

To: Honorable Mayor and Members of the City Council
From: Paul A. Hofmann, City Manager
Date: July 1, 2022
Subject: Weekly Memo, June 27 – July 1, 2022



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Personnel Updates

Luke Minnis began employment on June 29, 2022, as a Public Works Maintenance Worker.

Firefighter Chris Stone has been promoted to Captain. This promotion follows the City Council’s approval in December to add two positions to the Fire Department budget, which allowed for full time paid staffing of all three shifts, and a reorganization of the department’s command structure. Previously, the Fire Chief was the only supervisor in the department. This created challenges when the Chief wasn’t on-site. Captain Stone will have four direct reports, including two firefighters on his shift, and two lieutenants who supervise the other two shifts. Captain Stone has displayed excellent leadership skills and has earned the respect of his peers. He has the necessary skills and initiative to assume the responsibilities and duties required of a Captain. The selection process for the Lieutenant positions will be conducted internally in the near future.

City Holiday Closing

City offices will be closed on Monday, July 4, 2022, in observance of Independence Day

Upcoming Training

Below are future training opportunities. If you are interested in attending any of the trainings, please notify the City Secretary and she will take care of the registration for you.

TML-TAMCC Newly Elected City Officials’ Orientation

Date: August 11, 2022 - August 12, 2022

Time: All Day

Location: San Antonio

Volunteer Fair

The City will host a Volunteer Fair on July 14, 2022, from 4:00 pm to 6:00 pm at City Hall to recruit board members for the City’s Boards & Commissions, as well as volunteers to general City engagement initiatives.

Time out of Office

I will be taking vacation July 5 through July 8.

Special Events

2022 Bastrop Patriotic Festival

Bastrop will turn red, white, and blue with a fun-filled schedule of activities for all ages, July 2, 2022, during the Bastrop Patriotic Festival at Fisherman's Park. The fun kicks off at 8:00 am with the 1K Fun Run, RUN, White and Blue 5K, and many other fun contests during the day - plus a patriotic surprise or two! The Convention Center will be used for off-site parking with shuttles running to the event.

Farm Street Opry

The Farm Street Opry will be held July 7, 2022, at the Bastrop Convention Center. Mayor Schroeder will MC the event. Our own Ms. Terry Lyne Moore will be performing along with Nathan Colt Young. Show starts at 7:00 pm.

Kyle Bartz TDS Response

On June 27, 2022 Mayor Schroeder received an email from a concerned citizen, Mr. Kyle Bartz wrote: Recently, I purchased a water tester for my home water (I live in the new development area Pecan Park) and noticed that the TDS (total dissolved solids) of our drinking water is unbelievably high. Whereas those living in Austin proper already have a poor water quality of ~150 ppm, we are off the charts at over 500 ppm. That exceeds the EPA's acceptable levels for water contamination. Image attached comparing our water to Austin's already high levels and distilled water for comparison.

Attached is the response letter from the Water/Wastewater Superintendent, James Wilson to Mr. Bartz addressing his concerns regarding the Total Dissolved Solids.

Library News

The analysis of the 2021 Annual Report for Bastrop Public Library has been completed. I am pleased to inform you that the report has no accreditation issues. We can look forward to the library's continued accreditation for the 2023 State fiscal year, beginning September 1, 2022. Formal letters will be sent out in early fall. The library continues to be eligible to participate in statewide interlibrary loan (ILL), E-rate, the TexShare Database Program, the TexShare Card Program, and any funding opportunities offered through the Texas State Library.

The summer reading program, Oceans of Possibilities, is in its fifth week and still going strong as we head into July. The six Patriotic Shoebox Parade entries from community groups were the highlight of the week. As of Friday morning, 77 votes had been cast for the best float. The winner will be announced on the library's Facebook page Saturday. Statistics for the week: 799 registrations for reading, 35% of those registered have reached the 500-minute reading goal, 568 registrations for the Community Adventure, 2,559 books and other materials checked out, and 1,760 people walked through the doors.

The library will migrate to a new computer server on Thursday, July 12, 2022, and may experience an interruption in public access computer service that day. It will not interfere with the public Wi-Fi.

Volunteer Opportunities

The Bastrop Patriotic Festival will be held this Saturday at Fisherman's Park. The chamber is still in need of volunteers. If you would like to volunteer, please contact the chamber at 512-303-0558.

June 9-29, 2022, Certificate of Occupancies

- Homespun Wisdom TX; 1002 Chestnut Street
- Live Free Academy; 1003 Jefferson Street
- Arby's; 711 W SH 71
- Vibe Tribe; 1105 Main Street
- Shop Brooklyn's; 601 Chestnut, A
- Bastrop Real Estate Professionals; 807 Main Street, Bldg. A
- Giggles Smoke Shop; 904 Chestnut Street

Future Agenda Items

July 12, 2022

- NewGen Strategies presentation on Water/Wastewater Impact Fee
- Impact Fee Public Hearing and consideration
- Review City Council Rules of Procedure
- Presentation from Organizations applying FY2022 Community Support Funding
- Colorado Bend Development Agreement
- Second Reading of Burleson East Zoning

July 26, 2022

- Presentation of proposed FY2023 Budget and announce public hearing
- Appointment of Acting City Manager
- Appointment to Hunters Crossing Board

Attachments

- Kyle Bartz Response to email
- Juneteenth Committee Letter
- TML Legislative Update Number 26

June 28, 2022

Mr. Kyle Bartz
Concerned Citizen
kylebartz@me.com



Re: Water Quality; Total Dissolved Solids Concentration Levels

Dear Mr. Bartz,

I am in receipt of your June 27, 2022 email expressing your water quality concerns, particularly total dissolved solids (TDS), which was addressed to Mayor Schroeder and City Council.

I would like to start addressing your concerns by expanding a little on the City's TDS sampling and analysis requirements. While we as a Texas Public Water System are held to Federal rules and regulations, the Environmental Protection Agency (EPA) has delegated much of their authority to the Texas Commission on Environmental Quality (TCEQ). TCEQ requires the City of Bastrop to collect Water Quality Samples for analyses (including TDS) at various parts of the water system every quarter. The analyses of those samples are then performed by a nationally accredited laboratory. As Mayor Shroeder stated in her initial response, the maximum secondary constituent level for TDS is 1,000 mg/L (or ppm). After conducting an internal review of my records this morning, I cannot find any instance where the City has exceeded 1,000 mg/L.

When comparing analysis results from various water sources, it is important to take note that not all water sources are considered equal and require different treatment techniques. For instance, the City of Austin's raw water comes from Lake Austin or Lake Travis, depending upon which part of the system someone pulls a sample. Pecan Park here in Bastrop is serviced by a Simsboro Aquifer well and a Colorado Alluvium well. By nature, water sourced from groundwater wells tend to contain higher levels of total dissolved solids than water sourced from surface (rivers, lakes, and streams) water.

Although TDS is considered a secondary constituent, or 'nuisance' contaminate that is prevalent in Texas groundwater, the City understands and recognizes the concerns that individuals may have regarding this issue. The City has been working diligently to design a new water treatment facility and develop a new Water Master Plan that will greatly improve overall water quality for all City of Bastrop water customers. Although I cannot guarantee a definitive timeframe for the completion of these projects at this time, final design of the treatment facility is imminent, and is expected to be presented to City Council soon for funding consideration.

Hopefully, I answered your questions. However, if you would like any additional information, please contact our office at baswater@cityofbastrop.org or (512)332-8960. We take water quality issues seriously, and we will continue to provide the highest water quality to our customers that is feasibly possible.

Best,

A handwritten signature in blue ink that reads "James B. Wilson".

James B. Wilson, City of Bastrop, Water/Wastewater Superintendent



June 28, 2022

City of Bastrop
Honorable Connie Schroeder, Mayor
City Council & City Manager & City Staff

The Bastrop Juneteenth Committee is profoundly grateful for the partnership with the City of Bastrop in our commitment to bring the Juneteenth Celebration to our hometown. The work that we have been able to accomplish together has increased and provided for family friendly weekend celebrations in the past two summers. The financial support that the City of Bastrop has extended to this Committee for years has allowed us to broaden our activities tremendously. We sincerely appreciate the professional expertise that has been given to our sub committees. It is invaluable.

We want to acknowledge not only the assistance in planning and implementing our celebration but the participation. The presence of so many individuals representing the City of Bastrop during the Juneteenth weekend was extremely encouraging to the community as well as the committee.

We look forward to many years of this partnership as we grow together and bring celebrations that provide education, fun and unity to all in Bastrop.

Sincerely

Bernie Jackson
President
Bastrop Juneteenth Committee



July 1, 2022
Number 26

Texas Supreme Court Rules on Construction-Site Waste Hauling License Fees; Distinguishes Such Fees from More Traditional Solid Waste Franchise Fees

The Supreme Court of Texas recently issued a [ruling](#) in *Builder Recovery Servs., LLC v. The Town of Westlake*, finding that the Town of Westlake as a general law city exceeded its authority when it assessed a percentage-of-revenue license fee on construction-site waste hauling businesses. Notably, the Court expressly stated that its opinion was not intended to address the ability of general law cities to impose solid waste franchise fees (more on this issue below).

The Town of Westlake passed an ordinance, which required third-party construction trash haulers to obtain a license in order to provide temporary construction waste services, imposed certain regulations on the licensee, and assessed a licensing fee based on 15 percent of the licensee's gross revenue.

Builder Recovery Services, LLC (BRS) sued the Town asserting, among other things, that: (1) the Town as a general law city lacks authority to require BRS to obtain a license to haul construction waste; (2) the Town lacks statutory authority to impose a licensing fee based on a percentage of

BRS's revenue; (3) the license fee was not tied to actual administrative costs; and (4) the ordinance was preempted by state law. After a bench trial, the trial judge found largely in favor of the Town, but invalidated the license fee calculation. BRS appealed.

The appellate court rejected BRS's argument that Section 361.111 of the Texas Health and Safety Code does not empower the Town to issue licenses as a license is an inherent part of the Town's regulatory power. The court further determined the license fee issue was moot due to an amended ordinance adopted by the Town during the pendency of the litigation, which lowered the licensing fee to three percent of gross revenues. However, due to an outstanding issue of attorney's fees, the court sent the case back to the trial court for disposition. BRS appealed.

The Texas Supreme Court reversed, finding that: (1) the Town's downward adjustment of the amount of the license fee did not moot the license fee issue; and (2) a general law city's express power to regulate construction trash hauling does not include the implied authority to charge a license fee based on a percentage of revenue, and such fees would have to be tethered to the cost of providing services. The Court opined that because a percentage-of-revenue fee "fluctuates based on market forces having nothing to do with the Town's regulatory expenses, and because it resembles a business tax in its calculation method, a percentage-of-revenue fee is different in kind from cost-recovery fees a general-law city might validly charge incident to its power to regulate trash hauling." The Court provided that a "more conventional, volume-based fee under which the Town charged fixed amounts per license application or per construction site, for instance, could be calibrated to offset staffing or paperwork expenses incurred by the Town because of the regulation."

The Court sent the case back to the appellate court to determine whether the remainder of the Town's ordinance is severable from the invalid fee. The Town plans to file a motion for rehearing with the Texas Supreme Court asking the Court to reconsider its ruling on this case.

Although the Court determined that a general law city cannot charge the kind of percentage-of-revenue fee assessed by the Town to a licensee who hauls construction waste, the Court clearly noted that its decision does not apply to exclusive franchise agreements between a general law city and its residential and commercial solid waste providers adopted pursuant to Section 364.034 of the Health and Safety Code. Specifically, the Court states:

Turning to the merits of [the authority to impose a percentage-of-revenue fee] claim, an initial distinction should be drawn between the licensing fee imposed on BRS and the franchise fee imposed on Republic. Republic is the Town's conventional residential and commercial trash-hauling franchisee. The Town's relationship with Republic is governed by an exclusive franchise agreement as described in section 364.034 of the Health and Safety Code. Republic is not a party to this case, and nothing in our decision should be construed to comment on the rights of the Town, of Republic, or of similarly situated parties operating under section 364.034 or under franchise agreements. Instead, we address the Town's authority under section 363.111 of the Health and Safety Code, the primary statutory provision on which the Town relies for its authority to charge licensing fees to companies like BRS.

Following the Court’s decision, the League has received questions from several general law cities about whether this ruling calls into question the exclusive franchise fee agreements between those cities and solid waste providers. It is the League’s opinion that this ruling does not affect a general law city’s ability to collect franchise fees from residential and commercial solid waste providers providing services in the city pursuant to an exclusive franchise fee agreement, given the Court’s language distinguishing the Town’s licensing fee from a franchise fee.

Some solid waste providers have contacted general law cities and indicated that they will cease remitting certain fees under existing agreements beginning August 1 in order to enter a dialogue with the city on the most appropriate path forward in light of the ruling. Cities are encouraged to discuss the ramifications of the decision with their city attorneys, and to reach out to any holder of an exclusive solid waste franchise as soon as possible.

The League will continue to monitor this case and report on any new developments.

The Bipartisan Safer Communities Act

On Saturday, June 25, 2022, President Biden signed into law new federal gun legislation one month after the elementary school shooting in Uvalde. The new law, the [Bipartisan Safer Communities Act](#), will provide states with resources aimed at gun safety, mental health, and school security measures. Below is an overview of the key provisions of the new law.

Firearms

Juvenile Records

- Enhances background checks with regard to the proposed transfer of a firearm to an individual under the age of 21 to include checking state mental health records and juvenile criminal records to determine if the person has a disqualifying juvenile record. Under this provision, the FBI will be given seven additional days to conduct the enhanced review.

Defining “Engaged in the Business”

- Defines the term “to predominately earn a profit,” to clarify who is considered a gun seller and would be required to comply with licensing requirements.

Use of Byrne Grants or Implementation of State Crisis Intervention Programs

- Allows states to use Byrne Justice Assistance Grants (JAG) to implement crisis intervention court programs, including mental health courts, drug courts, veterans courts, and/or extreme risk protection order programs (or “red flag” programs).
- If states choose to implement “red flag” programs, the law would require states to follow guidelines to ensure strict protections for due process as well as heightened evidentiary standards of proof.
- \$750 million has been allocated for the JAG program.

Stop Illegal Trafficking in Firearms Act

- Creates new federal offenses of **straw purchasing of firearms** (purchasing a firearm for someone who is not permitted by law to purchase a firearm) and **trafficking in firearms**, which makes it a crime to traffic illegal firearms into the United States.

Misdemeanor Crime of Domestic Violence

- Closes the “boyfriend loop hole” by making it illegal for those convicted of domestic assault against a victim with whom the person was in a dating relationship, to purchase a firearm.
- After five years, if the person has not been subsequently convicted of a similar crime, the person’s record will be updated to reflect eligibility to purchase a firearm.

Children and Family Mental Health Provisions

Expansion of Community Mental Health Services Demonstration Program

- Makes additional grants available to states to expand community behavioral health centers that provide mental health services.
- \$250 million has been allocated for this initiative through the Substance Abuse and Mental Health Services Administration (SAMHSA) Community Mental Health Block Grant Program.

Medicaid and Telehealth

- Requires the U.S. Secretary of Health and Human Services to provide states with technical assistance and guidance on how to improve access to telehealth for mental and behavioral health services covered under Medicaid and the state children’s health insurance program (CHIP) for children and families.

Supporting Access to Health Care Services in Schools

- Requires the U.S. Secretary of Health and Human Services and Secretary of Education to provide guidance and technical assistance to State Medicaid agencies and schools on how to facilitate medical assistance to Medicaid and CHIP beneficiaries in school-based settings.
- Makes grants available to states to fund school-based mental health services, including early and periodic screening, diagnostic, and intervention treatment services.
- \$240 million in grant funding has been allocated for these initiatives.

Review of State Implementation of Early and Periodic Screening, Diagnostic, and Treatment Services

- Requires the U.S. Secretary of Health and Human Services to review state implementation of the Medicaid early screening and intervention program, identify deficiencies, provide technical assistance, and give guidance on Medicaid coverage requirements. In addition, the Secretary will report results to Congress.

Pediatric Mental Health Care Access Grants

- Extends Pediatric Mental Health Care Access Program grants through 2027 for states to assist pediatricians and mental health specialists with training, technical assistance, and improving access to telehealth for children and adolescents.
- \$140 million in grant funding has been allocated for these initiatives.

State Leadership Announces \$105.5 Million for School Safety Initiatives

On Tuesday, Governor Abbott, Lt. Governor Patrick, and Speaker Phelan [announced](#) the transfer of \$105.5 million to support school safety and mental health initiatives. Included in the initiatives are:

1. \$50 million to the Trusteed Programs within the Office of the Governor for the purchase of bullet-resistant shields to be distributed to police officers directly employed by school districts, police officers contracted by school districts, and other local law enforcement officers that may respond to school safety emergencies.
2. \$7 million to Texas State University for the Advanced Law Enforcement Rapid Response Training (ALERRT) Center for rapid response training and \$3 million to the trusteed Programs within the Office of the Governor for grants to local law enforcement agencies to offset travel expenditures associated with the training.

The full list of initiatives can be found [here](#).

Don't Forget: Resolutions for 2022 Annual Conference Due August 22

Resolutions for consideration at the Annual Conference are due no later than 5:00 p.m. on **August 22, 2022**. The TML Constitution provides that resolutions must be submitted by any member city, TML region, or TML affiliate to the TML headquarters 45 calendar days prior to the first day of the Annual Conference.

The League's advocacy efforts are based on a legislative program that is developed by member city officials in two ways.

First, a member city, TML region, or TML affiliate may submit a resolution for consideration at the business meeting of each year's Annual Conference. Each city is asked to provide one delegate to serve as its liaison at the meeting. The representatives will be briefed on the content of the resolutions and given a chance to discuss and vote on whether they merit inclusion in the legislative program. The resolutions form the basis of a fixed legislative program, under which – each session – modifications to the program will be made only if needed.

Second, member city officials can participate in the League's Municipal Policy Summit during the summer of 2022. The report of the Summit takes the form of a resolution that is submitted to the

Annual Conference in interim years. The summit participants will be appointed by the TML President based on volunteers and others chosen to balance the demographics of the TML membership at large.

Details on the submission process can be found [here](#).

Federal Infrastructure Bill Update

In November 2021, the federal Infrastructure Investment and Jobs Act (IIJA) was signed into law. The IIJA is altogether a \$1.2 trillion bill that will invest in the nation's core infrastructure priorities including roads, bridges, rail, transit, airports, ports, energy transmission, water systems, and broadband.

The League will monitor state and federal agencies and work with the National League of Cities (NLC) to access the latest information relating to the IIJA. We will be providing periodic updates in the Legislative Update on resources for Texas cities on how to access IIJA funding for local infrastructure projects.

U.S. Department of Commerce (Commerce)

On June 21, Commerce opened the application period for [Enabling Middle Mile Broadband Infrastructure Program](#) as part of the "Internet for All" initiative. Applications will be accepted until September 30.

Environmental Protection Agency (EPA)

The EPA will host a [webinar](#) about the IIJA funding. The funds can help communities improve their water and wastewater infrastructure. The webinar will focus on:

- How state revolving fund (SRF) program funds work;
- How the Bipartisan Infrastructure Law (BIL) funding can help communities address water infrastructure challenges;
- What resources are available for information and technical assistance; and
- Where to go for more information

The webinar will include an opportunity to submit questions. The presentation will be recorded and posted online for future reference. To register, click [here](#).

Federal Highway Administration (FHWA)

The FHWA published its [Notice of Proposed Rulemaking](#) regarding the IIJA's National Electric Vehicle Infrastructure Program. Public comments are due August 22.

National League of Cities (NLC)

On June 23, NLC published an article entitled “[Get Ready to Apply for the Bridge Investment Program](#)” outlining key information in applying to the program. NLC has previously published an article entitled “[Best Infrastructure Grants for Small Cities](#),” which focuses on six specific programs funded under the IIJA. The article also references three good resources to help small cities navigate the IIJA – the White House’s [Rural Playbook](#); the forthcoming [Local Infrastructure Hub](#); and the archived “[Infrastructure School](#)” webinars.

House and Senate Committee Interim Hearings

The Texas House and Senate Committees are underway studying interim charges outlined by Speaker Phelan and Lt. Governor Dan Patrick.

Below is a full list of committee hearings set to hear certain city-related charges. All hearings will be held at the Texas Capitol unless otherwise indicated. If a committee has newly posted notice and was not included in last week’s edition of the *Legislative Update*, it is indicated as such.

Senate Finance Committee

The committee will meet on Monday, July 11 at 10:00 a.m. to hear invited and public testimony on the following interim charges:

Federal Funds: Report on the state use of federal COVID-19 relief funds provided under the Coronavirus Aid, Relief, and Economic Security Act, Coronavirus Response and Relief Supplemental Appropriations Act, the American Rescue Plan Act, Infrastructure Investment and Jobs Acts, and similar federal legislation. Examine local use of federal relief funding, including funding provided to school districts through the Elementary and Secondary School Emergency Relief (ESSER) Fund. Evaluate the overall fiscal impact of the COVID-19 pandemic on state agencies, including costs incurred due to federal mandates. Identify barriers to the effective utilization of funds and make recommendations on the expenditure of unappropriated funds. In addition, evaluate and report on the spending by state agencies that have been utilizing "one-time" federal funding (temporary enhancements, e.g. FMAP and ESSER) sources, where federal funding will likely be significantly reduced in future biennia.

Information on the hearing, including how to register and testify at the committee hearing, can be found [here](#).

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