



OFFICIAL NOTICE AND AGENDA

Notice is hereby given that the Public Works Committee of the City of Stoughton, Wisconsin will hold a regular Public Works Meeting as indicated on the date, time and location given below.

Meeting of the: **Public Works Committee of the City of Stoughton**
Date /Time: **Thursday, May 19, 2022 at 6:00 pm**
Location: **This meeting will be offered as a Hybrid with both in person and virtual option.**
In Person Meeting Will be Held At:
The Stoughton Public Works Facility, 2439 County Rd A, Stoughton WI 53589
Virtual Meeting – Join from your computer, tablet or smartphone:
<https://meet.goto.com/647338885>
You can also dial in using your phone.
United States: +1 (872) 240-3212
Access Code: 647-338-885

Members:

Tom Majewski, Jean Ligocki, Fred Hundt, Rachel Venegas, Kay Rashka, Kathy Engelberger, and Mayor Tim Swadley

Item # CALL TO ORDER

1. Communications
2. Approve Minutes of the April 21st, 2022 Meeting

Item # OLD BUSINESS

3. Election and Approval of a New Public Works Committee Chair
4. Election and Approval of a New Public Works Committee Vice Chair

Item # NEW BUSINESS

5. Review and Approve a Recommendation to Council to Apply for the Bipartisan Infrastructure Law Funding Program through the Madison Metropolitan Planning Organization (MPO)
6. Review the Legal Opinion from Stafford Rosenbaum Regarding Payment for the Removal of Private Trees Extending into the Roadway
7. Review and Approve the Reconstruction Plans for Rowe St and Ben Waite Circle.
8. Future Agenda Items
 - a. Minimum Terrace Width for New Development
 - b. Minimum Landscape Maintenance Standards for Commercial Properties
9. Adjourn

ADJOURNMENT

cc: Council Members, City Leadership Team, City Attorney Matthew P. Dregne,
Library Administrative Assistant Sarah Monette, Stoughton HUB
stoughtonreporter@wcinet.com, stoughtoneditor@wcinet.com

NOTE: AN EXPANDED MEETING MAY CONSTITUTE A QUORUM OF THE CITY COUNCIL

**Public Works Committee
Thursday, April 21st, 2022
(Hybrid Meeting)**

Members Present: Kay Rashka, Rachel Venegas, and Jean Ligocki

Absent/Excused: Tom Majewski, Fred Hundt. Mayor Swadley

Staff: Public Works Director Brett Hebert, Planning Director Rodney Scheel and Jennifer Wagner
– Administrative Assistant

Guests:

Call to Order: *Hebert* called the meeting to order at 6:04 PM

1) Communications:

- *Hebert* stated the seasonal hiring is now complete with four short term, three long term and one Horticulture seasonal
- *Hebert* wanted to let everyone know that the Tree Commission is putting together a tree sale that will take place at the Public Works building on April 30th from 9:00am to Noon. Tree prices will range from \$26.00 to \$150.00 depending on size.

2) Approve February 17th 2022 Meeting Minutes: Motion by Rashka seconded by Venegas to approve the minutes. Motion carried 3-0.

Old Business:

3) Discuss and Reject the Hwy 51 Roudabout Landscaping Bid Proposal and Discuss a path forward:

Hebert stated that he had reached out to ten landscaping companies to try and obtain bids but unfortunately, he only received one in which the bid was much too high. The bid from this company was \$285,000 while the estimated costs for this project and allocated budget is \$117,000. He proposed that staff rehab the existing landscape for this year and rebid for Spring of 2023 since most contractors just don't have the time or availability right now.

Motion by Venegas to reject bid and rebid for 2023, seconded by Rashka. Motion carried 3-0

4) Update on the Prairie Taskforce:

Hebert explained to members that this Taskforce started last summer and has continued to thrive but as of recent a few members are no longer able to attend. They are currently trying to recruit people that have expertise on various plants and prairies so if everyone could help get the word out that would be appreciated.

New Business:

5) Election and Approval of a New Public Works Committee Chair:

Motion by Logicki to Table until next month's meeting when more members are present, seconded by Rashka. Motion carried 3-0

6) Election and Approval of a New Public Works Committee Vice Chair:

Motion by Logicki to Table until next month's meeting when more members are present, seconded by Rashka. Motion carried 3-0

7) Overview of the Public Works Department Structure for New Committee Members:

Hebert presented a breakdown by each department and what each department does/handles.

8) Review and Approval of the Proposed Projects for the Bipartisan Infrastructure Law Funding Program:

Hebert presented a breakdown of each proposed project and estimated costs. These proposed costs will first need to go to Council to approve before being able to submit the application. The application deadline is June 3rd and goes to the MPO (Metropolitan Planning Organization). This is set to be approved by Council May 24th, 2022.

9) Update on the 2022 Reconstruction and Pulverization Projects Bid Outcomes:

Hebert stated that things are in good shape with the street and stormwater side with the main focus on Academy St. The pulverization aspect is recommended to move forward while the sidewalk replacement is not recommended due to extremely high bid. The price for commodity is way up which can be challenging but we are working with Stoughton Utilities on how to proceed since we need to work together on these projects. This should be going to Council soon for approval.

10) Update of the Rehabilitation of the Racetrack Park Barn and Concession Building:

Hebert stated this work has already begun on the barn with siding repair and future repairs will include window repairs and it will be painted. He proposed a more neutral color of paint vs the traditional red barn paint due to the setting the barn is in. The concession stand will also be getting new siding, paint and new shingles. This project was carried over from last year due to pricing being too high then.

11) Update of the Schefelker Park Playground Improvements:

Hebert presented a picture of a proposed playground park. This new park will include a zipline since it is so popular at Lowell Park and included more ADA features for this park. This new playground is set to go in in July of this year. The Parks Department hoped to get the park in sooner but with contractors not being able to get supplies, this will be the soonest the park will be able to go in.

12) Future Agenda Items:

Minimum Terrace Width for New Development

Minimum Landscape Maintenance Standards for Commercial Properties

13) Adjourn: Motion to adjourn by Venegas, seconded by Logicki to adjourn the meeting at 7:00 pm. Motion carried 3-0

Respectfully submitted by Jen Wagner

DRAFT

CITY OF STOUGHTON, 207 S. FORREST STREET, STOUGHTON, WISCONSIN

RESOLUTION OF THE COMMON COUNCIL

Authorizing and directing the proper city official to submit an application to the Greater Madison Metropolitan Planning Organization (MPPO) for Surface Transportation Block Grant (STBG) – Urban funding for projects using Federal Fiscal Year 2023-2026 funding under the new Infrastructure Investment & Jobs Act (IIJA), also known as the Bipartisan Infrastructure Bill (BIL).

Committee Action: Public Works Committee recommended 0-0 on May 19, 2022

Fiscal Impact: 60% Funding for the Project if Awarded

File Number:

Date Introduced:

WHEREAS, the City of Stoughton has identified projects that qualify under the Bipartisan Infrastructure Law (BIL) funding program to make roadway repairs, and

WHEREAS, the roadways that are identified for rehabilitation are a collector level or greater, and

WHEREAS, the city must submit an application through the Greater Madison Metropolitan Planning Organization (MPO) to compete for project funding, and

WHEREAS, if awarded, 60% of the cost of construction would be paid for through the grant and 40% of the costs would be the local share, and

WHEREAS, the roadways that are identified for rehabilitation are currently in our 5 year Capital Improvement Plan (CIP), and

THEREFORE, BE IT RESOLVED THAT

The City of Stoughton intends to submit projects road rehabilitation projects that qualify un the Bipartisan Infrastructure Law before the grand deadline on June 3, 2022 and will comply with all rules and regulations required under the Law, and,

BE IT FURTHER RESOLVED that the proper City official may act on behalf of the City of Stoughton to submit an application to the Madison Metropolitan Planning Organization for funding under the Bipartisan Infrastructure Law (BIL) on or before June 3, 2022.

April 29, 2022

To Brett Hebert, Director of Public Works

From Isaac S. Brodkey

Date April 29, 2022

Re Legal Opinion on 200 Rowe Street

I write in response to your request for a legal opinion regarding the potential removal of a Siberian Elm and a Norway Maple during the planned sidewalk installation outside of 200 Rowe Street. It is my opinion that the City of Stoughton may remove the elm tree pursuant to its nuisance abatement powers and conditions may ultimately arise that would justify the removal of the maple tree pursuant to the same authority.

Facts

The facts as I understand them are as follows. The City plans to install curb, gutter, and sidewalks on the west side of Rowe Street. There is a large Siberian Elm in front of Ralph and Mary Jo Sundling's residence at 200 Rowe Street. The root structure of the elm tree extends into the right-of-way where the City plans to install a sidewalk. The City cannot work around the elm tree's root structure and must remove the entirety of the root structure in the right-of-way to install the sidewalk. The Director of Public Works and the City Forester have determined that removal of the root structure could lead to the elm tree's structural failure, which could cause the tree to likely fall onto Rowe Street or the Sundling residence. Due to the risk of potential tree failure, the general public may be at an enhanced risk of harm. The elm tree must be removed to avoid creating this potentially dangerous condition.

There is also a large Norway Maple in front of the Sundling residence. The maple tree's root structure also extends into the right-of-way, but may or may not be affected by the sidewalk installation. If the Sundlings would allow, the City will remove the maple tree before installing the sidewalk. If not, the City will proceed with construction and attempt to avoid or minimize

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Madison Office

222 West Washington Avenue 608.256.0226
P.O. Box 1784 888.655.4752
Madison, Wisconsin Fax 608.259.2600
53701-1784 www.staffordlaw.com

Milwaukee Office

1200 North Mayfair Road 414.982.2850
Suite 430 888.655.4752
Milwaukee, Wisconsin Fax 414.982.2889
53226-3282 www.staffordlaw.com

harm to the maple tree. If the tree is harmed during construction, the City will assess the public safety risks at that time and may need to seek the tree's removal.

The City has offered to arrange and pay for the removal of both trees. In response, the Sundlings have informed the City that they expect to receive \$19,500 in compensation from the City if the City were to remove both trees. The \$19,500 figure is based on the appraisal of John Stephenson, a certified arborist. Mr. Stephenson states in his appraisal that the sidewalk installation will cause irreparable damage to both trees and removal is the only option.

The City may remove dangerous trees pursuant to its nuisance abatement powers and may assess the cost of the tree removal to the Sundling property.

Section 58-12 of the Municipal Code provides that the City may abate dangerous trees, which in the opinion of the Director of Public Works, are so decayed or injured, or which for any other reason, are likely to fall upon any sidewalk, street, or other public property. If such a tree is present, the Director of Public Works may order the removal of the tree upon issuing proper notice.

There is no question that the City has the right to install a sidewalk within the public right-of-way and to remove the root structure of a tree that is encroaching into the right-of-way, to the extent needed to construct the sidewalk.

The City is unable to install the sidewalks at 200 Rowe Street without removing a large portion of the elm tree's root structure. It is the opinion of the Director of Public Works and the City Forester that the removal of the root structure could compromise the elm tree's structural integrity and may cause the tree to fall. The City cannot say for certain where and when the tree will fall. However, the City believes that the elm tree could fall onto the right-of-way or the Sundlings' property, and otherwise poses a dangerous condition to the general public until it ultimately falls or is removed. As such, the City may order the removal of the elm tree in accordance with the Section.

To that end, the City must issue an appropriate order and notice to the Sundlings. The order and notice must state that the Sundlings are required to remove the elm tree no less than 14 days after receipt. Because the City does not believe that it will need to remove the maple tree, there is no need or basis to include the maple tree in the order and notice. If the maple tree is significantly injured by installation and subsequently is likely to fall onto the street, then the Director of Public Works may order a separate abatement in accordance with Section 58-12.

The order and notice must also inform the Sundlings of their right to seek relief from the Dane County Circuit Court. The Sundlings may seek a Court order restraining the City from entering the premises and removing the tree. The Sundlings have a minimum of 14 days to seek relief from the Court, and if within the notice period the Sundlings do not seek such relief, they are

April 29, 2022

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barred from seeking relief from the Court later. And, if the Sundlings have neither removed the elm tree nor sought relief from court by the conclusion of the notice period, the City may enter the property and remove the tree.

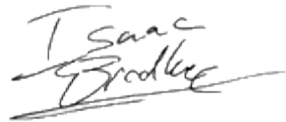
The Sundlings are under the impression that they are entitled to compensation if the City removes either tree. This belief is mistaken. The removal of the elm tree would be pursuant to the City's lawful authority to construct street and sidewalk improvements in the public right-of-way and to require the abatement of public nuisances. It is established Wisconsin law that injury to property resulting from the exercise of police power does not necessitate compensation. In fact, the City may assess the cost of the abatement against the Sundling property.

Although the City is authorized to assess against the Sundling property the cost of the nuisance removal, the City has offered to bear the costs of removal of both trees. Assuming that this offer still stands, the City should state in the order and notice that the Sundlings may remove the elm tree themselves or the City will remove either both trees or solely the elm tree at its own cost, if the Sundlings make that request.

In conclusion, it is my opinion that the City may order the removal of the elm tree pursuant to Section 58-12 and assess the cost of the abatement upon the Sundling property if it so chooses. It is further my opinion that the City may order the removal of the maple tree if the tree is significantly damaged and likely to fall onto the street. In that instance, the City may also charge the cost of removal upon the Sundling property.

Best regards,

STAFFORD ROSENBAUM LLP

A handwritten signature in black ink, appearing to read "Isaac Brodkey", with a horizontal line underneath.

Isaac S. Brodkey

ISB:rjm

cc: Matthew P. Dregne (via email)



CITY OF STOUGHTON
DEPARTMENT OF
PLANNING & DEVELOPMENT
207 S. Forrest Street, Stoughton, WI. 53589

(608) 873-6619 www.ci.stoughton.wi.us

RODNEY J. SCHEEL
DIRECTOR

Date: May 4, 2022
To: Public Works Committee
From: Rodney J. Scheel
Director of Planning & Development
Subject: Rowe Street & Ben Waite Circle Reconstruction

Rowe Street Reconstruction (W. Main Street to USH 51-138) – This rural section is being converted to an urban section. This one block segment has essentially ½ the normal right-of-way available for public improvements. The right-of-way is only 33-feet wide. This obviously restricts the width of the new street and will not allow us to meet normal design standards. Acknowledging significant right-of-way width constraints, the design is for a 20-foot wide street (curb back to curb back) with no parking and a 5-foot sidewalk on only the west side of Rowe Street. This will create two 8-foot drive lanes (no parking) with a 4-foot terrace on the west side of the street and the curb on the east side of the street will about 4 feet from the property line. Aside from the street design constraints, it will require a deviation from the sidewalk installation policy since sidewalks can only be installed on one side of the street.

Three of the five properties on the west side of Rowe Street have existing sidewalk along their frontage. The existing sidewalk is 4-feet wide, however, the existing sidewalk must be removed to accommodate the overall design and will be replaced with 5-foot wide sidewalk.

Ben Waite Circle Reconstruction – This rural cul-de-sac now provides driveway access for one property which is zoned for neighborhood business. There had been a second driveway connection for the eastern property but they discontinued that driveway some time ago and have their driveway access from Pine Street. This street does not currently have curb and gutter and does not meet our minimum 40-foot radius. The lack of space will prevent us from reconstructing it to meet our minimum standard but the new design will utilize a 25-foot radius; slightly larger than the current 23-foot radius. The design includes installation of sidewalk along the south side of Ben Waite Circle between Rowe Street and Pine Street. This provides a safe pedestrian route to the mid-block business as well. Curb and gutter and storm sewer is included to improve stormwater routing.

We recommend confirmation of the design for Rowe Street to only install sidewalks on the west side of the Street and to install sidewalk on the south side of Ben Waite Circle between Rowe Street and Pine Street.

If you have any questions, please contact me.

