties, or could damage our brands and reputation.
- Our plan to increase the percentage of Jack in the Box franchise restaurants to over 90% is subject to risks and uncertainties, and we may not achieve the level or the accompanying cost reductions that we desire. We may not be able to identify franchisee candidates with appropriate experience and financial resources or to negotiate mutually acceptable agreements with potential franchisees. Our franchisee candidates may not be

able to obtain financing at acceptable rates and terms. We may not be able to increase the percentage of franchised restaurants at the rate we desire or achieve the ownership mix of franchise to company-operated restaurants that we desire.

- The restaurant and take-away food industry is highly competitive with respect to price, service, location, brand identification, menu quality and product and service innovation. We cannot assure that we will be able to effectively respond to aggressive competitors (including competitors with significantly greater financial resources); or that our

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competitive strategies will increase our same-store sales and AUVs; or that our new products, service initiatives, overall strategies or execution of those strategies will be successful.

- Should our advertising and promotions be less effective than our competitors, there could be a material adverse effect on our results of operations and financial condition.
- In recent years, we have identified strategies and taken steps to reduce operating costs to align with the increased Jack in the Box franchise ownership and to further integrate Jack in the Box and Qdoba brand systems. The ability to evaluate, identify and implement operating cost reductions through these initiatives is subject to risks and uncertainties, and we cannot assure that these activities, or any other activities that we may undertake in the future, will achieve the desired cost savings and efficiencies.
- The loss of key personnel could have a material adverse effect on our business.
- The costs of compliance with government regulations, including those resulting in increased labor costs, could negatively affect our results of operations and financial condition.
- A material failure or interruption of service or a breach in security of our information technology systems, point of sale ("POS") systems, or databases could cause reduced efficiency in operations, loss or misappropriation of data or, loss of consumer confidence and/or potential costs, fines and litigation, including costs associated with reputation damage, consumer fraud, privacy breach, or business interruptions, which in turn could affect cash flows or our operating results. In addition, the costs of information security, regulatory compliance, investment in technology and risk mitigation measures may negatively affect our margins or financial results.
- We maintain a documented system of internal controls over financial reporting, which is reviewed and monitored by an Internal Controls Committee and tested by the Company's full-time internal audit department. Any failures in the effectiveness of our internal controls could have a material adverse effect on our operating results or cause us to fail to meet our reporting obligations.
- We are subject to risks of owning, operating and leasing property, including but not limited to environmental risks. Any of this could result in the imposition of severe penalties or restrictions on operations by governmental agencies or courts of law, which could adversely affect operations.
- We have a significant amount of indebtedness, which could adversely affect our business and our ability to meet our obligations. Our ability to repay borrowings under our credit facility and to meet our other debt or contractual obligations will depend upon our future performance and our cash flows from operations, both of which are subject to prevailing economic conditions and financial, business and other known and unknown risks and uncertainties, certain of which are beyond our control.
- Changes in accounting standards, policies or related interpretations by accountants or regulatory entities may negatively impact our results.
- We are subject to litigation which is inherently unpredictable and can result in unfavorable resolutions where the amount of ultimate loss may exceed our estimated loss contingencies, impose other costs related to defense of claims, or occupy management's time.

These and other factors are identified and described in more detail in our filings with the Securities and Exchange Commission, including, but not limited to: the "Discussion of Critical Accounting Estimates," and other sections in this Form 10-Q and the "Risk Factors" section of our most recent Annual Report on Form 10-K for the fiscal year ended October 2, 2016 ("Form 10-K"). These documents may be read free of charge on the SEC's website at www.sec.gov. Potential investors are urged to consider these factors, more fully described in our Form 10-K, carefully in evaluating any forward-looking statements, and are cautioned not to place undue reliance on the forward-looking statements. All forward-looking statements are made only as of the date issued, and we do not undertake any obligation to update any forward-looking statements.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our primary exposure to risks relating to our financial instruments is changes in interest rates. Our credit facility is comprised of a revolving credit facility and a term loan, bearing interest at a rate equal to the prime rate or LIBOR plus an applicable margin based on a financial leverage ratio. As of January 22, 2017, the applicable margin for the LIBOR-based revolving loans and term loan was set at 2.00%.

We use interest rate swap agreements to reduce exposure to interest rate fluctuations. In April 2014, we entered into nine forward-starting interest rate swap agreements that effectively converted $300.0 million of our variable rate borrowings to a fixed-rate basis from October 2014 through October 2018. Additionally, in June 2015, we entered into eleven forward-starting interest rate swap agreements that effectively converted an additional $200.0 million of our variable rate borrowings to a fixed-rate from October 2015 through October 2018, and $500.0 million from October 2018 through October 2022. Based on the applicable margin in effect as of January 22, 2017, these twenty interest rate swaps would yield average fixed rates of 3.90%, 4.41%, 4.62%, 4.89%, 5.07%, 5.17% in years 2017 through 2022, respectively. For additional information related to our interest rate swaps, refer to Note 5, Derivative Instruments, of the notes to condensed consolidated financial statements.

We are also exposed to the impact of commodity and utility price fluctuations. Many of the ingredients we use are commodities or ingredients that are affected by the price of other commodities, weather, seasonality, production, availability and various other factors outside our control. In order to minimize the impact of fluctuations in price and availability, we monitor the primary commodities we purchase and may enter into purchasing contracts and pricing arrangements when considered to be advantageous. However, certain commodities remain subject to price fluctuations. We are exposed to the impact of utility price fluctuations related to unpredictable factors such as weather and various other market conditions outside our control. Our ability to recover increased costs for commodities and utilities through higher prices is limited by the competitive environment in which we operate.

ITEM 4. CONTROLS AND PROCEDURES

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

Based on an evaluation of the Company’s disclosure controls and procedures (as defined in Rules 13a - 15 and 15d - 15 of the Securities Exchange Act of 1934, as amended), as of the end of the Company’s quarter ended January 22, 2017, the Company’s Chief Executive Officer and Chief Financial Officer (its principal executive officer and principal financial officer, respectively) have concluded that the Company’s disclosure controls and procedures were effective.

Changes in Internal Control over Financial Reporting

There have been no changes in the Company’s internal control over financial reporting that occurred during the Company’s fiscal quarter ended January 22, 2017 that have materially affected, or are reasonably likely to materially affect, the Company’s internal control over financial reporting.

PART II. OTHER INFORMATION

There is no information required to be reported for any items under Part II, except as follows:

ITEM 1. LEGAL PROCEEDINGS

See Note 12, Contingencies and Legal Matters, of the notes to condensed consolidated financial statements for a discussion of our contingencies and legal matters.

ITEM 1A. RISK FACTORS

When evaluating our business and our prospects, you should consider the risks and uncertainties described under Item 1A of Part I of our Annual Report on Form 10-K for the fiscal year ended October 2, 2016, which we filed with the SEC on November 22, 2016. You should also consider the risks and uncertainties discussed under the heading “Cautionary Statements Regarding Forward-Looking Statements” in Item 2 of this Quarterly Report on Form 10-Q. You should also refer to the other information set forth in this Quarterly Report and in our Annual Report on Form 10-K for the fiscal year ended October 2, 2016, including our financial statements and the related notes. There have been no material changes from the risk factors as previously disclosed in our Annual Report on Form 10-K for the fiscal year ended October 2, 2016. These risks and uncertainties are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently consider immaterial may also impair our business operations. If any of the risks or uncertainties actually occurs, our business and financial results could be harmed. In that case, the market price of our common stock could decline.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Our credit agreement provides for the potential payment of cash dividends and stock repurchases, subject to certain limitations based on our leverage ratio as defined in our credit agreement.

Stock Repurchases — During fiscal 2017, we repurchased 992,000 common shares at an aggregate cost of $108.1 million. As of January 22, 2017, there was approximately $27,000 remaining under a stock-buyback program which expires in November 2017, and $300.0 million remaining under a stock-buyback program which expires in November 2018.

	(a) Total number of shares purchased	(b) Average price paid per share	(c) Total number of shares purchased as part of publicly announced programs	(d) Maximum dollar value that may yet be purchased under these programs
				$408,172,440
October 3, 2016 - October 30, 2016	85,412	$95.38	85,412	$400,025,975
October 31, 2016 - November 27, 2016	—	$—	—	$400,025,975
November 28, 2016 - December 25, 2016	849,928	$110.24	849,928	$306,328,521
December 26, 2016 - January 22, 2017	56,475	$111.58	56,475	$300,026,982
Total	991,815	$109.04	991,815	

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Number	Description	Form	Filed with SEC
3.1	Restated Certificate of Incorporation, as amended, dated September 21, 2007	10-K	11/20/2009
3.1.1	Certificate of Amendment of Restated Certificate of Incorporation, dated September 21, 2007	8-K	9/24/2007
3.2	Amended and Restated Bylaws, dated August 7, 2013	10-Q	8/8/2013
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	—	Filed herewith
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	—	Filed herewith
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	—	Filed herewith
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	—	Filed herewith
101.INS	XBRL Instance Document		
101.SCH	XBRL Taxonomy Extension Schema Document		
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document		
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document		
101.LAB	XBRL Taxonomy Extension Label Linkbase Document		
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document		

* Management contract or compensatory plan.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

JACK IN THE BOX INC.

By: /S/ JERRY P. REBEL
Jerry P. Rebel
Executive Vice President and Chief Financial Officer (principal financial officer)
(Duly Authorized Signatory)

Date: February 23, 2017

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