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RACINE | LAWYER FEES

\$200,000 spent over a PowerPoint

Court of Appeals rules in favor of former Alderman Weidner

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RACINE — It all started with a PowerPoint. Concerned about what could have been considered classified

communications being shared with members of the public, in August 2017, Racine City Attorney Scott Letteney led a behind-closed-doors meeting with the City Council. During that meeting, a PowerPoint slideshow was shown. It contained 70-plus slides depicting communications between city staff and three aldermen that were later shared by aldermen with members of the public.



Letteney

city officials that should not have been public knowledge.

Letteney asserted those messages should not have been shared with the public, and were confidential communications between elected city officials and appointed

That one meeting has sparked a series of court hearings in multiple courts, at least one gag order, a prolonged records request being fought by city administration, more than \$200,000 in taxpayer dollars being spent on attorney's fees and on Wednesday a Wisconsin Court of Appeals decision that's been applauded by open records advocates. And what was that decision? That a former alderman and her

attorney should be allowed to have a copy of a PowerPoint they have already seen.

Please see **POWERPOINT**, Page A6

REVIEW: Scan this QR code to read the Wisconsin Court of Appeals Weidner v. City of Racine decision issued Wednesday **NEWSVU**

Celebrating Waterford

WATERFORD — Visitors of the Celebrate Waterford street festival, now in its third year, enjoyed sunny skies and good times in Downtown Waterford in western Racine County. Teams could sign up for a four-person cycle race or the two-person cornhole/bags toss game. Audiences could hear local musical artists that were featured throughout the day, or see a lumberjack show, new this year. Children's activities included circus acts, a petting zoo, bounce houses and games.

LOOK: Scan this QR code to see more photos from the Celebrate Waterford street festival. **NEWSVU**



SCOTT WILLIAMS PHOTOS, SCOTT.WILLIAMS@JOURNALTIMES.COM

Pete Skorstad, left, of Muskego, watches as his grandson, Levi Skorstad, tries his hand at cornhole/bags during the Celebrate Waterford festival Saturday in Downtown Waterford.



Left: Three-wheeled bicycle racers Brodie Sheptone, left, and Aubrey McGaughy, right, prepare to race Saturday during the Celebrate Waterford street festival, an event marking its third year in Downtown Waterford. **Right:** Grilled cheese sandwich vendor Rilynn Dlobik, left, serves up a plate of gooey goodness Saturday during the Celebrate Waterford street festival in Downtown Waterford.



'DARK STORE' TAX Opponents aim for decisive victory

Wisconsin Supreme Court decision expected later this year

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 BURLINGTON — For years, opponents of Wisconsin's "dark store" method for taxing big-box retailers worked in vain to persuade state lawmakers to change the law.

Those opponents now are pinning their hopes instead on the judicial branch of state government. City administrators and others say a Wisconsin Supreme Court ruling expected later this year could stop Walmart and other retailers from avoiding paying their fair share of property taxes. But if the Supreme Court rules in favor of dark store taxation, the strategy of seeking judicial relief will backfire for the cities, villages and towns that are taking on big business in the hopes of increasing tax bases. Curt Witynski, deputy director of the League of Wisconsin Municipalities, acknowledges the risk involved in pushing the issue in the courts. And now that the state's highest court has agreed to weigh in, Witynski said, the stakes are higher than ever.

Please see **DARK STORE**, Page A3

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BUSINESS	A7	FAMILY & LIFE	D1	NATION/WORLD	B7	PUZZLES	D2
CLASSIFIED	D6	LOCAL	B1	OBITUARIES	B3	SERVICE DIRECTORY	D5
EMPLOYMENT	D5	LOTTERY	A2	OPINION	A4	SPORTS	C1



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PowerPoint

From A1

The former alderman, Sandy Weidner, said she still isn't sure what's next in the case.

"My interpretation (of Wednesday's ruling) is that my open records request should have been granted back when I first made it back in 2017," Weidner



Weidner

she said in a phone interview. The court ruled Wednesday: "The City argues that the entire PowerPoint is privileged. However, we (the Court of Appeals) need not reach that issue because assuming the entire PowerPoint is privileged, the City waived the privilege by its voluntary actions in showing the PowerPoint at the meeting where Weidner was present ... Given these facts, and the fact that Weidner actually attended the meeting without objection, we determine that the City waived any claim to attorney-client privilege for the PowerPoint with respect to Weidner."

A status hearing in the Kenosha County Circuit Court is scheduled for 9 a.m. Aug. 17 in front of Judge Chad G. Kerkman; the case had originally been in front of Racine County Circuit Court Judge Eugene Gasiorkiewicz, who had previously sealed the case. A total of four different judges have presided over the case so far.

PowerPoint still semi-secret

The August 2017 closed-door meeting was held in the midst of Weidner's mayoral run, a race eventually won by Cory Mason. Letteney had said he planned to refer aldermen to the Board of Ethics to review the communications, but no reprimand ever resulted.

At the time, the late Denis

Wiser was acting as interim mayor after the resignation of John Dickert.

Months after the closed-door meeting, Weidner, who was still an alderman at the time prior to not seeking reelection in 2020, requested a copy of the PowerPoint presentation. She said the majority of the slideshow was directed at her own communications with constituents. Letteney's office denied Weidner's request, claiming the PowerPoint couldn't be shared with Weidner because of attorney-client privilege, even though Weidner had already been shown the presentation; in this case, "client" would refer to the aldermen.

Several of the emails known to have been included in the PowerPoint do not appear to be what would normally be considered private information that should not be available to the public. One of them was an email sent to a former Journal Times reporter about scheduling for a public meeting. Another of them reportedly was about a separate PowerPoint presentation that would be shown at a public meeting.

Weidner appealed the denial to the records request to the Racine County Circuit Court.

The case gets more complicated, convoluted and expensive from there.

Weidner's appeal to the open records request being denied was sealed by Judge Gasiorkiewicz, preventing the public from having any way of knowing about it. The case was originally filed Nov. 29, 2017, it was later revealed.

The case entered public knowledge when Weidner spoke to the press about it in October 2018.

As a result of ignoring the seal on the case, Weidner was placed under a gag order from Gasiorkiewicz that aimed to bar her from talking about the case, although she has still spoken with both The Journal Times and the Milwaukee-Journal Sentinel about the case since — in-

cluding in the past week.

Weidner said she would rather be jailed than pay the potential tens of thousands of dollars in fines associated with violating the order.

"I believe this is a huge win not for Sandy Weidner, but for the residents of this city because it means citizens of this city can get information from their officials that they asked for," Weidner said. "This is about (elected officials) being able to communicate with your constituents."

In July 2020, Judge Kerkman ordered that the PowerPoint be released "in camera," which essentially means "in private" and away from the public eye, for attorneys' eyes only.

After reviewing that PowerPoint, Weidner realized it did not exactly match the original one she remembered from the August 2017 meeting. According to Wednesday's Court of Appeals decision, the City Attorney's Office said it "cannot confirm" which version of the PowerPoint is the original.

Originally, Kerkman found that the difference in the two PowerPoints "would not impact" the court's ruling, and also that Weidner had missed a deadline for a legal response, and for a second time dismissed Weidner's complaint.

That dismissal was then appealed to the Court of Appeals; the decision in that appeal is what was issued Wednesday.

Weidner estimates she has personally spent around \$40,000 on the case so far, "and counting."

"The taxpayers are paying Scott Letteney's attorney fees," Weidner said. An outside firm, Meissner Tierney Fisher & Nichols S.C. of Milwaukee, is working the case on behalf of the City of Racine.

Letteney told The Journal Times that, as of the last invoice, the city has spent \$201,312.83 so far on the case. As of May 2020, \$129,000 had been spent.

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