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From the City Manager:

Referendum planning: As mentioned in last week’s Council meeting, we are continuing to explore the possibility of asking voters this November if they are willing to increase their tax payments to support operating expenses of the City, due to constraints caused by Wisconsin’s levy limits and other municipal finance laws. Our current task is to draft a survey that will be administered to 300 households in the City of Eau Claire. The purpose of the survey is to determine the community’s preferences as to increasing taxes versus reducing service levels. Directors are working to identify strategies of how they may reduce services as needed if revenues do not increase. A referendum could, in theory, allow for expansions of services. However, in the case of the City of Eau Claire, a referendum would largely allow us to preserve existing levels of service delivery. Thus, we plan to word our survey as questions in the form of: “Without additional funding, the following service level may change.” We are working to gather some of those scenarios from departments, and below are some examples. As budget constraints grow, these are the types of service changes that may occur, but we’d need to work thoughtfully to select the changes that have the least impact on the community, based on our community and strategic values. Possible services changes include:

- **Police:** The Police Department may have longer response times; The Police Department may not be able to continue to respond to non-injury vehicle crashes, respond to many non-criminal service calls, and investigate select property crimes; The Police Department may reduce efforts directed at impaired driving, pedestrian safety, traffic safety, and neighborhood quality of life.
- **Community Services:** The Streets Division may take more time to complete full-plow events or ice control routes; The Transit Division may not expand the transit service area; The Parks/Forestry Division may take more time between mowing of parks and cemeteries; The Parks/Forestry Division may collect garbage from parks and clean them less often; Emerald Ash Borer tree removal may be delayed to the point that dead trees

are standing and becoming a hazard; Recreation may provide more limited hours of operation at Fairfax Pool and Hobbs Ice Arena; Recreation may carry out bare minimum maintenance issues at the pool and ice center, which may lead to deferred maintenance problems over time.

- **Library:** The Library may be closed an additional day each week, limiting public access to literacy offerings, programming, computers, safe spaces, and meeting spaces.
- **Administrative:** Public wifi and public space cameras may be reduced or eliminated.
- **Community Development:** Building plan review and/or inspections may be deferred to the State; Permit issuance delays may increase.
- **Fire:** The Fire Department may not be able to increase fire and paramedic service to match Eau Claire's growing population.
- **Health:** The Health Department may shift to more reactive public health services vs. proactive and may reduce prevention in areas including maternal-child health, housing, AODA, and communicable disease.

ARPA planning: The document from our work session on ARPA funding can be found here.

<https://www.eauclairewi.gov/home/showpublisheddocument/39154/637878819369652798>

(The general ARPA page is here: Government/Finance/ARPA.) Please pass along any feedback. We will work to incorporate feedback and refine the ideas to provide more detail. Our next step will then be to share that additional detail publicly by the week of June 6th. Then we will schedule a public hearing for June 13th, with continued Council deliberation on appropriation on June 14th.

Proposed Stewart-Hauge Annexation: We are working to add any additional questions to an FAQ list (see [39133 \(eauclairewi.gov\)](#) for the document that was distributed last week). Additional questions we heard at the hearing or since then have included: How will the development help with the affordability of housing? How might roads in neighboring areas not part of the proposed annexation area be improved? How much revenue might the initiative generate for the County and ECASD? Please keep sharing your questions and concerns, and we will work to keep answering them. Also note, in the Engineering section below, staff have shared an analysis of how large of an area it would take, if developing in a rural subdivision style, to meet the need for the same number of housing units as may be included in the proposed Stewart-Hauge development. The map helps illustrate two significantly different approaches to development.

Note that, at the last meeting, it was discussed that members of the public who do not live or work in Eau Claire will be able to comment at the Monday, May 23rd meeting during a Public Discussion period on the agenda. Also related to public comment, please see attached for a copy of a memo on a recent US Supreme Court 1st Amendment decision involving the City of Boston. This is the decision that Steve Nick mentioned related to the public comment period.

Covid Level: As shared in the last Council meeting, data related to case numbers and hospitalization has raised Eau Claire County’s CDC Community Covid risk level to “medium”. More information on what that means is here: [ShowDocument \(eauclairewi.gov\)](#) Also note, in accordance with the [Presidential Proclamation](#), the flag of the United States and the flag of the State of Wisconsin shall be flown at half-staff at all buildings, grounds, and military installations of the State of Wisconsin equipped with such flags beginning immediately and ending at sunset on Monday, May 16, 2022, in memory of the one million American lives lost to COVID-19. This includes 171 Eau Claire County residents that have died because of COVID-19.

Other updates:

- **Trash Hauling Constituent Contacts:** We have been receiving constituent calls related to trash hauling, including placement of barrels and yard waste pickup. While the City doesn’t carry out trash hauling services, we do have some limited tools to help ensure compliance with laws and contractual expectations, and we are trying to use these tools. We recently got an update from our Code Enforcement Officer, who spoke with Waste Management on Thursday, as they were picking up yard waste bags. They reported that they are very short staffed, and they are working hard to catch up on all pickups and hope to finish soon.
- **Station Six:** The Fire Department reports that work on the remodeling of Station Six will begin in two weeks.
- **Landfill Siting Committee:** The Landfill Siting Committee had a lengthy meeting this week, and stakeholders report some progress, described in this article: [Progress made in landfill talks, chairman says, but no deal yet | Front Page | leadertelegram.com](#). Thank you to those who have led and participated in the negotiation for to this complicated situation.
- **Remote participation:** At last week’s work session, Council Members shared preferences for remote participation. We will work to draft ordinance language that reflects these preferences. Note that with a focus on hybrid, it will require added technology capacity to create spaces that permit both in-person and remote participation. We will share updates as we work on both the legal and technical aspects of implementing the plan.
- **Newell Playground Complete:** Newell Playground is complete! Take a look at this great little park in the pictures in the Community Services update below. The ribbon cutting will be held on Thursday, May 19, at 7PM and all are welcome.
- **Internal CIP meetings:** We have started our internal CIP meetings to review Departmental requests, and we look forward to sharing them with you at the end of May.

Shout-outs: Here are some thank yous to our staff...

- **Pinning Ceremony:** Last Friday, the Fire Department held a “Badge Pinning Ceremony” for new hires and newly promoted staff. It was a beautiful day, and many families including children attended the ceremony in the large bay of Station 10. As the Chaplain said in his Firefighters’ Prayer, the audience gathered to recognize the thousands of

hours of service for the staff, firefighters, engineers, lieutenants, captains, and the deputy chief, and to hope and pray for their safety as they continue to serve our community. In one section of the program, Jon Schultz asked the

firefighters/paramedics:
“What do you learn in training... when are you a firefighter?” “Always” they said. He then presented the Medic Commendation, which was being presented to Korey Maves. Korey was at Chaos with his family when he saw both a medical emergency and a two-year-old who was in a situation requiring life-saving efforts. Korey administered help until the child could be transported to the hospital. Due to Korey’s efforts, the child survived and is doing well. One of my favorite parts of the ceremony was seeing Deputy Chief Matthew Jaggar being pinned by his parents. They were not as young as the parents of the new recruits, but they were no less proud. They are pictured here.



- National Planning Conference: Community Development Director Scott Allen and Senior Planner Ned Noel had the honor to lead a session at this year's National Planning Conference earlier this week. (Pictured here...) They provided a presentation on the City's award-winning Renewable Energy Action Plan (REAP) the



City Council adopted in February 2020. Scott and Ned were joined by one of the plan's consultants, Marisa Bayer of CEE in the Twin Cities, with the session moderated by American Planning Association (APA) Environment, Natural Resources and Energy (ENRE) Division Chairperson Jessica Conquest from Seattle. Over 3,500 planners were in attendance at the event in San Diego, which was the first in-person conference in three years.

Council Calendar

- Thursday, May 18th: Council Academy
- Monday, May 23rd Council Meeting
 - Public discussion of Stewart-Hauge Annexation (non-residents allowed to comment)
- Tuesday, May 24th Council Meeting
 - Presentation on Landlord Support Program post-pilot assessment
 - Second reading of Stewart-Hauge Annexation
- Tuesday, May 31st: CIP Budget work session #1
- Monday, June 13th Council Meeting
 - Public hearing on proposed ARPA funding appropriation
- Tuesday, June 14th Council Meeting
 - Work session: 2nd ARPA planning session
 - Work session: Referendum planning
- Tuesday, June 28th Council Meeting
 - Work session: Strategic Plan
 - Work session: Possible 3rd ARPA planning session if needed
- Monday, June 27th: City Council electronically receives 2023-2027 Proposed CIP
- Tuesday, July 12th: City Council operating priorities and parameters work session

- Tuesday, July 19th: City Council CIP Budget work session #2
- Tuesday, July 26th: City Council CIP Budget work session #3
- Monday, August 8th: Public discussion for 2023-2027 Proposed CIP
- Tuesday, August 9th: City Council adopts 2023-2027 Proposed CIP
- Tuesday, August 23rd: Need approval for referendum ballot question language, if referendum moves forward
- Saturday, October 1st: City Council receives 2023 Proposed Operating Budget
- Tuesday, October 4th: Operating Budget work session #1
- Monday, October 10th: Public Hearing on the Proposed Operating Budget
- Tuesday, October 11th: Operating Budget work session #2
- Tuesday, October 18th: Operating Budget work session #3
- Tuesday, October 25th: Operating Budget work session – amendment discussion
- Tuesday, November 1st: Budget amendments due
- Monday, November 7th: Public Hearing on 2023 Proposed Operating Budget
- Tuesday, November 8th: City Council action on 2023 Proposed Operating Budget
- Tuesday, November 22rd: City Council action on levy

Library Update

This photo shows a zone of the Play and Learn area in the Youth Services Department in the downtown library. The teal felt on the wall is a Kirei panel which is made from 100% recycled PET plastic. It will help absorb the sound coming from the kids in the play area, muffling it before it travels up to the second floor.



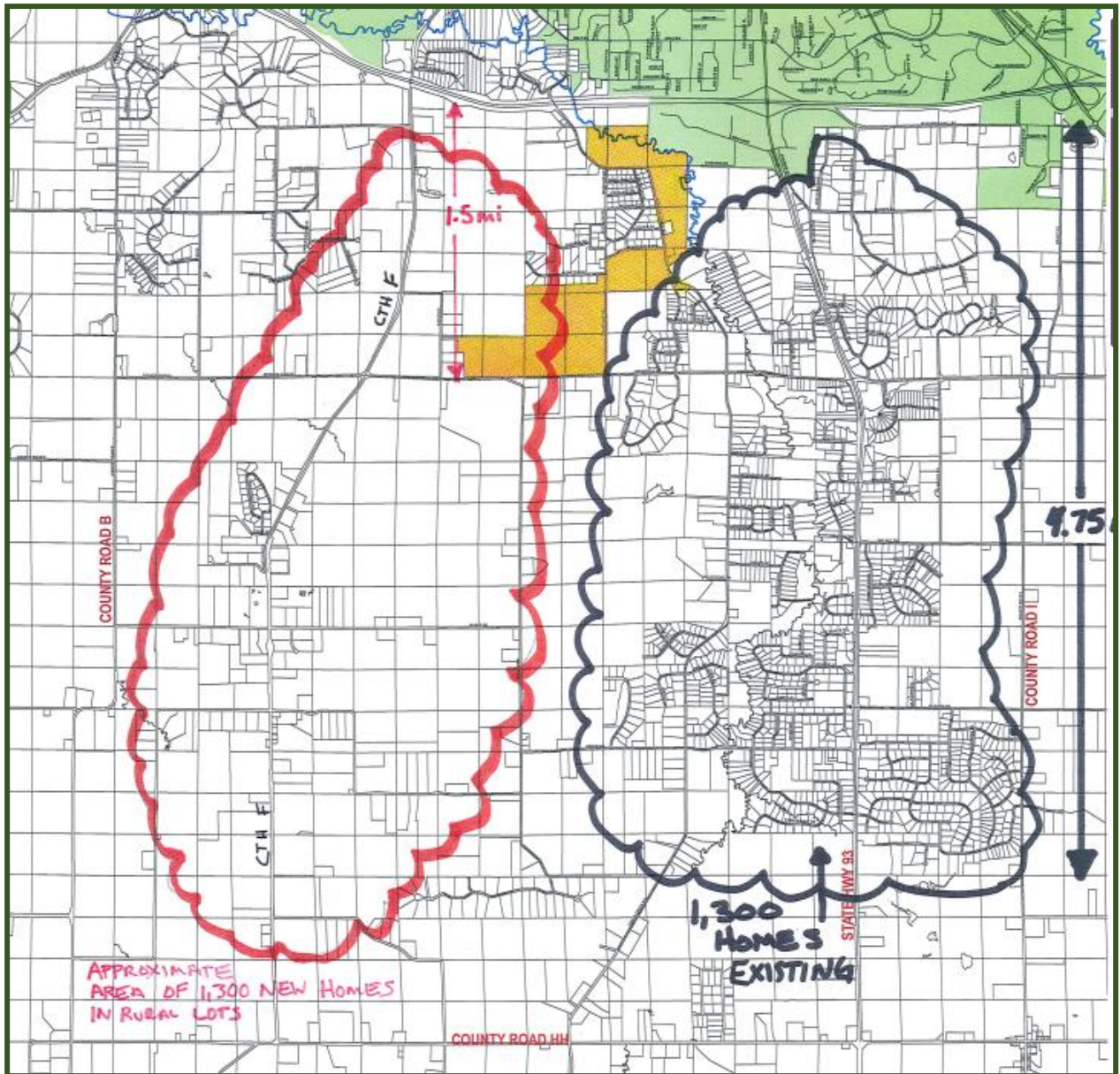
In May, the Library staff finished adding Radio Frequency Identification (RFID) tags to the entire collection. This project included all 67 library staff taking on additional work to tag and code over 130,000 items. This team effort is the first step to helping the library move forward with future time-saving technologies for doing inventory and materials check-in, including the self-service check in kiosks that will be installed in the renovated downtown location.



Engineering Update

Several people have asked if the proposed Stewart-Hauge annexation is urban sprawl...and even flatly said it was. On the map below, you can see the existing rural development that has occurred along STH 93, south of the City. The area circled with a black line contains approximately 1,300 dwelling units and extends nearly five miles south of the interstate. The Stewart – Hauge annexation is shaded in yellow on the map. The developable area of the Stewart – Hauge annexation could ultimately provide up to 1,300 dwelling units when it is fully

constructed as a compact subdivision. The exact number will depend upon the plat submitted by the developers, but if it is consistent with new developments within the City limits it could yield that number. Development will continue south of the City in the future. The Stewart – Hauge area will develop into a subdivision, the only question is whether it will be a City subdivision or rural subdivision. If Stewart – Hauge is not annexed and the same 1,300 sites were not in a compact development, they would take up the space circled in red along CTH F. That would be another classic urban sprawl corridor. The CTH F corridor would look similar to the STH 93 corridor and be developed 5 miles south of the city. The Stewart – Hauge would compactly develop from the city’s border to 1.5 miles from the interstate.



Community Services Update

The playgrounds at McDonough Park and Newell Park were opened up this week. Staff will continue to work on the landscaping in the parks and an official ribbon-cutting ceremony will be held as well. At Newell Park, staff will also be installing a new sidewalk for access from the shelter to the playground. Over at McDonough Park, contractors have installed the restroom building near the pickleball courts and staff have completed the concrete sidewalk that connects the new restroom to the courts. This week, a contractor applied an Endothall treatment to Half Moon Lake. This is the 13th year of a 15-year treatment program for the lake.



Staff are continuing to process summer program registrations and adult leagues. Fairfax Pool is being prepared for opening, with crews working on filling up the pool and balancing chemicals. Hobbs Ice Arena staff are using the relatively quiet warmer months to perform maintenance and repairs around the facility.



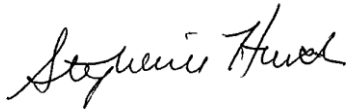
At the Central Maintenance Facility, the shop vehicle hoist project is continuing, with concrete poured on Thursday, May 12. Installation of equipment, wiring, and hydraulic components will begin next week. The warmer weather this week allowed a couple crews to be out painting crosswalks. Each crew is capable of repainting around 25 crosswalks per day. The paint shortage from last year is still ongoing, but crews have enough on hand to complete this year's project list. The warm weather also allowed for the opening of local hot mixed asphalt plants, which in turn allows crews to complete streets repairs. Street sweeping, crack sealing, and spray patching operations are now part of daily operations for the Streets crews.

The Transit division has had 10,480 designated trip passes, designed for people experiencing homelessness, redeemed to date. Weekday Average Ridership is 2,684 for May. This is up 104% from May 2021 (1,404) and down 21% from the pre-pandemic levels in May 2019 (3,642). UWEC Average Weekday Ridership is 1,383 for May. This is up 401% from May 2021 (276) and down 20% from May 2019 (1,734) Average Fare Box weekday revenues for May are \$307. Revenues are up 1% from May 2021 (\$304) and down 38% from the May 2019 average (\$497).

The Wastewater Treatment Plant crew is nearly finished with the sludge haul operation. Staff expects that the bio-solids material will be fully distributed within the next week or so. The Damon Reservoir painting project is going very well. The interior coating process will be completed in the next few days, then the contractor will focus on the exterior.

Upcoming Events:

- Tuesday, May 17th: Chamber Sunset Welcome for Elected Officials
- Thursday, May 19 – Annual City Council Academy
- Thursday, May 19 – Newell Park Playground Ribbon Cutting
- Friday, May 20th: Chamber of Commerce Eggs and Issues - Tackling our Child Care Challenges
- Thursday, June 9: Volunteer Appreciation Picnic



Stephanie A. Hirsch
City Manager

Attachments: City Attorney Office Memorandum

OFFICE OF THE CITY ATTORNEY
“Committed to providing excellent legal service to the City of Eau Claire”



Stephen C. Nick, *City Attorney*
Douglas Hoffer, *Deputy City Attorney*
Jenessa Stromberger, *Assistant City Attorney*
Janeen Whelihan, *Paralegal*

Memorandum

To: Stephanie Hirsch, City Manager; Tess Morgan, Media/Communications Specialist

From: Douglas Hoffer, Deputy City Attorney

Date: May 10, 2022

Re: US Supreme Court 1st Amendment Decision

Last week the United States Supreme Court issued a decision in *Shurtleff v. City of Boston* which determined that the City of Boston’s program that allows outside groups to fly flags at city hall must permit the flying of a “Christian flag.” All nine justices agreed that the City of Boston violated the 1st Amendment, and the decision includes important legal analysis that can impact a variety of potential policy choices for the City of Eau Claire.

Background

Boston city hall has three flagpoles. The United States and the POW/MIA flag fly on one flagpole, the Commonwealth of Massachusetts flag flies on the second flagpole, and the City of Boston flag flies on the third flagpole. Third parties may request to fly their flag instead of the City’s flag in connection with an event taking place near the flagpoles. Over a 12-year period, the City of Boston approved 284 flag-raising events without rejecting a single request until a group asked to fly a Christian flag connected with their event. The City of Boston refused to fly the Christian flag explaining that “the City’s policy was to refrain respectfully from flying non-secular third-party flags in accordance with the First Amendment’s prohibition of government establishment of religion.”

Summary of Supreme Court Decision

The Supreme Court ruled unanimously that the city of Boston violated the Constitution when it rejected an application to fly a Christian flag on one of city hall’s three flagpoles. Because the city program that allowed other private groups to raise and fly their own flags was not speech by the city, the court held, the city could not refuse permission to fly a particular flag

because of the views that flag expressed. The majority opinion was joined by six justices, and there were three concurring opinions which all agreed that the City of Boston violated the constitution.

The majority opinion pointed out that the City of Boston wielded virtually no control over the messages that the flags in the program conveyed: it had no record of denying any flag-raising requests, and it did not have any guidelines about what flags were permitted under the program.

The concurring opinions said that the government does not violate the constitution when it puts religious speech on equal footing with secular speech, and that Boston's approach was not the government actually expressing its own views but rather was regulating private speech.

Takeaways

This case demonstrates the problems cities can face when they provide a public forum and then try to decide what speech is permitted in that public forum. Once a city permits some speech by private actors it becomes very difficult to limit other speech the government does not wish to endorse.

Cities should do the following things to avoid some of the problems created by the City of Boston:

- Have content neutral policies in place before making decisions regarding what kinds of speech are permitted in city public forums
 - A common example is time, place, and manner restrictions
- Have policies in place permitting the city to speak for itself
- Be thoughtful and intentional about decisions related to free speech. If a practice or policy might impact free speech rights be sure to get advice from the city attorney's office to ensure the practice or policy does not have unintended consequences.

The Supreme Court decision provided guidance to communities seeking to use flagpoles or other city facilities for government speech. The Supreme Court pointed out that the City of San Jose provides in writing that its "flagpoles are not intended to serve as a forum for free expression by the public," and lists approved flags that may flown "as an expression of the City's official sentiments." Cities are allowed to promote programs, policies, and voice official opinions, but the Court distinguished between clear government speech versus public forums where cities restrict some content it finds disagreeable.

Please let me know if you have any questions. A copy of the decision, which includes a photo of Boston city hall can be found here: https://www.supremecourt.gov/opinions/21pdf/20-1800_7lho.pdf (the majority opinion includes a photo of Boston city hall along with some articles describing Boston's city hall as the "world's ugliest building.")