



A G E N D A
CITY OF WAUPUN BOARD OF PUBLIC WORKS
Waupun City Hall – 201 E. Main Street, Waupun WI
Tuesday, February 09, 2021 at 4:30 PM

VIDEO CONFERENCE AND TELECONFERENC

The Waupun Board of Public Works will meet virtually at 4:30 pm on Tuesday, February 9, 2021 via zoom. The public may access the conference meeting online or by phone. Instructions to join the meeting are provided below:

To Join Zoom Meeting

<https://us02web.zoom.us/j/82369713325?pwd=a3VGZmViSWVyeFFWQXNYQVh5YVVIUT09>

Meeting ID: 823 6971 3325

Passcode: 150352

By Phone: +1 312 626 6799 US (Chicago)

CALL TO ORDER

ROLL CALL

PERSONS WISHING TO ADDRESS THE BOARD OF PUBLIC WORKS--*State name, address, and subject of comments.*
(2 Minutes)

No Public Participation after this point.

FUTURE MEETINGS AND GATHERING INVOLVING THE BOARD OF PUBLIC WORKS

CONSIDERATION - ACTION

1. Approve minutes of the 1/12/2021 Meeting.
2. Approve Park rental rates and dates
3. Approve 2021 Waupun Family Aquatic Center dates, times, rates, swim lessons, and events.
4. Approve 2021 Equipment Rates
5. Review 2022 - 2029 Street Plan
6. Transportation Utility Feasibility Study Discussion
7. Recreation Update

ADJOURNMENT

Upon reasonable notice, efforts will be made to accommodate disabled individuals through appropriate aids and services. For additional information, contact the City Clerk at 920-324-7915.



MINUTES
CITY OF WAUPUN
BOARD OF PUBLIC WORKS MEETING
201 E Main St
Tuesday, January 12, 2021 at 4:30 PM

VIDEO CONFERENCE AND TELECONFERENCE

The Waupun Board of Public Works met at 4:30 pm on Tuesday, January 12, 2021 at 4:30 pm.

CALL TO ORDER

Chairman Ryan Mielke called the meeting to order at 4:33 PM

ROLL CALL

Roll call was taken members present:

Alders—Mike Matoushek, Ryan Mielke (Chair), Bobbie Vossekuil

Citizens—Dale Heeringa, Brian Markus (departed - 4:54PM), Jessica Mueller (arrived - 4:37PM), Gregg Zonnefeld (departed - 5:06PM)

Ex-officio—Mayor Julie Nickel, City Administrator Kathy Schlieve, DPW Director Jeff Daane, Recreation Director Rachel Kaminski

PERSON WISHING TO ADDRESS THE BOARD OF PUBLIC WORKS

There were no guests for public comment.

FUTURE MEETINGS AND GATHERINGS OF THE BOARD OF PUBLIC WORKS

Next meeting will be February 9th at 4:30 PM.

CONSIDERATION - ACTION

1. Approve minutes of the November 10, 2020 Board of Public Works Meeting.
Minutes of the November 10th meeting were presented. Motion (Nickel/Matoushek) for approval.
MOTION CARRIED (7-0)
2. Ordinance Amendment – Install stop signs on Tanager Street
DPW Director Daane presented a proposal to add two stop signs at the west and east ends. Motion (Vossekuil/Markus) to approve the ordinance amendment and forward to the Common Council for action/approval. **MOTION CARRIED (7-0)**
3. Madison Street Bridge Repair Quote
DPW Director Daane reported on the inspection report on the bridge on North Madison Street. The work would be a month-long process in partnership with the County and the DOT. Project is tentatively set to begin on May 10th. Motion (Nickel/Zonnefeld) to give approval to the quote from Fond du Lac County with assistance from City of Waupun staff. **MOTION CARRIED (8-0)**
4. Waupun Dam – Auxiliary Spillway concept designs
DPW Director Daane presented a report on an auxiliary design of the spillway from MSA. This is a consistent challenge for staff whenever there is a heavy rain. Two options were presented for investigation. The Commission directed Daane to pursue some cost options for the project and potentially moving the statue and report at a future meeting.
5. Ordinance Amendment – Update Winter Parking
There have been several changes in wording that have been needed in our current winter parking ordinance as recommended by the City Attorney. This allows citizens to park in the city parking lots anytime there is

not snow. The Police Department was involved in the review. Motion (Zonnefeld/Nickel) to approve the changes and updates to the ordinance. **MOTION CARRIED (7-0)**

6. Waupun closed landfill monitoring for 2021
We are required by law to send closed landfill monitoring reports to the Department of Natural Resources. Motion (Nickel/Heeringa) is made to engage MSA for these services. **MOTION CARRIED (7-0)**
7. ADA Canoe/Kayak launch for Shaler Park
Following a fundraising campaign and securing a DNR grant, the City is able to contribute the remainder of the funds for this project. Motion (Nickel/Matoushek) to approve Sourcewell bid from EZ Dock for this project, with installation by City Crew. **MOTION CARRIED (7-0)**
8. Newton & Rock Avenue Project update
DPW Director Daane reported on last week's public information meeting, which had positive responses from citizens. Phase I will be going out to bid in late January, with work slated for this summer. All easements also have been satisfactorily completed.
9. South Madison Street Project Update
The gas company is doing the relocation and installation of the new gas lines. Today was the bid deadline to the DOT, so we should hear as early as tomorrow on the final bids being awarded. Projected start date is in late March.
10. Recreation Update
Director Rachel Kaminski shared her recreation report. She is currently bringing the virtual world of Zoom to seniors and it is working out well. She has numerous programs scheduled and posted for seniors to join and participate in for the month of January and February. Rachel has also incorporated Ms. Hull's 3rd grade class for senior programing. Rachel stated that she will be bringing information regarding the pool to next month's meeting.

ADJOURNMENT

Motion (Vossekuil/Matoushek) to adjourn the meeting of the BPW at 5:14PM. **MOTION CARRIED (7-0)**

Respectfully submitted,
Gregg Zonnefeld
BPW Clerk

2021 Equipment Rates

ID	Description	Manufacturer	Model	Year	VIN
1-16	Ford Escape	Ford	Escape	2017	1FMCU9G97HUA 52025
	Ratesub				
	Default		1/1/21	\$14.98	
3-08	Tandem Dump Truck	Sterling	LT-7501	2008	2FZHATBS78AY7 9046
	Ratesub				
	Truck		1/1/2021	\$68.52	
	Power Reversible		1/1/2021	\$13.04	
	Tailgate-Mounted-computerized		1/1/2021	\$12.58	
	Widening Wing		1/1/2021	\$12.10	
5-09	Tandem Dump Truck	Freightliner	M2106V	2009	1FVHC3BS19HAJ 1444
	Ratesub				
	Truck		1/1/2021	\$68.52	
	Power Reversible		1/1/2021	\$13.04	
	Tailgate-Mounted-computerized		1/1/2021	\$12.58	
	Widening Wing		1/1/2021	\$12.10	
6-13	Single Axle Dump Truck	Freightliner	108SD	2013	1FVAG5BS0DHF B9538
	Ratesub				
	Truck		1/1/2021	\$53.82	
	Power Reversible		1/1/2021	\$13.04	
	Tailgate - mounted - computerized - prewetting sy		1/1/2021	\$13.72	
	Widening Wing		1/1/2021	\$12.10	
7-03	Tandem Dump Truck	Sterling	LT-7501	2003	2FZHATAKX3AM 13718
	Ratesub				
	Truck		1/1/2021	\$68.52	
	Power Reversible		1/1/2021	\$13.04	
	Widening Wing		1/1/2021	\$12.10	
8-20	Tandem Dump Truck	Freightliner	114SD	2020	1FVHG3FE9LHLW7783
	Ratesub				
	Truck		1/1/2021	\$68.52	
	Power Reversible		1/1/2021	\$13.04	
	Tailgate - mounted - computerized - prewetting sy		1/1/2021	13.72	
	Widening Wing		1/1/2021	\$12.10	
9-12	Tandem Dump Truck	Freightliner	M280	2012	1FVHC3BS3CHB R5339
	Ratesub				
	Truck		1/1/2021	\$68.52	
	Power Reversible		1/1/2021	\$13.04	
	Tailgate - mounted - computerized		1/1/2021	\$12.58	
	Widening Wing		1/1/2021	\$12.10	
11-01	Tandem Dump Truck	Sterling	LT-7501	2001	2FZHATAK01AJ9 3549
	Ratesub				
	Truck		1/1/2021	\$68.52	
	Power Reversible		1/1/2021	\$13.04	
	Widening Wing		1/1/2021	\$12.10	
12-18	Global Street Sweeper	Global	M4HSD	2017	1G9GS4HL3HS4 62010
	Ratesub				
	Default		1/1/2021	\$92.48	
15-17	3/4 Ton Pick-up Truck	Chevrolet	Silverado 15	2017	1GCNKNEC4HZ1 85094
	Ratesub				
	Default		1/1/2021	\$14.16	

ID	Description	Manufacturer	Model	Year	VIN
19-03	1/2-Ton Pickup Truck	Chevrolet	1500	2003	1GCEK14T63Z26 3023
	Ratesub				
	Default		1/1/2021		\$14.16
22-13	1/2-Ton Pickup Truck	Chevrolet	Silverado	2013	1GCNKPE01DZ1 65235
	Ratesub				
	Default		1/1/2021		\$14.16
27-20	1-Ton Flatbed Truck w/hoist	Chevrolet	Silverado 35	2020	1GB3YSEY8LF278652
	Ratesub				
	Default		1/1/2021		\$14.16
28-03	1-Ton Flatbed Truck w/hoist	Chevrolet	3500	2003	1GBJK34173E26 6968
	Ratesub				
	Default		1/1/2021		\$14.16
29-11	1/2 Ton Pick-up	Chevrolet	Silverado	2011	1GCNKPE03BZ3 61139
	Ratesub				
	Default		1/1/2021		\$14.16
30-06	1-Ton Flatbed Truck w/hoist	Chevrolet	3500	2006	1GBJK34266E12 6374
	Ratesub				
	Default		1/1/2021		\$14.16
34-09	1-Ton Pickup Truck w/ hoist	Chevrolet	3500	2009	1GBJK74649F15 8829
	Ratesub				
	Default		1/1/2021		\$14.16
34-12-A	Wideout Plow	Western		2012	
	Ratesub				
	Default		1/1/2021		\$13.04
38-96	3/4-Ton Pickup Truck	Chevrolet	2500	1996	1GBGK24RXTZ2 06086
	Ratesub				
	Default		1/1/2021		\$14.16
39-06	1-Ton Flatbed Truck w/hoist	Chevrolet	3500	2006	1GBJK34296E12 5381
	Ratesub				
	Default		1/1/2021		\$14.16
40-07	1-Ton Flatbed Truck	Chevrolet	Silverado	2007	1GBJK34667E52 5564
	Ratesub				
	Default		1/1/2021		\$14.16
52-99	1-Ton Flatbed Pickup Truck	Chevrolet	3500	1999	1GBJK34F2XF01 7036
	Ratesub				
	Default		1/1/2021		\$14.16
101-88	Track Loader	Caterpillar	953	1988	20Z01628
	Ratesub				
	Default		1/1/2021		\$46.48
102-84	Grader	Caterpillar	140G	1984	72V06860
	Ratesub				
	Default		1/1/2021		\$61.96
	Ripper Attachment		1/1/2021		\$124.78
	Widening Wing		1/1/2021		\$32.98
103-10	Caterpillar Payloader	Caterpillar	930H	2010	CAT0930HPDHC 02116
	Ratesub				
	Default		1/1/2021		\$59.02
103-96	Snowblower	Fair Snocrete	7421C	1996	
	Ratesub				
	Default		1/1/2021		\$185.20

ID	Description	Manufacturer	Model	Year	VIN
103-10-B	Payloader Wausau Plow	Wausau	HSP4212H	2010	17494
	Ratesub				
	Default		1/1/2021	\$32.78	
103-10-C	Payloader Wausau Wing	Wausau	PW10 RHTE Wing	2010	17494
	Ratesub				
	Default		1/1/2021	\$32.98	
104-18	New Holland Backhoe	New Holland	895CSC	2018	NJHH01346
	Ratesub				
	Default		1/1/2021	\$50.30	
104-18-A	Compactor	New Holland		2018	
	Ratesub				
	Default		1/1/2021	\$29.48	
104-18-B	Breaker	New Holland		2018	12986
	Ratesub				
	Default		1/1/2021	\$32.38	
105-08	Front End Loader	Caterpillar	930H	2008	CAT0930HLDHC 00679
	Ratesub				
	Default		1/1/2021	\$59.02	
105-08-C	Payloader Wausau Plow	Wausau	SS4212H	2008	08172
	Ratesub				
	Default		1/1/2021	\$32.78	
105-08-D	Payloader Wausau Wing	Wausau	PW9RHTE	2008	08172
	Ratesub				
	Default		1/1/2021	\$32.98	
106-96	Backhoe / Tractor	Caterpillar	311	1996	9LJ00491
	Ratesub				
	Default		1/1/2021	\$48.66	
107-96	Bobcat Loader, skid w/ auger & chisel	Melroe	773	1996	509638612
	Ratesub				
	Default		1/1/2021	\$27.06	
151-76	Tractor	Massey Ferguson	MF-20	1976	9A236875
	Ratesub				
	Default		1/1/2021	\$30.52	
	Roto-tiller		1/1/2021	\$37.00	
152-20	Groundsmaster Mower/Snowblower	Toro	7210	2020	405498862
	Ratesub				
	Default		1/1/2021	\$21.66	
153-98	Floor Sweeper	Clarke	575-100	1998	350802
	Ratesub				
	Default		1/1/2021	\$107.56 PER DAY	
154-08	Compactor	Honda	WP 1550AW	2008	7576 121 6644032
	Ratesub				
	Default		1/1/2021	\$31.36	
155-96	Leaf Vac	Giant Vac	6600 JD	1996	96267144
	Ratesub				
	Default		1/1/2021	\$36.92	
156-10	Leaf Vac	Giant Vac	6600JDT-TR14	2010	111910001
	Ratesub				
	Default		1/1/2021	\$36.92	
157-18	Toro Groundsmaster	Toro	30695	2018	403155061
	Ratesub				
	Default		1/1/2021	\$21.66	

ID	Description	Manufacturer	Model	Year	VIN
158-84	Tractor	John Deere	430	1984	M00430X360056
	Ratesub				
	Default		1/1/2021	\$13.78	
159-15	Mower	John Deere	1600 WAM TD TP	2015	1TC1600TPEF30 0039
	Ratesub				
	Default		1/1/2021	\$21.66	
160-96	Tractor / Blade / Broom	John Deere	455	1996	00455C040252
	Ratesub				
	Default		1/1/2021	\$13.78	
	Broom		1/1/2021	\$36.24	
	Sprayer		1/1/2021	\$13.88	
162-85	Tractor	John Deere	430	1985	
	Ratesub				
	Default		1/1/2021	\$13.78	
163-88	Case Internatio 885 Tractor	Case	T25	1988	021303
	Ratesub				
	Default		1/1/2021	\$27.06	
	2 pan section		1/1/2021	\$22.04	
164-94	Roller / Vibrating	Wacker	RD880	1994	629601130
	Ratesub				
	Default		1/1/2021	\$27.20	
165-07	Brush Chipper	Brush Bandit	1290H Drum Bandit	2007	007231
	Ratesub				
	Default		1/1/2021	\$30.62	
166-12	Rustler 120 4X4	New Holland	120	2012	CM1234-304085
	Ratesub				
	Default		1/1/2021	\$19.06	
167-03	Toyota Fork Lift	Toyota	7FGU25	2003	69064
	Ratesub				
	Default		1/1/2021	\$79.40	
168-00	Versa Vac Trailer		1266	2000	1J911172XYC124 266
	Ratesub				
	Default		1/1/2021	\$62.80	
200-18	Walk behind concrete saw		FS400	2018	20181400182
	Ratesub				
	Default		1/1/2021	\$52.54	
201	Makita Concrete Saw	Makita	DPC7311		0507096193
	Ratesub				
	Default		1/1/2021	\$52.54	
202	Cement Saw	ICS	613GC		4470492
	Ratesub				
	Default		1/1/2021	\$52.54	
203	Cement Saw	Dolmar	309		309000150
	Ratesub				
	Default		1/1/2021	\$52.54	
250-98	Air Compressor	Atlas	XAS90JD	1998	4500A0717WH60 6309
	Ratesub				
	Default		1/1/2021	\$15.18	
251-73	Trailer	Roller Trailer	8-12	1973	Home Made
	Ratesub				
	Default		1/1/2021	\$21.04	

ID	Description	Manufacturer	Model	Year	VIN
253	Paint / Cone Trailer				Home Made
	Ratesub				
	Default	1/1/2021	\$10.66		
254	425 Gal. Water Tank & Pump		PG2		5806936
	Ratesub				
	Default	1/1/2021	\$26.76		
255	Toro Mower Trailer	Toro			Home Made
	Ratesub				
	Default	1/1/2021	\$14.10		
256-12	3" Diaphragm Pump	Wacker - Neuson PD3	PDT3A	2012	20059729
	Ratesub				
	Default	1/1/2021	\$19.28		
257-13	Generator	Honda	EU2000I	2013	EACT-1120920
	Ratesub				
	Default	1/1/2021	\$16.32		
258	Compactor	Wacker	B5-604		0501310334
	Ratesub				
	Default	1/1/2021	\$31.36		
260	Tiller	Gilson			13D2C1-433
	Ratesub				
	Default	1/1/2021	\$37.00		
261	Portable Generator	OHV	OVH50		H934107
	Ratesub				
	Default	1/1/2021	\$16.32		
263	Bobcat Flatbed Trailer				Home Made
	Ratesub				
	Default	1/1/2021	\$21.04		
265-94	CAT Flatbed Trailer	Trail King	TK40LP	1994	1TKC02422RM11 5296
	Ratesub				
	Default	1/1/2021	\$36.92		
269	Power Washer	Alkota	5181		D02-05181
	Ratesub				
	Default	1/1/2021	\$47.92		
277-12	All Seasons Sprayer	Monroe	ASSU 325	2012	12-04-9001
	Ratesub				
	Default	1/1/2021	\$32.86		
278-13	Anti-Icer	Monroe	Anti Icer Unit	2013	18-08-9000
	Ratesub				
	Default	1/1/2021	\$29.50		
283	Cement Trailer	Radius			Home Made
	Ratesub				
	Default	1/1/2021	\$14.10		
285-05	Cement Trailer			2005	Home Made
	Ratesub				
	Default	1/1/2021	\$36.92		
366-13	Air Compressor	Rolair	D2002HPV5	2013	13103350
	Ratesub				
	Default	1/1/2021	\$13.36		
376	Air Compressor	NAPA	NAC82-309-VBT		0006995
	Ratesub				
	Default	1/1/2021	\$15.18		

ID	Description	Manufacturer	Model	Year	VIN
379-13	Pressure Washer	MI-T-M	cv-2400-4mbc	2013	10663263
	Ratesub				
	Default		1/1/2021	\$41.56	
380-14	Pressure Washer	MI-T-M	cv-2600-ommc	2014	10702320
	Ratesub				
	Default		1/1/2021	\$41.56	
381-14	Pressure Washer	Clean Blue	AR142plus	2014	13019-0813040
	Ratesub				
	Default		1/1/2021	\$41.56	
900	Cub Cadet Volunteer 4x2 625		625		
	Ratesub				
	Default		1/1/2021	\$19.06	
901	John Deere Gator CX	John Deere	Gator CX		1M00CXRAEEM1 20288
	Ratesub				
	Default		1/1/2021	\$19.06	
902	John Deere 3 Wheeler	John Deere	1200A		TC1200A14480
	Ratesub				
	Default		1/1/2021	\$19.06	

City of Waupun							
Long Range Street Plan w/ Proposed Funding							
2/4/2020							
Year	Construction			Mill & Overlay			Funding
	Street	Estimated Street Cost	Estimated Storm Water	Street	Estimated Cost	Total	
2022	None	\$0	\$0	W Lincoln St (Bly to Beaver Dam) Pioneer Ave (Rock Ave to N West St) Edgewood Dr (Brandon to Beske) Hawthorn Dr (Madison to Astra) Commercial St (Franklin to Taylor) Alley (N. Grove to Moore)	\$ 176,435.90	\$176,436	Pay-As-You-Go
2023	N Grove St (E Franklin to Park) Roosevelt St (N Grove to STH 26) Park St (N Grove to STH 26) Rock Ave (CTH MMM to Newton) Newton Ave (Rock Ave to N Harris)	\$1,497,431	\$285,225	S Watertown St (180' S of Doty to Barnes) Parking Lot (Hockey Rink)	\$ 198,426.50	\$1,981,083	Debt Financing
2024	None	\$0	\$50,000	Taylor St (Howard to Brandon) Gateway Dr (Hwy 26 to Kelly) Alley (N Division to N State)	\$ 219,456.30	\$269,456	Pay-As-You-Go
2025	Rock River Ave (Brandon to Newton) Wilcox St (Washington to S Grove) McKinley St (Beaver Dam to Bly) S Grove St (Brown to Main)	\$ 2,130,975.00	\$ 405,900.00	E Jefferson St (Watertown to Grove)	\$ 15,720.00	\$2,552,595	Debt Financing / Pay-As-You-Go
2026	None	\$ -	\$ -	N West St (Sunset to Rock River) Sunset Ct (N West St to Termini) Delynn Ct (Rock River to Termini) Riverview Ct (Rock River to Termini) S West St (Lincoln to Visser) Grace St (Beaver Dam to Hillyer)	\$ 133,289.88	\$ 133,289.88	Pay-As-You-Go
2027	Young St (Main to Wilcox) River St (Pioneer to Rock River) Sawyer St (Grove to Dead End) S Forest St (Brown to Main) S Mill St (Brown to Main) N Mill St (Monroe to Jackson) S West St (Brown to Main)	\$ 1,628,156.25	\$ 310,125.00		\$ -	\$ 1,938,281.25	Debt Financing
2028		\$ -	\$ -	Sunset Ct (Termini to N West) W Brown St (Termini to Fox Lake Rd)	\$ 177,493.21	\$ 177,493.21	
2029	Brandon St (Fern to City Limits) Parking Lot (Franklin St) Parking Lot (Mill St - between Main & Franklin) Parking Lot (Mill St - between Jefferson & Main)	\$ 649,293.75	\$ 123,675.00			\$ 772,968.75	

AGENDA SUMMARY SHEET

MEETING DATE: 2/9/21

TITLE: Transportation Utility Feasibility Study
Discussion

AGENDA SECTION: Consideration-Action

PRESENTER: Jeff Daane

DEPARTMENT GOAL(S) SUPPORTED <i>(if applicable)</i>	FISCAL IMPACT	\$ [Enter]
Maintain Public Infrastructure	2021 Budgeted Expense	

ISSUE SUMMARY:

As part of the 2021 approved budget, the City will be conducting a feasibility study for a Transportation Utility. In 2018, we presented a fiscal health and analysis of the community. At that time, we discussed trends related to revenue (declining), expenditures (increasing), debt (increasing) and debt capacity (shrinking). Additionally, we discussed the cost of construction (road and buildings) is outpacing inflation, making it difficult to keep pace with increasing demands for capital outlay without borrowing. We also discussed that debt is an essential piece of the equation to achieve a balanced budget and meet demand to replace aging infrastructure, but concluded by saying that managing borrowing in the context of strategic priorities will be imperative to maintain our strong bond rating position and manage our debt capacity. As these trends continue to exacerbate, and as we outlined in the 2021 budget presentation, we are beginning steps to examine alternative and viable revenue sources to meet the capital needs of our community. Transportation Utilities provide an alternative fee with more equitable pay distribution to support road improvement needs of the community. We will talk through the scope of work we will be commissioning this year to review feasibility of a Transportation Utility in Waupun. Authorizing this study does not mean that you are authorizing formation of a Transportation Utility but rather that the underlying work to examine feasibility will be done so that you have data needed for decision making. This process would also involve public meetings and input so that you can understand what your constituents expect through this process.

ATTACHMENTS:

Article: Funding Streets through Transportation Utility Fees
Transportation Utilities Fees FAQs
Copy of 2021-2029 Street Plan with Borrowing

RECOMMENDED MOTION

Discussion only

RECOMMENDED MOTION:

N/A

Transportation Utility Fees FAQs

Question 1: What is a Transportation Utility Fee?

Answer: A Transportation Utility Fees (sometimes known as a Street Maintenance Fee, Road User Fee, or Street Utility Fee) is a *monthly* fee based on use of the transportation system that is collected from residences and businesses within the Waupun city limits. The fee is based on the number of trips a particular land use generates and is collected through the City's regular utility bill. It is designated for use in the maintenance and repair of the City's transportation system. Users of the road system share the costs of the corrective and preventive maintenance needed to keep the street system operating at an adequate level.

Question 2: How does the Transportation Utility Fee work?

Answer: The fee is charged for usage, like your monthly electric charge. It provides a stable source of revenue to pay for street maintenance allowing for safe and efficient movement of people, goods, and services. The street system is a public investment that deserves protection and cost-effective regular maintenance.

Question 3: Why a Transportation Utility Fee in Waupun?

Answer: In the past, the primary source of maintaining the City's street system was the state excise tax (commonly known as the state gas tax). The revenues received from the State are budgeted by the City through the Street Fund. The Street Fund is used for operations and maintenance within the public right-of-way, including such things as pavement maintenance; traffic signal operations and maintenance; traffic control for special events and emergency response; street signage; striping, and street light maintenance.

Wisconsin's state gas tax has not increased since 2006. Increased fuel efficiency in motor vehicles has led to less fuel consumption for the same miles driven. Even though fuel costs have increased, gas tax receipts have not because we are taxed per gallon, not per dollar. The amount available from gas tax revenues for payment overlay and reconstruction continues to decrease while the wear and tear on our roads does not.

The City can no longer rely solely on state gas tax revenues for enough funding to maintain city streets. The City must come up with its own revenue source to meet our local needs. The gas tax must be supplemented to complete pavement overlays, pavement treatments, and reconstruction work that are necessary to keep our street system functioning satisfactorily.

The implementation of a Transportation Utility Fee is a preferred alternative that many communities across the country are considering for a supplemental funding source to help manage the City's street infrastructure investment.

Question 4: What kind of street system do we have?

Answer: Of Waupun's 50 miles of streets, 2.25 miles are principle arterials (such as STH 49/Main St.); 6 miles of minor arterials (such as CTH MM/Beaver Dam St.), 4.5 miles of collector streets (such as E/W Jefferson ST.); and 37.5 miles are local or neighborhood streets. The reconstruction value is currently valued at in the millions of dollars.

Question 5: Why is there a need for timely maintenance of Waupun's streets?

Answer: Through timely maintenance of streets, cities are better able to provide safe roads on which people, goods, and services travel. Studies have shown that pavement conditions worsen at an increasing rate as the pavement gets older. Restoration of pavement near the end of its service life will typically cost 4 to 5 times more than preventative maintenance performed in a timely manner.

Question 6: If a Transportation Utility existed, where and how would Fees collected through the Utility be spent?

Answer: Revenue will be allocated to a funded dedicated to capital improvement of streets, alleys and parking surfaces within the City limits. The dollars will be used for rehabilitation and maintenance of City streets. This includes crack sealing coating, pavement overlays, reconstruction, and roadside work. Revenues will not be used to construct new infrastructure to expand the transportation system or enhancements not directly related to improving or maintaining conditions of existing City streets.

Question 7: What kind of street treatments are available?

Answer:

- Crack sealing – Injection of hot tar or asphalt into cracks and paving seams. Cost is typically \$1.50 per pound. Cost varies on the number of cracks in a road.
- Micro Seal – Very thin layer of liquid asphalt and sand used to seal street surfaces. Cost is typically \$3.25 per square yard.
- Micro Chip Seal – A thin layer of hot asphalt is applied to the street surface then small gravel is applied, leveled, and compacted into place. Cost is typically \$3.00 per square yard. These are generally performed on a 7-8 year cycle on well-traveled roads.
- Overlay – A new layer of asphalt or concrete, which adds structural strength and seals the surface. Often grinding or inlays are needed to match pavement grades or remove severely distressed pavement. Cost range from \$9.50 to \$11.00 per square yard depending on the overlay thickness and preparation. Asphalt overlays are generally performed on a 15 to 20-year cycle.
- Reconstruction – The most expensive street treatment, reconstruction entails extensive street repair work that involves excavating the existing street and rebuilding gravel road base and surface layers. Cost ranges from \$300 to \$500 per linear foot depending on the pavement section type and preparation.

Question 8: How is the fee determined?

Answer: Customers are assigned one of two main categories; residential and non-residential. The fee is based on how many trips are considered the average for property use data developed by the Institute of Traffic Engineers and an individual user fee is calculated from that data.

Question 9: How much can I expect to pay?

Answer: It is too early to tell. The City of Waupun is merely commissioning a feasibility study at this point to determine how a Transportation Utility would best function in our community. Completion of this type of study is needed before any fee determinations can be made. However, TUF is a more equitable way to administer payment, one of the theories we will be researching in this study is how to how we might structure fees to stabilize our tax rate, reduce costs for property owners, and free capital to support other improvements needed in the community.

Question 10: Is a Transportation Utility legal in Wisconsin?

Answer: Yes, while a Transportation Utility has not been tested in Wisconsin, the League of Wisconsin Municipalities has issued a legal opinion that a Transportation Utility is a valid use of the Home Rule Authority that essentially provides municipalities with the legal authority to do what they believe is in the best interest of their community provided that it does not conflict with or attempt to regulate something that the State already regulates if the State has not specifically prohibited municipalities from doing it. The State has no laws regarding Transportation Utilities, nor is the specific method of funding transportation needs dictated by the State, and therefore, Home Rule Authority applies. The LWM article is attached.

Question 11: Is this similar to a wheel tax?

Answer: No. A wheel tax is a local vehicle registration fee that municipalities can implement and it is collected by the State as part of the annual vehicle registration fee. The fee is the same across all vehicle types but not all vehicles are subject to the fee as the State has exempted some types of vehicles. There is no connection between the fee and the use of the road system. A Transportation Utility Fee (TUF) is applicable to all improved properties, regardless of value, and the fee varies based on the properties use of the system. The wheel tax amount on a vehicle is the same whether that vehicle leaves a property once a day or 100 times a day.

Question 12: Why consider a Transportation Utility Fee vs. a Wheel Tax?

Answer: One of the benefits of using a Transportation Utility Fee to fund transportation needs is that it is an equitable way of allocating the financial responsibility for those needs by shifting the costs to those who use the system more, typically the non-residential properties. We previously discussed a wheel tax but that method does not provide any sort of equitable division of the financial responsibility required to maintain the infrastructure. Many businesses do not have company vehicles and many employees do not live in the City so they would not be subject to a wheel tax. They do, however, use and impact the City's transportation system. A TUF, which is applied to the property, accounts for actual use of the system (in the City's case, how many trips a property generates) even when there are no vehicles registered at a particular property. Another primary benefit of the TUF is that it would provide a significant source of revenue to meet the needs of the City's road maintenance and replacement projects. A wheel tax cannot do that without an exorbitant fee.

Question 13: Why do we not use special assessments to fund road projects?

Answer: Special assessments are certainly an option for the City and many municipalities across the State do utilize them. However, in a relatively low-income community, putting that financial burden on our residents is simply could create a burden as road reconstruction projects are incredibly expensive. A one-mile stretch of road surface reconstruction (excluding underground infrastructure) would cost approximately \$1 million. Using special assessments, the Council could elect to put that entire \$1million burden on the property owners on that street, even though, in most cases, that road is used by many people who do not live on the street. Special assessments, if not paid in full upfront, are then put on the tax roll for a period of 3-5 years, with interest. It can be difficult to sell a home with a special assessment on it in an amount that could be expected in such a situation.

Question 14: Why are the current taxes not sufficient for the road projects?

Answer: As previously mentioned, road reconstruction projects are incredibly expensive. Currently, the City funds major road projects through a combination of levy and borrowing. The City then levies for the annual debt and interest payments. The City is able to levy above its state-imposed levy limit to cover debt service payments, resulting in regular property tax increases to support this strategy. Given the rising cost of road construction, and given the broad need for capital improvements for aging infrastructure within the City, it is unlikely that we would have the capacity to levy for the needed amount (levy limit impact) nor would we be in a position to fully borrow for all of our needs (debt limit and bond rating impact). If we did borrow, it would have significant tax consequences on property owners. Since a TUF is a more equitable way to administer payment, one of the theories we will be researching in this study is how we might structure fees to stabilize our tax rate, reduce costs for property owners, and free capital to support other improvements needed in the community.



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Funding Streets through Transportation Utility Fees

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Wisconsin municipalities are searching for alternative ways to pay for essential services like street maintenance and other transportation services. One reason is lack of adequate funding to pay for those services. Although Wisconsin municipalities' main source of revenue is the property tax, Wisconsin local governments have operated under the strictest property tax levy limits in the country for nearly a decade. Moreover, the State expressly prohibits municipalities from imposing other taxes such as a sales tax (with extremely limited exceptions) and local income taxes. At the same time, funding for state aid programs, such as shared revenue, has been flat or decreasing for years. State transportation aids currently cover, on average, sixteen percent (16%) of city and village transportation-related costs.

In addition to lack of funding, some municipal leaders have concluded that paying for street improvements through special assessments imposed on abutting property owners is inequitable and places a disproportionate burden on property owners for improvements that benefit the area or community in general. Substantial assessments can jeopardize the ability of some residents (e.g., those living on fixed or limited incomes) to remain in their homes.

As a result of these factors, some municipalities are turning to alternative revenue options like local vehicle registration fees and transportation utility fees to pay for street maintenance and other transportation services. Several League members have requested the League's legal opinion on whether Wisconsin municipalities may create transportation utilities and charge property owners transportation utility fees.

We conclude that a municipality may rely on its broad statutory and/or constitutional home rule powers to create a transportation utility and charge property owners transportation utility fees. Alternatively, a municipality may charge property owners a street maintenance user fee under Wis. Stat. § 66.0627. Any fee must be reasonably related to the cost of the services provided. The League suggests that a transportation utility fee is most defensible against challenge if the basis for the fee is closely related to property occupants' use of the local street network. It is the League's opinion that transportation utility fees with such a basis are accurately characterized as fees and not taxes. Such fees should be segregated and used only for street maintenance and other transportation services. To avoid needing to reduce the community's property tax levy under § 66.0602(2m)(b) of the levy limit law, municipalities should avoid using transportation utility fee revenue to pay for snow plowing or street sweeping.

Sources of Authority for Transportation Utility Fees

While no state statute expressly authorizes Wisconsin communities to create transportation utilities and charge transportation utility fees, Wisconsin municipalities have broad authority to create, manage, and finance utilities. Transportation utility fees are financing mechanisms that treat the community's street network and other transportation services like a utility. Residents and businesses are charged fees based on their use of the transportation system, analogous to how municipalities provide and pay for water, sewer, electric and stormwater services.

In the state's early years, no statutes existed expressly authorizing cities and villages to own and operate water, sewer, or other common municipal utilities. Instead, municipalities relied on non-specific, broad police power authority to create and fund such now-familiar utilities. Similarly, in the early 1990s, municipalities like Appleton, Glendale, and Eau Claire initially relied on their broad police power authority to create stormwater utilities and charge property owners stormwater fees based on the amount of impervious surface on the property. Cities over 10,000 in population began to charge such fees to help pay for the cost of complying with new state regulations requiring the removal of pollutants from stormwater. Only later did the Legislature add language to the predecessor of Wis. Stat. § 66.0681 expressly confirming municipal authority to create stormwater utilities and stormwater fees. See 1997 Wis. Act 53, which took effect January 9, 1998.

Notably, the Wisconsin Supreme Court determined fairly early that Wisconsin municipalities do not need explicit statutory authorization to create a municipally-owned utility. In 1895, the Court held that "it is not necessary to seek an expressed delegation of power to the city to build a water works and an electric lighting plant, because the power expressly granted to the city to pass ordinances for the preservation of the public health and general welfare includes the power to use the usual means of carrying out such powers, which includes municipal water and lighting services."¹ Similarly, a general grant of authority to act for the public health or general welfare is adequate legal authority today for Wisconsin cities and villages to create, operate, and finance through user charges, a transportation utility.

Statutory Home Rule Authority

Wisconsin cities and villages are vested by the state legislature with broad general police powers. The general city charter law, chapter 62, gives cities the "largest measure of self-government compatible with the constitution and general law." Wis. Stat. § 62.04. Wisconsin Stat. § 62.11(5), the general authority statute for city councils, provides:

Except as elsewhere in the statutes specifically provided, the council shall have the management and control of the city property, finances, highways, navigable waters, and the public service, and shall have power to act for the government and good order of the city, for its commercial benefit, and for the health, safety, and welfare of the public, and may carry out its powers by license, regulation, suppression, borrowing of money, tax levy, appropriation, fine, imprisonment, confiscation, and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants, and shall be limited only by express language.

¹ *Ellinwood v. Reedsburg*, 91 Wis. 131 (1895).

The Legislature has directed courts to liberally construe this provision “in favor of the rights, powers and privileges of cities to promote the general welfare, peace, good order and prosperity of such cities and the inhabitants thereof.” Wis. Stat. § 62.04.

A virtually identical grant of authority is provided to Wisconsin village boards by Wis. Stat. § 61.34(1). That authority is also to be liberally construed in favor of “the rights, powers and privileges of villages to promote the general welfare, peace, good order and prosperity of such villages and the inhabitants thereof” to give villages the largest measure of self government compatible with the Wisconsin constitution. Wis. Stat. § 61.34(5).

These grants of power to cities and villages are substantial and give the governing body of a city or village “all the powers that the legislature could by any possibility confer upon it.” *Hack v. Mineral Point*, 203 Wis. 215, 219, 233 N.W. 82 (1931). These provisions are sufficient on their face to authorize city councils and village boards to create a municipal transportation utility and charge property owners transportation utility fees.

However, these broad powers are not absolute. Home rule powers granted by §§ 62.11(5) and 61.34(1) are constrained if the state has preempted municipal authority in a particular area. Statutory home rule powers may not be exercised if: the legislature has expressly withdrawn the power of municipalities to act; municipal action would logically conflict with state legislation; municipal action would defeat the purpose of state legislation; or, municipal action would go against the spirit of state legislation. See *Anchor Savings & Loan Ass’n v. Equal Opportunities Comm’n*, 120 Wis. 2d 391, 355 N.W.2d 234 (1984); *DeRosso Landfill Co. v. City of Oak Creek*, 200 Wis. 2d 642, 651, 547 N.W.2d 770 (1996). Nonetheless, municipalities may enact ordinances in the same field and on the same subject covered by state legislation where such ordinances do not conflict with, but rather complement, the state legislation. *Johnston v. City of Sheboygan*, 30 Wis. 2d 179, 184, 140 N.W.2d 247 (1966).

Municipalities are not preempted in the area of creating transportation utilities and charging transportation fees. In applying the above preemption tests to creating a transportation utility and charging transportation user fees, the State has not expressly prohibited communities from creating such a utility and imposing such fees. Indeed, the state has not entered the field of municipal transportation finance other than to explicitly authorize certain methods of funding transportation infrastructure improvements such as through the levying of special assessments under Wis. Stat. § 66.0703, imposing special charges for current services under Wis. Stat. § 66.0627, and charging local vehicle registration fees under Wis. Stat. § 341.35.²

The State has also created and funded several aid programs to assist local governments with transportation costs, including the General Transportation Aids and the Local Road Improvement programs. None of these grants of authority and financial assistance programs impliedly preempt municipal authority to create a transportation utility and charge property owners a transportation user fee. Indeed, the statute authorizing special charges for current services expressly provides “The authority under this section is in addition to any other method provided by law.” Wis. Stat. § 66.0627(2). Similarly, the special assessment authority granted pursuant to § 66.0703 expressly

² Wis. Stat. § 66.1113 authorizes six cities and villages to impose a sales tax on tourism-related retail and requires that the revenue be used on infrastructure costs.

states that it is a “complete alternative” to other methods provided by law. Wis. Stat. § 66.0703(1)(a). Likewise, we are not aware of any statutory provisions that creation of a transportation utility would logically conflict with, defeat the purpose of, or go against the spirit of. Although there is an argument that Wis. Stat. § 66.0907 preempts municipalities from using transportation utility fees to finance sidewalk construction and repair because it specifies certain ways in which municipalities *may* cover expenses associated with sidewalks, we believe the stronger argument is that municipalities can use alternative means for financing sidewalks, such as transportation utility fees, because the language in § 66.0907 regarding financing options is permissive rather than mandatory.

The exercise of home rule authority under §§ 62.11(5) or 61.34(5) must also serve a legitimate public purpose. This is usually not a significant bar to action because Wisconsin courts have adopted a very expansive view of public purpose. See *State ex rel. Hammermill Paper Co. v. La Plante*, 58 Wis. 2d 32, 55, 205 N.W.2d 784 (1973). (“Public purpose is not a static concept. The trend of both legislative enactments and judicial decisions is to extend the concept of public purposes in considering the demands upon municipal governments to provide for the needs of the citizens.”) Examples of public purposes that may be served by creating a transportation utility and imposing a user fee include protecting the health, safety and general welfare of the public as well as acting for the municipality’s commercial benefit by ensuring the fiscal ability to safely maintain municipal transportation systems and improve such systems to accommodate and facilitate economic growth. Funding and maintaining a transportation system is critically important to a community’s economy, tourism, and ability to attract and retain people and jobs. A well-maintained street network is also vital to ensuring that municipal emergency services can quickly and efficiently access commercial buildings and residences throughout the community.

Constitutional Home Rule Authority

A city or village may also rely on its constitutional home rule authority to create a transportation utility and charge transportation user fees. This authority is found in Article XI, Sec. 3 of the Wisconsin Constitution, which provides:

Cities and villages organized pursuant to state law may determine their local affairs and government, subject only to this constitution and to such enactments of the legislature of statewide concern as with uniformity shall affect every city or every village.

The method of exercising such authority is specified in Wis. Stat. § 66.0101 and requires enacting a charter ordinance.

A charter ordinance exercising home rule authority is preempted if it conflicts with an existing state law that applies to all cities and villages. *Black v. City of Milwaukee*, 2016 WI 47, 369 Wis. 2d 272, 882 N.W.2d 333. However, no state law prohibits municipalities from creating transportation utilities and imposing transportation utility fees. For example, there are no state laws requiring communities to fund local transportation systems in a specific and exclusive way, precluding other options, such as a user fee. Similarly, no statute limits the type of utilities a municipality may create or the types of user fees it may charge. Indeed, the Legislature has chosen not to prohibit communities from charging transportation utility fees even though several

municipalities, like the City of Neenah, Village of Harrison, and Village of Weston, along with the Town of Buchanan have implemented such fees in recent years.

Special Charges for Current Services

In addition to the statutory and constitutional home rule powers mentioned above, Wis. Stat. § 66.0627 provides authority for a municipality to charge property owners for municipal transportation-related services. Under § 66.0627(2), a municipal governing body may impose a special charge against real property for current services rendered by allocating all or part of the cost to the properties served. The statutory definition of “services” includes transportation maintenance activities like “street sprinkling, oiling, and tarring” and repair of sidewalks, curb and gutter. The definition of “services” is not an exclusive list. The examples given are not meant to limit its application in any way, but merely to highlight possible uses. *Rusk v. City of Milwaukee*, 2007 WI App 7, ¶ 17, 298 Wis. 2d 407, 727 N.W.2d 358.

Fees for current services are not invalidated merely because a property does not use the service. In *City of River Falls v. St. Bridget’s Catholic Church*, 182 Wis.2d 436, 512 N.W.2d 673 (Ct. App. 1994), the Wisconsin court of appeals held that charging user fees for making water available for fire protection services was valid, even though the party charged the fee had not used the water. Services under § 66.0627 can be rendered within a district and need not be performed for specific, individual properties. In *Grace Episcopal Church v. City of Madison*, 129 Wis. 2d 331, 385 N.W.2d 200 (Ct. App. 1986), the court of appeals upheld service charges imposed under a predecessor to § 66.0627 (Wis. Stat. § 66.60(16)) on all properties within the State Street Mall and Capitol Concourse *district*, not just those abutting the pedestrian mall and concourse. The services the city provided to the district included lawn, tree, and shrub care, snow removal from walks and crosswalks, trash clean up and removal, and bus shelter and fixture maintenance. The city charged a portion of the annual cost of providing such services against property owners adjacent to or near the State Street Mall and Capitol Concourse. Municipalities may, therefore, rely on § 66.0627 to charge all property owners in a community a fee for current maintenance of the community’s street network even though not all properties being charged actually abut the streets being reconstructed or maintained with the fee revenue at any one time. The fact that the entire transportation system is being maintained is sufficient to charge all property owners using the system a fee for current services rendered under § 66.0627.

Fees must Reasonably Relate to Costs

Whether a community relies on its broad statutory or constitutional home rule authority or § 66.0627, a transportation utility fee must bear a reasonable relationship to the service for which it is being charged. Wis. Stat. § 66.0628. That is, the fee amount that a community charges a property owner may not exceed the municipality’s reasonable direct costs associated with activities the community takes related to the fee. Wis. Stat. § 66.0628(1).

In addition, the fee amount that any property owner pays should reasonably relate to how much the property’s occupants use the transportation system. According to an expert on the use of transportation utility fees in the U.S., a transportation utility fee with a basis that is most closely related to actual use of the street network has the greatest chances of successful implementation

and withstanding critical scrutiny by a court or a tax appeals commission.³ A transportation utility fee is most appropriate if its basis is closely related to property occupants' use of the local street network and is sensitive to local context and individual variation.⁴ For example, a commercial business that generates a high amount of traffic may be charged a higher fee than a one-car household based on the different usage rates of a municipality's transportation system.

Generally, municipalities establish a more convincing link between transportation infrastructure usage and user fee charges when they base their transportation utility fee on the number of trips generated by the property. That is why, according to the U.S. Department of Transportation Federal Highway Administration, Center for Innovative Finance Support, most transportation utility fee programs in the United States use trip generation rates prepared by the Institute of Transportation Engineers (ITE).⁵

Fees v. Taxes.

Transportation utility fees are susceptible to challenge if the fees resemble an unauthorized tax. The primary difference between a tax and a fee is the source of the municipality's power and, more importantly, the municipality's purpose in imposing the payment requirement. The Wisconsin Court of Appeals explained the primary difference between a tax and fee as follows in *Bentivenga v. City of Delavan*, 2014 WI App 118, ¶ 6, 358 Wis. 2d 610, 856 N.W.2d 546:

A tax is an “enforced proportional contribution[] from persons and property” levied to support a government and its needs. *State ex rel. Bldg. Owners & Managers Ass'n v. Adamany*, 64 Wis.2d 280, 289, 219 N.W.2d 274 (1974) (citation omitted). The purpose, and not the name it is given, determines whether

³ *A TUF Sell: Transportation Utility Fee as User Fees for Local Roads and Streets*, by Carole Turley Voulgaris, Public Works Management & Policy 2016 Vol. 4 pages 305-323 (2016).

⁴*Id.*

⁵ See *Transportation Utility Fees*, Center for Innovative Finance Support, U.S. Department of Transportation Federal Highway Administration, available at https://www.fhwa.dot.gov/ipd/value_capture/defined/transportation_utility_fees.aspx#. For discussion of the pros and cons of basing transportation utility fees on trip generation rates for different classes of property, see the following sources:

1. *Transportation Utility Fees: Possibilities for the City of Milwaukee*, a 2007 research paper prepared by students at the Robert M. La Follette School of Public Affairs, UW Madison. <https://lafollette.wisc.edu/images/publications/workshops/2007-tuf.pdf>
2. *Clintonville Road Maintenance and Transportation Utility Fee*, Andrew Robert Eveland (2019) <https://www.lwm-info.org/DocumentCenter/View/3516/Eveland-Clintonville-TUF-Final-Thesis>
3. *A TUF Sell: Transportation Utility Fee as User Fees for Local Roads and Streets*, by Carole Turley Voulgaris, Public Works Management & Policy 2016 Vol. 4 pages 305-323 (2016). https://journals.sagepub.com/doi/pdf/10.1177/1087724X16629961?casa_token=RJ3FY9IWC7gA AAAA:uzmdZqQTPn5YPKej33W2pYmTkfy3rYOzxmAhw8otjF8gpthIKMQcpnA9fjsH2JGwT PhaTHXGDyKunQ

a government charge constitutes a tax. *City of Milwaukee v. Milwaukee & Suburban Transp. Corp.*, 6 Wis.2d 299, 305-06, 94 N.W.2d 584 (1959). “[T]he primary purpose of a tax is to obtain revenue for the government” as opposed to covering the expense of providing certain services or regulation. *City of River Falls v. St. Bridget's Catholic Church of River Falls*, 182 Wis. 2d 436, 441-42, 513 N.W.2d 673 (Ct.App.1994). A “fee” imposed purely for revenue purposes is invalid absent permission from the state to the municipality to exact such a fee. *Milwaukee & Suburban Transp.*, 6 Wis. 2d at 306, 94 N.W.2d 584.

Municipal taxing power in Wisconsin is very limited. A municipality cannot impose a tax unless it is specifically authorized by the Legislature. Wisconsin municipalities are authorized to impose only property taxes and room taxes. (Six communities statewide are authorized to levy a sales tax on tourism-related retail sales under the Premier Resort Area tax laws. Wis. Stat. § 66.1113). In contrast, municipal fees are charged to cover the costs of specific services provided or the costs associated with regulating in a specific area.

As discussed above, a transportation utility fee would be imposed under a community’s statutory or constitutional home rule powers or as a special charge for current services under § 66.0627. A transportation utility fee would not be implemented pursuant to a community’s power to levy general property taxes under Wis. Stat. Chap. 70.

The Wisconsin Court of Appeals addressed service charges and their relation to general property taxes under the predecessor statute to Wis. Stat. § 66.0627 in *Grace Episcopal Church v. City of Madison*, 129 Wis. 2d 331, 385 N.W.2d 200 (Ct. App. 1986). The court held that since the services provided were authorized by the Legislature by the predecessor to Wis. Stat. § 66.0627, the service charges were not general property taxes and the property tax exemption provided to churches by Wis. Stat. § 70.11(4) did not exempt the church from paying the fees. *Grace Episcopal*, 129 Wis. 2d at 335.

In contrast to the general property tax, the purpose of a transportation utility fee is exclusively to help pay for the cost of a specific governmental service, street maintenance.

A review of case law and scholarly literature on transportation utility fees suggests best practices that municipal officials can implement to avoid having a transportation utility fee ruled an illegal tax:

1. Place all transportation utility fee revenue in a separate fund used only on street maintenance and other transportation projects. *Emerson College v. City of Boston*, 462 N.E.2d 1098 (Mass. 1984).
2. Collect the transportation utility fee in the same manner as the community does other municipal utility fees by including the amounts on property owners’ utility bills alongside sewer, water, and stormwater service charges.
3. Ensure the formula used to calculate fees is as accurate as possible. Over-generalization of fee-paying entities and ignoring real differences in their use of the street network or end-trip generation gives the fee strong tax-like characteristics. *Clintonville Road Maintenance and Transportation Utility Fee*, Andrew Robert Eveland (2019).

4. Transportation utility fee policies should avoid exempting tax-exempt properties as this gives the fee the appearance of being a tax. For the same reason, such policies should exempt undeveloped properties and vacant buildings. *Clintonville Road Maintenance and Transportation Utility Fee*, Andrew Robert Eveland (2019).
5. To the extent practicable, a transportation utility fee policy should include a process by which users are permitted to demonstrate reduced use of the street system to qualify for a lower fee. (e.g., Austin, Texas transportation utility fee ordinance allows residents who do not own or regularly use a motor vehicle to opt out of fee; Corpus Christi, Texas likewise has a process by which property applicants may appeal their fee level). *A TUF Sell: Transportation Utility Fee as User Fees for Local Roads and Streets*, by Carole Turley Voulgaris, Public Works Management & Policy 2016 Vol. 4.

Avoiding Levy Limit Consequences

The levy limit law requires a municipality to reduce its allowable levy by the estimated amount of fee revenue it collects for providing certain listed services, including snow plowing and street sweeping, if those services were funded in 2013 in part or whole by the property tax levy. Wis. Stat. § 66.0602(2m)(b). To avoid having this statute apply, a community that imposes a transportation utility fee to help pay for street maintenance and other transportation services, must not use the fee revenue to pay for snow plowing or street sweeping services.

Conclusion

Wisconsin cities and villages struggling to pay for the cost of maintaining quality streets and other transportation services residents and businesses demand, may rely on their broad statutory or constitutional home rule powers or, alternatively, Wis. Stat. § 66.0627, to charge property owners transportation utility fees. Such fees must be reasonably related to the cost of the services provided. Transportation utility fees are most defensible against a challenge if the basis for the fee is closely related to how much a property's occupants use the local street network. It is possible to design a transportation utility fee policy that is defensible against a challenge that the fee is more like an illegal tax. Finally, to avoid needing to reduce the community's property tax levy, municipalities should not use transportation utility fee revenue to pay for snow plowing or street sweeping.

FEBRUARY SENIOR CENTER STATUS UPDATE

We will only be allowing nail services and one-on-one appointments inside the Senior Center building this month. Face masks are required when entering the building. More virtual programs have been added and daily fitness videos will continue to be posted on our Facebook page. Mobile meals and curbside meal pick up will remain the same. On Monday, March 1, 2021 we will re-open the Waupun Senior Center. Waupun Senior Center and Fond du Lac County Health Department will work together to resume activities in a safe and healthy manner for all our participants. The March Waupun Senior Center newsletter will describe the re-opening process and what activities will be offered in-person and virtually.

January Waupun Senior Center Virtual Programs:

- **SIA Insurance Bingo**: 14 participants
- **Book Club**: 0 participants
- **Learn to Zoom**: 6 participants
- **Waupun Historical Society**: 103 participants
- **Foot Care Presentation**: 4 participants
- **Healthy Recipes**: 11 participants
- **Police Academy on 1/19 and 1/26**: 18 participants
- **Buddy Bingo**: 34 participants
- **Eyeglasses 101**: 3 participants
- **Snowy Owls**: 121 participants
- **Waupun Community Coalition on Aging Bingo**: 12 participants
- **Virtual Storytelling**: 25 participants
- **Wildlife at Marsh Haven**: 114 participants
- **Mayor Interview**: 117 participants

Other January Activities:

- **Foot Care Clinic on 1/7 and 1/21**: 34 participants
- **Manicures**: 3 participants
- **Craft Club Take & Make Craft**: 11 participants
- **Pen Pals**: 44 participants
- **Drug Repository**: 1 participant
- **Curbside Lunch**: 103 served
- **Mobile Meals**: 353 served

February Waupun Senior Center Virtual Programs:

- **SIA Insurance Bingo**:
- **Book Club**:
- **Learn to Zoom**:
- **Waupun Historical Society**:
- **Waupun Innovation Center Personation**:
- **Meals for One/Two Presentation**:
- **Police Academy**:
- **Benefits of Pre-Planning**:
- **Buddy Bingo**:
- **Waupun Community Coalition on Aging Bingo**:
- **Virtual Storytelling**:
- **Marsh Haven**:
- **DPW Interview**:

Other February Activities:

- **Foot Care Clinic**:
 - **Manicures**:
 - **Smore's Fun**:
 - **Eyeglass Adjustments**:
 - **Craft Club Take & Make Craft**:
 - **Pen Pals**:
 - **Drug Repository**:
 - **Curbside Lunch**:
 - **Mobile Meals**:
-