

AGENDA
PUBLIC WORK'S COMMITTEE MEETING
Wednesday July 13, 2016
5:30 P.M., Allouez Village Hall

NOTICE IS HEREBY GIVEN THAT ACTION BY THE COMMITTEE MAY BE TAKEN ON ANY OF THE ITEMS WHICH ARE DESCRIBED IN THIS AGENDA. ACTION TAKEN WOULD BE TO MAKE RECOMMENDATIONS TO VILLAGE BOARD FOR THEIR APPROVAL

1. MODIFY/ADOPT AGENDA
2. APPROVE MINUTES from the June 15th meeting.

OLD BUSINESS:

3. DISCUSSION/ACTION: RIVERSIDE DRIVE PEDESTRIAN CROSSINGS (DPW Berndt).
4. DISCUSS/ACTION: PUBLIC WORKS PUBLIC INFORMATION MEETING (Village President Rafter).

NEW BUSINESS:

5. DISCUSSION/ACTION: STORMWATER ORDINANCES UPDATE (DPW Berndt).
6. DISCUSSION/ACTION: PROPOSED COUNTY ORDINANCE 6.14 REGARDING COUNTY ROAD CONSTRUCTION (DPW Berndt).

DISCUSSION:

7. DISCUSSION: CBCWA BOND RATING UPDATE (DPW Berndt).
8. DISCUSSION: ASSESSMENTS FOR STREET AND UTILITY PROJECTS (C. Matuszek).
9. ADJOURNMENT

NOTE: It is possible that members of and a possible quorum of members of other governmental bodies of the municipality may be in attendance at the above noticed meeting to gather information; no action will be taken by any governmental body at the above noticed meeting other than the governmental body specifically referred to above in this notice.

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MINUTES
PUBLIC WORK'S COMMITTEE MEETING
Wednesday June 15, 2016
5:30 P.M., Allouez Village Hall

Present: Rick King, Lynn Green, Jim Genrich, Clarence Matuszek, Jim Rafter.
Also Present: Andy Fulcer and Brian Haen, WisDOT; Craig Berndt, Jim O'Rourke

The Public Works Committee meeting was called to order at 5:30 am by Chairperson Green.

1. MODIFY/ADOPT AGENDA
Motion to adopt the agenda with Item 8 moved to Item 4 by Genrich, second by King. Motion carried.
2. ACTION: ELECTION OF PUBLIC WORKS COMMITTEE CHAIRPERSON (Trustee Green).
Motion by Genrich to appoint Trustee Green as Chairperson, second by King. Motion carried.
3. APPROVE MINUTES from the May 11th meeting.
Motion by King to approve the May 11, 2016 meeting minutes, second by Genrich. Motion carried.

OLD BUSINESS:

4. DISCUSSION/ACTION: STREET MAINTENANCE & RECONSTRUCTION PLAN UPDATE (DPW Berndt).
The draft 10-year street maintenance and reconstruction plan was discussed. Presentation of the plan to the village board for information and feedback was discussed. This should be done before the July informational meeting for residents. The consensus of the Public Works Committee was to present the reconstruction plan to the village board at the next board meeting.
5. DISCUSSION/ACTION: ALLOUEZ WATER SERVICES (DPW Berndt).
The report on lead water services in the village was reviewed. It was the consensus of the Public Works Committee to present this report, in a brief summary, to the village board at the next meeting; to post the report on the village website for information; and later this summer or early fall to initiate a mailer to affected residents and offer water quality sampling for affected homeowners if requested.
6. DISCUSS/ACTION: PUBLIC WORKS PUBLIC INFORMATION MEETING (Village President Rafter).
The draft Reconstruction Plan power point presentation for the July public information meeting was discussed. There was discussion on assessing part of the project construction cost to residents, and it was agreed to discuss this at

future committee meeting. The consensus of the committee was to present the Reconstruction Plan power point to the village board at the next meeting for information and input.

NEW BUSINESS:

7. DISCUSSION/ACTION: RIVERSIDE DRIVE PEDESTRIAN CROSSING AT SUNSET PARK (DPW Berndt)

The preliminary cost of the proposed pedestrian crossing on Riverside Drive at Sunset Park was discussed. It was the consensus of the committee to explore the possibility of a Hawk pedestrian crossing in lieu of the RRFB, to examine the current street maintenance project budget for possible available funds, and other possible budget funding; and review this at the next committee meeting.

8. DISCUSSION/ACTION: WisDOT GUARD RAIL PROJECT HWY 172 NOISE ORDINANCE (DPW Berndt).

Mr. Haen of the WisDOT explained the guard rail project and its possible impact on noise to adjacent properties. From the Hwy 172/Webster Avenue intersection a guard rail will be installed down the center area all the way to Hwy 43. This is a safety improvement project, and due to highway traffic the work will be done at night from 7 pm to 5 am. The work includes grading and placing the guard rails which will result in noise from truck backing up and unloading. The Allouez portion of the work will likely require 3 weeks to complete.

Due to the noise a noise ordinance variance should be issued to WisDOT for the project. WisDOT is requested to submit a letter request for the noise variance, and the village will issue a permit for a specific time period, require noise abatement to the extent possible, and require a letter sent to residents along the route (and into the residential areas) prior to the project.

Motion by Genrich, second by King **Recommend to the Village Board to approve a noise variance for WisDOT for the guard rail project subject to a letter request and include notice to residents, and the DPW to issue the permit when the request is received.** Motion carried.

9. DISCUSSION/ACTION: ENGINEERING SERVICES FOR 2017 RECONSTRUCTION PROJECT (DPW Berndt).

A consulting engineer (McMahon Associates) is to be retained to assist in the 2017 Street and Utility Reconstruction Project, and the contract for the work is attached. A summary of the procurement and engineer selection is attached. The McMahon field survey work for use in the village design must be completed in the next 6 weeks and the funding is included in the 2016 budget. The additional cost for the field inspection technical assistance will be a budgeted cost item in the future bond issue for the project.

Motion by Genrich, second by King to **Recommend to the Village Board to approve the engineering services contract with McMahon Associates for the 2017 Reconstruction Project.** Motion carried.

DISCUSSION:

10. DISCUSSION: BROWN COUNTY RECYCLING CHARGE UPDATE (DPW Berndt).

As of the date of this meeting the charge for disposal of recycling materials (village collected recyclables) has been reduced from \$15 per ton to \$0 per ton. The village has incurred additional unbudgeted cost for disposal of recyclables so far this year, but the recent increase in state recycling funding has offset this cost so far. Hopefully the cost to dispose of recyclables will remain a zero cost or become profitable. The cost of crude oil is the driving factor on the plastics recyclables.

11. DISCUSSION: WATER UTILITY 2015 CCR REPORT (DPW Berndt).

A copy of the 2015 CCR report is attached for information.

12. ADJOURNMENT

Rafter excused himself at 6:35 pm due to another meeting.

Motion to adjourn at 6:55 pm by King, second by Matuszek. Motion carried.

Minutes by C. Berndt, June 16, 2016

VILLAGE OF ALLOUEZ

Allouez Village Hall • 1900 Libal Street • Green Bay, Wisconsin 54301-2453
Phone No.: (920) 448-2800 • Fax No.: (920) 448-2850

Department of Public Works

PEDESTRIAN CROSSINGS ON RIVERSIDE DRIVE

Rectangular Rapid Flashing Beacon (RRFB) Crossings

The RRFB beacons appear to be DOT approvable signaling for pedestrian crossings on Riverside Drive.

The cost of an RRFB crossing near Sunset Park appears to be approximately \$30,000 installed. This is a planning level estimate-engineering needs to be completed and an updated cost developed.

At an Allouez Avenue location an RRFB crossing is likely to cost about \$50,000 installed. The median will need to be modified to provide this crossing.

A photo of an RRFB is attached.

HAWK Crossings on Riverside Drive (STH 57)

HAWK pedestrian crossing located at Sunset Park. The planning level estimate for a HAWK crossing at this location is likely to be about \$40,000. Further engineering must be completed to further define this construction cost.

A HAWK pedestrian crossing at Allouez Avenue or at St. Joseph Street is probably an approximate \$60,000 construction cost for each location. Again, due to road modifications due to the medians.

The HAWK crossing has not been installed on a state trunk highway. Therefore, WisDOT is evaluating whether this type of crossing may be approved for installation on Riverside Drive. This may or may not be approvable for this project.

Path Forward


The following path forward is recommended.

1. Pursue the HAWK signal approval for the pedestrian crossings on Riverside Drive.
2. Plan for pedestrian crossings at Sunset Park and Allouez Avenue.
3. Retain an engineering firm to review the permit applications and prepare the design of the pedestrian crossings at these two locations.
4. Budget for two pedestrian crossings for construction in 2017.

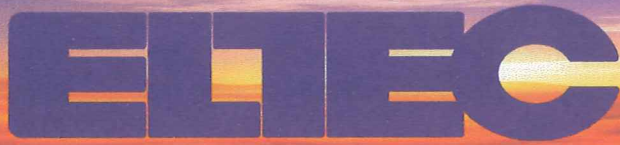
1. [Introduction](#)
2. [Getting started](#)
3. [Basic usage](#)
4. [Advanced usage](#)
5. [API reference](#)
6. [FAQ](#)
7. [Contributing](#)
8. [License](#)



1. ORIENT SOLAR PANEL TOWARDS SOUTHERN SKY FOR MAXIMUM SOLAR EXPOSURE
2. CONTROL CABINET HEIGHT MAY VARY.
3. SNAP LOCKS ARE PROVIDED, STANDARD 3/4" S/S BANDING IS RECOMMENDED
4. J-BOLTS NOT SHOWN

 TAPCO TRAFFIC & PARKING CONTROL CO., INC.										TITLE: DOUBLE SIDED RRFB SOLAR POLE ARRANGEMENT									
TOLERANCE UNLESS OTHERWISE SPECIFIED HOLE Ø ±.003 INCH DEC. ±.0162 ±.0100 X ±.0381 ±.0018 XX ±.0076 ±.0015 XXX ±.0017 ±.0005 ANGULAR ±.05°										INTERPRET GEOMETRIC TOLERANCES PER: ASME Y14.5-2009 REFERENCE:									
MATERIAL: VARED FINISH: VARED										STORAGE SIZE:									
SIZE: NO. 2TE-444										REV: A									
DESIGNED BY:										WEIGHT:									
DRAWN BY: A. KAVANUGH										SCALE: 1/4"									
CHECKED BY: J. FAHRENKOPF										SHEET 1 OF 8									
PROPRIETARY AND CONFIDENTIAL. THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF TAPCO. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF TAPCO IS PROHIBITED.																			

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PEDESTRIAN HYBRID BEACON

HAWK (Solar Powered High-Intensity Activated CrossWalk)

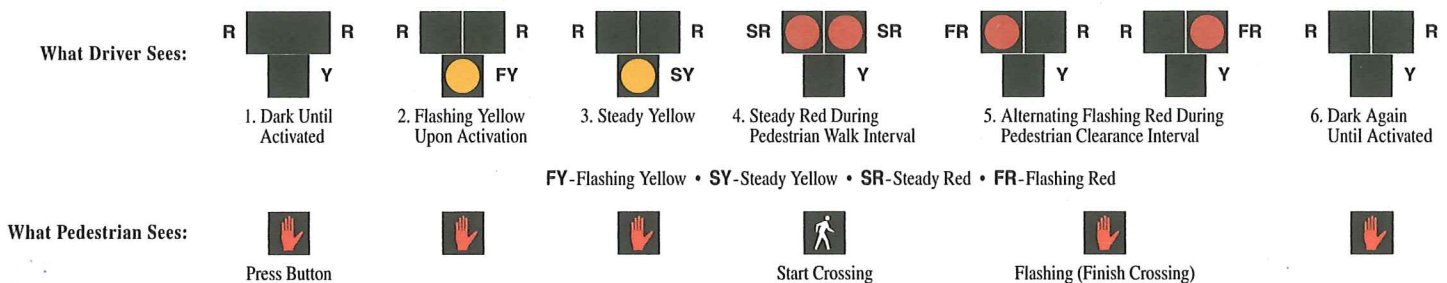
ELTEC's innovative, state-of-the-art Mikros EIC provides a low-powered DC controller solution for solar powered hybrid beacon systems.

When a traffic signal is not justified under MUTCD signal warrants or a decision is made not to install a traffic control signal, a pedestrian hybrid beacon should be considered to facilitate pedestrian crossings. The HAWK is a special type of hybrid beacon used to warn and control traffic at marked, unsignalized crosswalks to assist pedestrians crossing a street or highway.

The MUTCD standards (Chapter 4F 2009 Edition) require:

- Two Beacon Faces for Each Approach (minimum requirement)
- Pedestrian Signal Head (WALK/DON'T WALK) at Each End of Crosswalk (countdown timer optional)
- System/Crossing Pedestrian Activated

Flash Sequence for a Pedestrian Hybrid Beacon



FEATURES and BENEFITS

Solar Powered

- Efficient MPPT Charge Controller
- Customized Solar Sizing: Ensures Sufficient Power in Winter Months
- Eliminates Electric Utility Connection and Service
- Eliminates Power Interruptions
- Virtually No Maintenance or Operational Costs

Low Voltage, Low Wattage Signal Heads

- 4 Watt Signal LEDs
- DC Pedestrian Head with Countdown Timer
- 3.6 Watt Pedestrian Signal
- 3.6 Watt Timer
- Automatic Night Dimming

Flexible System: Tailored for Project Requirements

- Pedestrian Push Button: Brand Flexibility
- Available in AC or Solar Powered

Meets MUTCD Standards

- MUTCD Expands Standards Allowing HAWK Crosswalk System
- Increased Public Safety

State-of-the-Art Controller with Conflict Monitor

- Efficient, Low-Power DC Controller (less than 2 watts)
- Simple User Interface for Status and Programming
- Wireless Communication (can be hard-wired) Military Quality Radio Trenching and Boring Not Required
- Continuous Conflict Monitor Communication Failure Signal Outputs: Current Monitor Absence of Signal Conflict Signals Low Battery Voltage Fail Mode Stays On Until Conflict Resolved
- Small Footprint: Controller and Batteries Can Fit in Most Existing Cabinets
- Adjustable Cycle Timing
- Pre-Emption
- Coordination
- Meets and Exceeds NEMA TS5 2012 Standards

25 Month System Warranty

VILLAGE OF ALLOUEZ

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Department of Public Works

UPDATE OF ALLOUEZ STORMWATER ORDINANCES

The Allouez stormwater ordinances No. 52 Construction Site Erosion Control and No. 53 Post-Construction Stormwater Management are in the process of being updated to comply with recent changes to the WDNR administrative codes (NR 151).

Update of the Allouez stormwater ordinances is required by the village WPDES permit, and must be completed this summer.

The updates and changes to the codes are summarized as follows.

No. 52 Construction Site Erosion Control Ordinance

Proposed changes include:

1. Revising the suspended solids removal requirement to 5 tons TSS/acre/year for construction sites. The WDNR revised the discharge requirement from a percent removal to the tons per acre limit.
2. Adding additional requirements; such as soil piles must be protected from erosion by using a silt fence around the pile, and controlling cement truck washouts to prevent discharge to a storm sewer. These are minor items but are now specifically identified and required by the WDNR. This is to make the ordinance more comprehensive and easier to use.
3. Adding a provision for the Maximum Extent Possible so when the 5 ton rule cannot be met there is an option for less treatment. This will be an advantage to commercial development as it provides a compliance option when treatment options cannot meet the actual numerical limits.
4. Adds a minor permit provision which will apply to single and two-family homes. The building inspector will administer these permits. This is to codify the current practice and eliminate confusion regarding single family home erosion control.
5. An erosion control permit is added for parking lot repaving/replacement for parking lots greater than 4,000 square feet area. Usually parking lot projects include erosion control but this is to ensure all projects comply. This clears up the a question that existed.

These are all minimal changes to the existing ordinance.

No. 53 Post-Construction Stormwater Management

Changes include:

1. The Fox and East River Total Mass Daily Load (TMDL) treatment requirements are now incorporated into the ordinance. This will help the village comply with the future TMDL requirements and makes it easier for developers to know what treatment requirements must be met on a project.
2. Requirements that apply to redevelopment projects are clarified. This has been a somewhat confusing issue in some municipalities.
3. Construction sites less than 20,000 square feet disturbed area must comply with the ordinance using the treatment methods in the technical guide, but no numeric limits are assigned to these projects. This is an advantage for small projects.
4. The ordinance adds the variance for treatment to the "maximum extent possible" (MEP) so that there is an option for a development that cannot meet the ordinance treatment requirements.
5. WDNR requires that infiltration be incorporated into projects and this is now included in the ordinance when feasible. This might not be much use in the village due to clay soils.
6. The fee-in-lieu-of policy is clarified. A development may purchase treatment capacity from the village under certain conditions.

Including the TMDL requirements is important and may actually benefit the village in reducing some treatment requirements. The MEP option is also an advantage.

PUBLIC WORKS DEPARTMENT

Brown County

2198 GLENDALE AVENUE
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PHONE (920) 492-4925 FAX (920) 434-4576
EMAIL: bc_highway@co.brown.wi.us

PAUL A. FONTECCHIO, P.E.
DIRECTOR

TO: Brown County Municipalities
FROM: Paul Fontecchio, P.E.
DATE: July 6, 2016
RE: Proposed County Ordinance 6.14

Attached with this memo is an updated copy of the information provided to the Planning, Development, and Transportation (PD&T) committee on June 27, 2016. Brown County Public Works initiated a policy discussion with the PD&T committee regarding the cost sharing of highway improvement projects in urban areas using state statute as the basis for setting Brown County policy.

At the June meeting, the PD&T committee asked staff to solicit comments from the municipalities within Brown County and invite municipal representatives to the next PD&T committee meeting for an opportunity to comment on the proposed ordinance. The next PD&T meeting is scheduled for July 25, 2016 at 6:15 pm at the UW Extension Building (1150 Bellevue Street).

As is discussed in the enclosed memo, state statute specifically addresses improvements in cities under Section 83.05. The policy decision being brought to PD&T is in regards to applying those requirements to urban or proposed urban areas within villages and towns.

Please feel free to email me any comments you may have prior to the PD&T meeting in July or call me anytime to discuss at (920) 662-2170.

Sincerely,



Paul Fontecchio, P.E.
Public Works Director

Copy: PD&T Committee

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Phone No.: (920) 448-2800 • Fax No.: (920) 448-2850

Department of Public Works

PROPOSED BROWN COUNTY HIGHWAY ORDINANCE 6.14

This memo discusses the proposed County Ordinance 6.14 memo dated June 27, 2016.

Wis. Stat. 83.05, on which the June 27th memo is based, is very general and should be reviewed by village legal counsel to ascertain whether the county interpretation is in fact correct. Some of these county interpretations are noted in this memo.

General Comments on Wis. Stat. 83.05

The most important item in this code revision is that more authority is given to municipalities to decide roadway improvements for county roads located within the municipality, which authority municipalities did not have in the past, and also gives the municipality the responsibility for the construction. These are advantages for municipalities.

Key items include:

1. The county must pay for the roadway improvements for the pavement itself based on a road width of 18-22 feet. These improvements are not defined in the code, so the county must decide the extent to which it will pay. This is likely to be based on a detailed workscope and either a cost estimate or the bid cost of the project.
2. The municipality is given the authority to “supervise” the construction, but the county must also “inspect” the construction (assumed only as a basis of authorizing its payments to the contractor).
3. The municipality is given the authority to decide on the extent and design of the roadway improvements. The county must approve the design.
4. The code implies that the municipality has authority to contract for the design of the roadway improvements.
5. The municipal utilities will continue to be under authority of the municipality and are a cost to the municipality. However, the storm sewer that supports the roadway is a gray area of cost sharing including maintenance.
6. Construction of the road is under the jurisdiction of the municipality rather than previously under the county. This should improve the quality of the construction because road contractors can be used for construction rather than county forces.

Key Issues with the County Memo Page 3 Maintenance Items

In general, the maintenance requirements of the county on a county road within a municipality remain the same as in the past (snowplowing, sweeping, patching, crack sealing, etc).

Wis. Stat. 83.025(2) is referenced as the key definition of the county’s maintenance requirements. However, 83.025 only states that the county is responsible for maintenance no

greater than “those portions of such system outside the village”. The June 27th memo lists numerous criteria, but these appear to be county “policy” not criteria from 83.025.

Key items;

1. Storm sewer construction and maintenance will need to be defined further. Storm sewers are needed for drainage of roadways so the county should share in this construction cost but is not defined in the county memo. For DOT projects there is a cost-share, and for the Hoffman Road project the storm sewer costs were shared on a 50/50 basis.
2. Stormwater treatment is left to the municipality to handle, but a county road also needs stormwater treatment so this is an item to address in any road construction project agreement.
3. County bridges are not discussed in this but should be covered in the code.
4. Responsibility for design of these roads should be defined.

Summary

1. The proposed 6.14 code revision gives considerable more authority to the village for construction of county roads within the village. This is an advantage for the village.
2. The county is charged with determining its cost share for joint municipal/county road projects and is defined in Wis. Stat. 83.05 as a cost per foot of road. The village should negotiate a cost agreement with the county for future projects that includes design, construction and stormwater costs. This should be addressed in 6.14 as a cost-share option.
3. The responsibility for design of the roadway should be defined in 6.14, and should be a municipality responsibility with the option of delegating to the county.
4. The construction of storm sewers is both a function of the road and of the municipal MS4. Therefore, the proposed 6.14 ordinance should include cost-sharing of storm sewer construction as has been the policy in the past. This would be consistent with WisDOT policy as well.
5. If cost-sharing of storm sewer costs and design costs is included in 6.14 the cost of the Hoffman Road project today would be similar to the past project cost.
6. Based on the interpretation of 83.05 in the county memo of June 27th, Webster Avenue will be a village project with county cost sharing. Again, the storm sewer construction cost sharing is an important consideration in this project.

C. Berndt, July 5, 2016

Brown County

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PAUL A. FONTECCHIO, P.E.
DIRECTOR

TO: PD&T Committee
FROM: Paul Fontecchio, P.E.
DATE: June 27, 2016
RE: Proposed County Ordinance 6.14

Brown County Public Works is proposing this addition to County code to formalize our municipal maintenance and improvement policy based on Wisconsin state statutes. The proposed ordinance addition is as follows:

6.14 County Trunk Highway Maintenance and Improvements. The Public Works Department shall maintain the county trunk system in accordance with section 83.025(2) of the Wisconsin statutes. The Public Works Department shall improve the county trunk system in accordance with section 83.05 of the Wisconsin statutes. Section 83.05 (1) and (2) shall apply to villages and towns (towns shall be only for urban or proposed urban areas). Villages and Towns shall improve the street in the manner provided generally for making street improvements; or as mutually agreed upon by the municipality and Highway Commissioner, the Public Works Department may either perform the work in whole or in part or let the contract for construction.

Attachment #1 has section 83.025 and 83.05 of the Wisconsin statutes for your reference.

Definition of Terms:

Per the attached article (Attachment #2) from von Briesen law firm:

- **Improvement:** "An improvement of a county highway is defined by Wis. Stat. §84.01(9)(b) to include 'construction, reconstruction and the processes incidental to building, fabricating or bettering a highway, but not maintenance.'"
- **Maintenance:** "The DOT defines maintenance of a county highway to include 'all those measures and activities necessary to preserve a highway, as nearly as possible, in the condition of its construction. Maintenance generally involves no change in horizontal alignment, roadway widths or grade.'"

Background:

Based on past practice, Brown County has utilized a project based municipal agreement (Attachment #3) when an "improvement" project is to be performed in cities, villages, and in urban areas of towns. The costs for most items were shared 50/50 between the municipality and the county with the county administering the project from design through construction. To our knowledge this municipal agreement has never been formally adopted by the County Board.

After receiving training from von Briesen in early May 2016, it came to our attention that we are not following Wis. Stat. §83.05, especially with the cities in regards to improvement projects. This section of state law specifically says that cities determine the roadway width, type of improvement, and all other features of construction. It also states that "Unless specifically authorized by the county, the payment by the county shall not exceed the cost of 22 feet of the width of the pavement, as well as a portion of the costs of grading, draining, and appertaining structures." Without county board approval, we cannot cost share 50/50 with a city at this time.

Lastly, there has been some confusion by some municipalities as to who 'owns' the storm sewer (and other features) along a county highway within city or village limits. While it is very clear Wisconsin statute, the 50/50 cost sharing for a roadway improvement project has confused some municipalities. By following state statute in the future we hope the confusion will be abated.

State Law:

Sections 83.05 and 83.025 of the Wisconsin statutes define the responsibilities of the county regards to county highway improvements and maintenance.

Improvements should be made to the county highways per section 83.05 of the Wisconsin statutes and will typically follow these steps:

1. County and Municipality agree to improve a section of county highway within the municipal limits (funds are approved from both the municipality and county for the project).
2. Municipality determines the roadway width.
3. Municipality determines the type of improvement (typical section, pavement type, roundabout versus signals, etc.)
4. Municipality determines all other features of the construction (curb and gutter type, sewer, etc.) All features of construction are subject to the approval of the county highway commissioner.
5. Municipality determines if any acquisition of land is required as a result of the design (municipality prepares the right-of-way plat), and pays for the cost of the right-of-way acquisition (since the amount of land to be acquired is determined by the municipality a function of their design of the roadway). The County acquires the land per section 83.07 and 83.08 of the Wisconsin statutes.
6. County highway commissioner fixes the amount per linear foot of the improvement to be paid by the county (unless specifically authorized by the county, cannot exceed 22 feet of the width of the pavement as well as a portion of the costs of grading, draining, and appertaining structures).
7. Municipality pays for the balance of the expense of the improvement.
8. Municipality improves the street in the manner provided generally for making street improvements (follows the Municipality's process – typically bidding out the work).
9. Municipality supervises the construction work, but is subject to the inspection of the county highway commissioner.
10. Upon completion of the work, the county's share of the cost shall be paid to the contractor as though the county had been an immediate party to the contract.

11. Assessments of benefits may be made by the municipality against abutting properties per the municipality's ordinances, not to exceed the difference between the cost of the improvement and the amount contributed by the county.

Per Wis. Stat. §83.05(3), if the proposed County ordinance is approved, these steps shall apply to villages and towns (in urban areas only for towns).

Section 83.025 of the Wisconsin Statutes governs the maintenance of county highways, specifically:

- 83.025(2) Width of highway maintained by the County includes every way open to the use of the public as a matter of right for the purposes of vehicular travel, including the shoulder. In an urban area this would include the curb and gutter.
- 83.025(2) Maintenance of a county highway through a municipality includes those measures and activities necessary to preserve the highway, as nearly as possible, in the condition of its construction including:
 - Pavement marking
 - Signing
 - Crack sealing
 - Asphalt patching
 - Concrete pavement repair
 - Asphalt resurfacing
 - Curb and gutter repair
 - Storm sewer manhole and inlet casting/pavement (emergency repairs only)
 - Street sweeping (performed for roadway maintenance purposes)
 - Application of protective coatings (bridges)
 - Guard rail
 - Removal, treatment and sanding/salting of ice
 - Removal and control of snow
 - Interim repair of highway surfaces and adjacent structures
 - Center median mowing (performed only for visibility purposes)
 - Traffic signal operation

Items that are placed at the discretion of the municipality are the responsibility of the municipality to maintain, including:

- Street lighting
- Sidewalks
- Pavement marking associated with sidewalks (crosswalks)
- Off street bike paths
- Sanitary sewer
- Storm sewer
- Water mains
- Other municipal utilities
- Mowing behind the curb line (terrace area)
- Center median mowing (performed for aesthetic purposes)
- Snow and ice removal on sidewalks and/or bike paths
- Roundabout center island landscaping
- Storm water devices (ponds, swales, etc.)

- Street sweeping (performed for total suspended solids removal purposes)
- Trees, shrubs, and other landscaping behind the curb line (in terrace area)

Neither of these maintenance lists is intended to be 'all inclusive', but, rather to demonstrate measures and activities necessary to preserving a highway defined as that portion of the roadway open to the public as a matter of right for the purposes of vehicular travel, including the shoulder and/or curb and gutter.

Impacts:

Some of the impacts if Section 6.14 of the Brown County ordinance language is adopted:

- Brown County Public Works will have an adopted County ordinance that follows state statutes.
- Municipalities will have more control over the roadways within their respective boundaries as they will be able to "determine the type of improvement, the width, and all other features of the construction".
- Municipalities will be able to "improve the street in the manner provided generally for making street improvements" – that is they can bid out the work per their municipal process, or the County can perform the work in whole or in part as mutually agreed upon with the Municipality.
- Municipalities will be in more control of urbanizing roadways according to their economic development plans in terms of when a roadway project is completed. This should strengthen economic development opportunities. Recently, we have seen a number of instances where municipalities working with large business developments want the surrounding infrastructure improved with the business development. The proposed addition to the County ordinance would make it easier for municipalities to coordinate roadway improvements with business development.
- Municipalities and Brown County will be able to better work together regarding improvement projects with a clearly defined procedure based on state statutes. Often the County is in the position of just building the bare necessities for a roadway to minimize overall costs, and a municipality is wanting more included to the project scope for future development purposes.
- Municipalities will be able to better schedule and budget for improvements. Currently, Brown County is relying on state transportation aid for the larger urbanization projects the municipalities want to have done – CTH C in Howard, CTH XX in Bellevue, and CTH HS in Suamico are current examples. These projects may not be done as soon as the municipality would like due to funding constraints at the County.
- Municipalities would pay more than the current 50/50 cost share arrangement of the past. If the county were to set the rate this year, we would base the rate on a typical county reconditioning project not exceeding 22' of asphalt per Wis. Stat. §83.05. The budgeting/estimating cost for 2016 is \$360,000 per mile or \$68 per linear foot. Therefore, for 2016 the amount per linear foot the county would participate towards the cost of an improvement project in a city, village, or urban area of a town would be \$68

per foot. For cities this is the state law we will need to follow even if no action is taken by the County Board regarding the proposed ordinance change.

- Municipalities will be able to utilize tax increment funding, state transportation aid, and assessments to help fund these projects as they see fit. Municipalities have more ways to pay for the large urban construction or reconstruction projects than the County. Assessments of benefits may be made by the municipality not to exceed the difference between the cost of the improvement and the amount contributed by the county.
- Municipalities within the Brown County MS4 (municipal separate storm sewer system) will need to be responsible for the requirements for the urban areas within their municipality.
- Currently, all taxpayers in the County are paying for a large urban reconstruction project in one municipality. With the proposed County ordinance, the costs for the large urban improvements are shifted to the municipality's taxpayers where their elected representatives can best decide what roadways to improve, when to improve them, and what features they want. This is especially important since the local taxpayers are likely the ones that will end up paying assessments to the municipality for the project.

Recommendation:

Brown County Public Works is proposing this addition to County code to formalize our municipal maintenance and improvement policy based on Wisconsin state statutes.

6.14 County Trunk Highway Maintenance and Improvements. The Public Works Department shall maintain the county trunk system in accordance with section 83.025(2) of the Wisconsin statutes. The Public Works Department shall improve the county trunk system in accordance with section 83.05 of the Wisconsin statutes. Section 83.05 (1) and (2) shall apply to villages and towns (towns shall be only for urban or proposed urban areas). Villages and Towns shall improve the street in the manner provided generally for making street improvements; or as mutually agreed upon by the municipality and Highway Commissioner, the Public Works Department may either perform the work in whole or in part or let the contract for construction.

Section 83.05 of the Wisconsin Statutes specifically applies to cities, unless Section 83.05(3) is approved by the county board, so it is included in the proposed Brown County ordinance language. In Brown County, the cities, villages, and urban areas of towns all function similarly and should all follow the same rules for improvements. If adopted, Brown County Public Works will have an improvement and maintenance policy that follows state statute and gives more local control to the more urbanized municipalities in the County.

Based on the County's current 6-year plan this is a good time to approve this ordinance since most of our scheduled projects are not impacted in terms of cost sharing arrangements. Any municipal agreements currently in place will be honored by the County and the ordinance would be applied to projects without a currently signed municipal agreement moving forward.

Attachment #1

83.025 County trunk highways. (2) The county trunk system shall be marked and maintained by the county. No county shall be responsible for the construction and maintenance of a city or village street on the county trunk highway system to a greater width than are those portions of such system outside the village or city and connecting with such street. When a portion of a county trunk highway extending from one county to another has less mileage than is practical for a patrol section, such portion shall be patrolled by the county in which the major portion of the highway lies, and each county shall bear its proportionate share of the expense of maintenance, payable monthly. The marking and signing of the county trunk highway systems shall be uniform throughout the state, as prescribed by the department.

Note: Per Wis. Stat. §83.015(2)(b), the county highway commissioner shall have the administrative powers and duties prescribed for the county highway committee under 83.05(1).

83.05 Improving streets over 18 feet wide. (1) When a portion of the system of county aid highways in any city is to be improved, and the funds from the city and county are available therefor, the city may determine that the roadways shall be paved to a greater width than 18 feet. If it so decides, the city may determine the type of improvement, the width, and all other features of the construction, subject to the approval of the county highway committee. And said committee shall fix the amount per linear foot of the improvement to be paid by the county. The city shall then improve the street in the manner provided generally for making street improvements. The work shall be done under the supervision of the city, but subject to the inspection of the county highway commissioner.

(2) Upon the completion of the work the county's share of the cost shall be paid to the contractor as though the county had been an immediate party to the contract. Unless specifically authorized by the county, the payment by the county shall not exceed the cost of 22 feet of the width of the pavement, as well as a portion of the costs of grading, draining, and appertaining structures. The balance of the expense of the improvement shall be borne by the city, and shall be provided in the manner in which expense of street improvement is ordinarily met. Assessments of benefits may be made by the city against abutting property in the manner provided where the improvement is done solely at the expense of the city, but such assessments of benefits shall not exceed the difference between the cost of the improvement and the amount contributed thereto by the county.

(3) The provisions of subs. (1) and (2) shall apply to villages and towns subject to the approval of the county board.

Attachment #2

von Briesen

von Briesen & Roper, s.c. | Attorneys at Law

The Scope of Duty to Maintain and Improve County Highways Running Through Cities

Counties, cities and villages cooperate with one another in the provision of many services and, in some instances, with respect to the construction and maintenance of infrastructure. The purpose of this article is to identify a city and county's respective role as it relates to the maintenance and improvement of county highways that run through a municipality. Hopefully, the understanding of statutory responsibilities can assist in developing a long-term plan for counties and municipalities to work with one another in ensuring that our state's transportation infrastructure continues in good working order.

A. County Responsibility for Maintenance of Highways Running Through Cities

Section 83.025, Wis. Stat., governs the maintenance of county trunk highways. In short, sec. 83.025(2) requires the County to maintain a county highway that connects with a city street to the width of the highway outside the city as it connects with the street.¹

Section 83.025 does not define the "width" of the highway. The attorney general has interpreted sec. 83.025(2) to mean that a county is required to maintain the highway to its full width, which extends to the shoulders, ditches and other parts of the highway.² Similarly, in *Morris v. Juneau County*, 219 Wis. 2d 543, 579 N.W.2d 690 (1998), the Wisconsin Supreme Court concluded that the area adjacent to the paved portion of the highway, commonly known as the shoulder, is part of the highway as that term is used in Wis. Stat. § 81.15 (regarding damages caused by highway defects).

In interpreting the meaning of "highway" in sec. 81.15, the *Morris* Court looked to the definition of "highway" in Wis. Stat. § 340.01(22), which "includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel."³ The Court noted that the definition of highway in sec. 340.01(22) has been used by Wisconsin appellate courts on several occasions to interpret the meaning of "highway" in other chapters of the statutes. Thus, it is likely that the definition of highway in sec. 340.01(22) will be used by courts to interpret the meaning of "highway," and the width of the highway, in sec. 83.025.

Based upon the Attorney General's opinion, supported by the Supreme Court's analysis in *Morris*, the width of the highway that must be maintained by a county in sec. 83.025 includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel, including the shoulder.

B. County Responsibility for Improvements of Highways Running Through Cities.

1. Distinguishing Between Maintenance and Improvements.

The distinction between an activity classified as maintenance and an activity classified as an improvement is important when it comes to county highways that run through cities. A

county has much different responsibilities depending upon the classification. Section 83.025 governs a county's duty to maintain a county highway whereas Wis. Stat. § 83.05 governs improvements to county highways running through cities.

"Maintenance" of a county highway is not defined by sec. 83.025. However, the legislature has provided guidance on the meaning of "maintenance" of county highways, as opposed to "improvements" to county highways.

Pursuant to Wis. Stat. § 84.01(9)(b), the Wisconsin Department of Transportation (DOT) is charged with establishing rules providing uniform minimum design standards for the improvement of county trunk highways. An "improvement" of a county highway is defined by Wis. Stat. § 84.01(9)(b) to include "construction, reconstruction and the processes incidental to building, fabricating or bettering a highway, but not maintenance." In its rules for minimum design standards for improvements to county highways, the DOT defines "maintenance" of a county highway to include "all those measures and activities necessary to preserve a highway, as nearly as possible, in the condition of its construction. Maintenance generally involves no change in horizontal alignment, roadway widths or grade."⁴

As a rule of statutory construction, statutes relating to the same subject matter or having the same common purpose are construed together. Therefore, a court may construe the term "maintenance" of a county highway in Wis. Stat. § 83.025 by applying the same meaning of "maintenance" of county highways in Wis. Stat. § 84.01(9)(b) and DOT rules. Based upon this rule of construction, a county's duty under Wis. Stat. § 83.025 to maintain a county highway that runs through a city includes those measures and activities necessary to preserve the highway, as nearly as possible, in the condition of its construction. Presumably, "maintenance" would include such activities as crack sealing and plowing snow off the highway.

2. *County Responsibilities When Performing Improvements Under Wis. Stat. § 83.05*

If the county is performing improvements to a county highway running through a city, Wis. Stat. § 83.05 governs the county's responsibilities. Under Wis. Stat. § 83.05, when a portion of a county highway that runs through a city is to be improved, the city may determine that the roadways⁵ of the highway (the part used for vehicular traffic) should be paved to a greater width than 18 feet if funds from the city and county are available therefor.⁶ If a city so decides, the city may determine the type of improvement, the width, and all other features of the construction, subject to the approval of the county highway committee.⁷ The county highway committee must fix the amount per linear foot of the improvement to be paid by the county which, unless specifically authorized by the county, cannot exceed 22 feet of the width of the pavement, as well as a portion of the costs of grading, draining, and appertaining structures.⁸ The balance of the expense of the improvement is borne by the city and may be assessed against abutting property owners.⁹

Section 83.05 is silent on the particular improvements to be performed by the county other than paving the roadway of the highway. There is nothing in Wis. Stat. § 83.05 that requires the county to perform street improvements such as constructing curbs, gutters or

sidewalks.¹⁰ Rather, Wis. Stat. § 83.05 contemplates that the city will make street improvements in the manner provided generally for making street improvements.¹¹

The county's role under Wis. Stat. § 83.05 regarding street improvements is to inspect the work and pay any cost share approved by the county highway committee.¹² If there are water, gas, or heat mains or sewers that have been laid on the street to be improved, the city council must require water, heat, sewer and gas service pipes to be first laid in such street, at the cost of the property fronting therein.¹³ Such work may be done by contract or by the city directly without the intervention of a contractor, under the supervision of the board of public works, or in the case of service pipes of a municipal owned utility under the supervision of the board or officers charged with the management of such utility.¹⁴

Section 83.05 does not require a county to pay any particular amount for street improvements. The county highway committee, in its discretion, may determine how much the county will pay per linear foot of improvements, except that the amount cannot exceed the cost of 22 feet of the width of the pavement without specific authorization from the county, as well as a portion of the costs of grading, draining, and appertaining structures.¹⁵

Conclusion

A county's duty under Wis. Stat. § 83.025 to maintain county highways running through cities includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel, including the shoulder. When making improvements to county highways running through cities, Wis. Stat. § 83.05 allows a city to have the roadways of the county highway paved to a greater width than 18 feet and allows the city to make additional street improvements subject to approval by the county highway committee. In that situation, the county can choose to cost-share in the improvements. However, once the improvements are made, the county is not required to maintain the county highway to a greater width than the width of the county highway as it connects with the city street.¹⁶

Although a county has a limited oversight and cost sharing role when a city determines to improve city streets in conjunction with county highway improvements, a county and city should cooperatively discuss improvement projects and work collaboratively on the improvements in an effort to achieve efficiencies in the highway improvement process.

¹ Wis. Stat. § 83.025(2) states in relevant part:

The county trunk system shall be marked and maintained by the county. No county shall be responsible for the construction and maintenance of a city or village street on the county trunk highway system to a greater width than are those portions of such system outside the village or city and connecting with such street. ...

² See 44 OAG 97 (1955).

³ *Id.*, 219 Wis. 2d. 543, ¶ 29 quoting Wis. Stat. § 340.01(22).

⁴ Wis. Admin. Code § Trans 205.01(1).

⁵ Although "roadways" is not defined in sec. 83.05, the Court in *Morris, supra*, found that "roadways" generally means "that portion of a highway between the regularly established curb lines or that portion which is improved,

designed or ordinarily used for vehicular travel, excluding the berm or shoulder." See Morris, 219 Wis. 2d at 560 citing Wis. Stat. § 340.01(54).

⁶ Wis. Stat. § 83.05 states:

83.05 Improving streets over 18 feet wide.

(1) When a portion of the system of county aid highways in any city is to be improved, and the funds from the city and county are available therefor, the city may determine that the roadways shall be paved to a greater width than 18 feet. If it so decides, the city may determine the type of improvement, the width, and all other features of the construction, subject to the approval of the county highway committee. And said committee shall fix the amount per linear foot of the improvement to be paid by the county. The city shall then improve the street in the manner provided generally for making street improvements. The work shall be done under the supervision of the city, but subject to the inspection of the county highway commissioner.

(2) Upon the completion of the work the county's share of the cost shall be paid to the contractor as though the county had been an immediate party to the contract. Unless specifically authorized by the county, the payment by the county shall not exceed the cost of 22 feet of the width of the pavement, as well as a portion of the costs of grading, draining, and appertaining structures. The balance of the expense of the improvement shall be borne by the city, and shall be provided in the manner in which expense of street improvement is ordinarily met. Assessments of benefits may be made by the city against abutting property in the manner provided where the improvement is done solely at the expense of the city, but such assessments of benefits shall not exceed the difference between the cost of the improvement and the amount contributed thereto by the county.

(3) The provisions of subs. (1) and (2) shall apply to villages and towns subject to the approval of the county board.

⁷ See Wis. Stat. § 83.05(1).

⁸ Wis. Stat. § 83.05(1) and (2).

⁹ Wis. Stat. § 83.05(2).

¹⁰ See *id.*; see also Wis. Stat. § 83.03(1) ("The county board *may* construct or improve or repair or aid in constructing or improving or repairing any highway or bridge in the county.") (Emphasis added).

¹¹ See Wis. Stat. § 83.05(1) ("The city shall then improve the street in the manner provided generally for making street improvements.")

¹² *Id.*

¹³ See Wis. Stat. § 62.16(2)(a).

¹⁴ *Id.*

¹⁵ See Wis. Stat. § 83.05(1) and (2).

¹⁶ See Wis. Stat. § 83.025

(4), 84.01 (5), 84.06 (3), 84.07 (1) and (2), 84.09 (1), (3) (a) to (c) and (4), 84.10 (1), 86.04 (1) and (2), 86.07 (2) (a), 86.19 (3), 86.34 (1m), 114.33 (5), 349.07 (2), 349.11 (4) and (10) and 349.15 (2). No statutory power, duty or function specified elsewhere for the county highway commissioner may be deemed impliedly repealed for the sole reason that reference to it has been omitted in this paragraph.

(3) **COST ACCOUNTING SYSTEM.** (a) Each county board, except in counties of a population of 500,000 or over, shall provide for and require the county highway committee and county highway department to use the system of cost accounting devised by the department of revenue.

(b) Any variations, adjustments, corrections and revisions in the system shall be made annually so as to be effective on January 1 of each year following the proposed change.

(c) Any changes so proposed in order to become effective shall be mutually agreed upon by the department and a majority of the county highway departments of the state.

(d) The department may insist on the adoption of the uniform system in any county before entering into agreements with such county for the maintenance of state trunk highways.

History: 1971 c. 211 s. 124; 1977 c. 29 ss. 915, 1654 (8) (c); 1979 c. 110, 147; 1985 a. 29; 1985 a. 223 ss. 2, 5; 1987 a. 27; 1989 a. 56 s. 258; 1997 a. 27; 2003 a. 214; 2013 a. 20; 2015 a. 231.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

This section does not preclude county boards from auditing county highway committee vouchers prior to payment thereof from county funds. However, the board's audit authority is limited to determining whether the expenditure is within the scope of the committee's statutory or delegated authority. 63 Atty. Gen. 136.

83.016 Traffic patrol officers, appointment, duties, bond. (1) The county board, or one of its committees to which it may delegate such authority, may appoint traffic officers for the enforcement of laws relating to the highways or their use, or the maintenance of order upon or near the highways. Traffic officers may arrest without warrant any person who, in their presence, violates any law relating to highways or the maintenance of order upon or near highways. Any traffic officer, sheriff, constable or other police officer may make such arrest without warrant on the request of any other traffic officer, sheriff, constable or police officer in whose presence any such offense has been committed. The appointment of any traffic officer may be revoked at any time by the county board or one of its committees to which it may delegate such authority. No traffic officer shall receive or accept from or for any person he or she has arrested, any money or other thing of value, as or in lieu of bail or for the person's appearance before a court, or to cover or be applied to the payment of fines or costs, or as a condition of such person's release.

(2) Traffic officers, before exercising their powers, shall be provided with a badge by the county board or its designee which shall be worn when on duty.

(3) Traffic officers shall furnish bonds in a sum fixed by the county board to indemnify the county for any and all claims arising out of the performance of their duties. The cost of such bonds shall be paid by the county. In lieu of furnishing bonds, such officers may be included in a schedule or blanket bond under s. 19.07 (1) (b).

History: 1977 c. 29 s. 1654 (7) (b); 1977 c. 43, 203.

83.018 Road supplies; committee may sell to municipalities. The county highway committee is authorized to sell road building and maintenance supplies on open account to any city, village, town or school district within the county; and any such city, village, town or school district is authorized to purchase such supplies.

It is permissible for a county highway department to sell road sand or salt to municipalities, either for their own use or for resale, if, in good faith, county officials believe that the purchaser does not intend to resell the sand or salt for a private purpose. Generally, a county may not sell road maintenance supplies to a private party that intends to resell the supplies on the private market. OAG 2–01.

83.02 County aid highways. (1) The system of prospective state highways heretofore selected by the county boards and approved by the highway commission are hereby validated but without prejudice to the exercise of the power to change such systems. Such systems are hereby designated as the county aid highway system.

(2) The department, on the petition of at least 100 freeholders, may, after investigation, make such alterations in the system of county aid highways as it deems necessary to serve the public interest.

(3) The county board may alter such systems as provided in s. 83.025 (1).

History: 1977 c. 29 s. 1654 (8) (c); 1977 c. 418 s. 924 (48); 1985 a. 223 ss. 3, 5.

83.025 County trunk highways. (1) (a) The systems of county trunk highways heretofore selected by county boards and approved by the department are hereby validated. Changes may be made in the county trunk system by the county board as provided in this section. The county board in making the changes may order the county highway committee to lay out new highways and acquire the interests necessary by the procedures under s. 83.08. A county board may not make additions to a county trunk system from a city or village street or town road without the consent of the department and of the governing body of the city, village or town in which the proposed addition is located. A county board may not make deletions from a county trunk system without the approval of the department, and, except as provided in this paragraph and par. (d), without the approval of the governing body of the city, village or town in which the proposed deletion is located or, in the case of a proposed deletion affecting more than one city, village or town, without the approval of a majority of the governing bodies of such cities, villages or towns.

(b) The county board, or the county highway committee, shall, by conference with the boards or highway committees of adjoining counties, or otherwise, cause their respective county trunk systems to join so as to make continuous lines of travel between the counties. Any highway which is a part of the county trunk system shall, by virtue thereof, be a portion of the system of county aid highways.

(c) Any city or village street or portion thereof selected as a portion of the county trunk system prior to May 1, 1939, shall be a portion of the county trunk system. All streets or highways in any city or village over which is routed a county trunk highway or forming connections through the city or village between portions of the county trunk highway system shall be a part of the county trunk system unless the governing body of the city or village, by resolution, removes the street or highway from the system, but the removal shall apply only to that portion of any street or highway which is situated wholly within the city or village.

(d) In counties having a population of 500,000 or more the county board may remove from the county trunk highway system any part thereof which lies within an incorporated village or city, but the removal shall not be effected until one year after annexation proceeding affecting the area in question has become final.

(e) Whenever a county has completed a functional and jurisdictional classification of highways and the classification plan has been approved by the county board, the local governing bodies and the department, those roads and streets allocated to the county's jurisdiction will be known as county trunk highways. Additions and deletions from the county trunks under this paragraph in the various municipalities may be made as provided in pars. (a) and (d).

(2) The county trunk system shall be marked and maintained by the county. No county shall be responsible for the construction and maintenance of a city or village street on the county trunk highway system to a greater width than are those portions of such system outside the village or city and connecting with such street. When a portion of a county trunk highway extending from one

county to another has less mileage than is practical for a patrol section, such portion shall be patrolled by the county in which the major portion of the highway lies, and each county shall bear its proportionate share of the expense of maintenance, payable monthly. The marking and signing of the county trunk highway systems shall be uniform throughout the state, as prescribed by the department.

(3) The county highway committee, subject to the approval of the county board, may enter into agreements with the department as provided in s. 86.25 (2).

History: 1973 c. 160; 1977 c. 29 s. 1654 (8) (d); 1985 a. 223; 1993 a. 246.

Sub. (1), as amended by ch. 160, laws of 1973, does not require counties to develop a functional and jurisdictional classification of highways. Nor is a properly approved classification plan a prerequisite to a county board's exercise of its authority pursuant to sub. (1) to incorporate town roads into the county trunk highway system without prior approval of town boards. 63 Atty. Gen. 125.

83.026 Federal aid secondary highways. The county highway committee shall cooperate with the department in the selection of a system of federal aid secondary and feeder roads within the meaning of the Federal Aid Road Act approved July 11, 1916 (39 Stats. at L. 355), and all acts amendatory thereof and supplementary thereto. The county highway committee shall request and consider recommendations from the governing bodies of municipalities within the county as to eligible highways and streets within such municipalities to be selected as part of such system. The highways and streets selected by the committee to be a part of such system shall be subject to the approval of the county board.

History: 1977 c. 29 s. 1654 (8) (c); 1985 a. 223 s. 5.

83.027 Controlled-access highways. (1) **AUTHORITY OF COUNTY BOARD; PROCEDURE.** The legislature declares that the effective control of traffic entering upon or leaving intensively traveled highways is necessary in the interest of public safety, convenience and the general welfare. The county board may designate as controlled-access highways the portions of the county trunk system on which, after traffic engineering surveys, investigations and studies, it finds, determines and declares that the average traffic potential is in excess of 1,000 vehicles per 24-hour day, except such controlled-access designation shall not be effective in cities, villages and towns until the decision of the county board has been referred to and approved by the governing body of such city, village or town. Such designation of a portion of any county trunk highway in any county as a controlled-access highway shall not be effected until after a public hearing in the matter has been held in the county courthouse or other convenient public place within the county following notice by publication of a class 3 notice, under ch. 985. If the county board then finds that the average traffic potential is as provided by this subsection, and that the designation of the highway as a controlled-access highway is necessary in the interest of public safety, convenience and the general welfare, it shall make its finding, determination and declaration to that effect, specifying the character of the controls to be exercised. Copies of the finding, determination and declaration shall be recorded with the register of deeds, filed with the county clerk, and published in the newspaper in which the notice of hearing was published, and the order shall be effective on such publication. At the time of designating such controlled-access mileage, the total of such mileage in any county shall not exceed 35 percent of the county trunk mileage in such county on the preceding January 1 as published by the department.

(2) **CONTROLLED-ACCESS HIGHWAY DEFINED.** For the purposes of this section, a controlled-access highway is a highway on which the traffic is such that the county board has found, determined and declared it to be necessary, in the interest of the public safety, convenience and the general welfare to prohibit entrance upon and departure from the highway or street except at places specially designated and provided for such purposes, and to exercise special controls over traffic on such highway or street.

(3) **CONSTRUCTION; OTHER POWERS OF COUNTY BOARD.** In order to provide for the public safety, convenience and the general welfare, the county board may use an existing highway or provide new and additional facilities for a controlled-access highway and so design the same and its appurtenances, and so regulate, restrict or prohibit access to or departure from it as the county board deems necessary or desirable. The county board may eliminate intersections at grade of controlled-access highways with existing highways or streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such controlled-access highway and may divide and separate any controlled-access highway into separate roadways or lanes by raised curbs, dividing sections or other physical separations or by signs, markers, stripes or other suitable devices, and may execute any construction necessary in the development of a controlled-access highway including service roads or separation of grade structures.

(4) **CONNECTIONS WITH OTHER HIGHWAYS.** After the establishment of any controlled-access highway, no street or highway or private driveway, shall be opened into or connected with any controlled-access highway without the previous consent and approval of the county board, in writing, which shall be given only if the public interest shall be served thereby and shall specify the terms and conditions on which such consent and approval is given.

(5) **USE OF HIGHWAY.** No person shall have any right of entrance upon or departure from or travel across any controlled-access highway, or to or from abutting lands, except at places designated and provided for such purposes, and on such terms and conditions as may be specified from time to time by the county board.

(6) **ABUTTING OWNERS.** After the designation of a controlled-access highway, the owners or occupants of abutting lands shall have no right or easement of access, by reason of the fact that their property abuts on the controlled-access highway or for other reason, except only the controlled right of access and of light, air or view.

(7) **SPECIAL CROSSING PERMITS.** Whenever property held under one ownership is severed by a controlled-access highway, the county board may permit a crossing at a designated location, to be used solely for travel between the severed parcels, and such use shall cease if such parcels pass into separate ownership.

(8) **RIGHT-OF-WAY.** Any lands or other private or public property or interest in such property needed to carry out the purposes of this section may be acquired by the county board as provided in ss. 83.07 and 83.08.

(9) **COOPERATIVE AGREEMENTS.** To facilitate the purposes of this section, the county board and the governing bodies of a city, town or village are authorized to enter into agreements with each other or with the federal government respecting the financing, planning, establishment, improvement, maintenance, use, regulation or vacation of controlled-access highways or other public ways in their respective jurisdictions.

(10) **LOCAL SERVICE ROADS.** In connection with the development of any controlled-access highway, the county board and city, town or village highway authorities are authorized to plan, designate, establish, use, regulate, alter, improve, maintain or vacate local service roads and streets or to designate as local service roads and streets any existing roads or streets, and to exercise jurisdiction over local service roads in the same manner as is authorized over controlled-access highways under this section if, in their opinion, such local service roads or streets shall serve the necessary purposes.

(11) **COMMERCIAL ENTERPRISES.** No commercial enterprise shall be authorized or conducted within or on property acquired for or designated as a controlled-access highway.

(12) **UNLAWFUL USE OF HIGHWAY; PENALTIES.** It is unlawful for any person to drive any vehicle into or from a controlled-access

Craig Berndt

From: Dave Vaclavik <manager@cbcwa.com>
Sent: Tuesday, July 05, 2016 7:49 AM
To: (JenniferM@townoflawrence.org); agorall@villageofbellevue.org; Andy Tenor (atenor@ledgeviewwisconsin.com); billb@villageofbellevue.org; Bob Bartelt (Bobb@townoflawrence.org); Craig Berndt; Eric Rakers (erakers@mail.de-pere.org); Eric Zygarlicke (ezygarlicke@mail.de-pere.org); Geoff Farr; Glen Simonson (glens@villageofbellevue.org); Larry Delo - City of De Pere (ldelo@mail.de-pere.org); lpansier@ledgeviewwisconsin.com; Mark Pansier (mpansier@ledgeviewwisconsin.com); Randy Trembl (rtrembl@townoflawrence.org); Bob D. Trustee; Sarah Burdette (sburdette@ledgeviewwisconsin.com); Scott Thoresen (sthoresen@mail.de-pere.org)
Cc: Vicki Hellenbrand (Vicki.Hellenbrand@bakertilly.com); 'Melissa.Kempen@bakertilly.com'; 'Lawrie Kobza (lkobza@boardmanclark.com)'
Subject: Emailing - 2016-7-1_CBCWA (WI)_PR FIN.pdf
Attachments: 2016-7-1_CBCWA (WI)_PR FIN.pdf

Fitch has completed their review of our Bond Rating and we have maintained our AA- status. They were pleased by our cash reserve position. Our rating is tied closely to that of our member communities. Our total debt remains a concern however, this will diminish as we continue to make our scheduled payments.

Dave Vaclavik, Manager
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FITCH AFFIRMS CENTRAL BROWN COUNTY (WI) WATER AUTH'S WATER SYSTEM REVS AT 'AA-'; OUTLOOK STABLE

Fitch Ratings-Austin-01 July 2016: Fitch Ratings affirms its 'AA-' rating on the following bonds issued by the Central Brown County Water Authority, WI (CBCWA or the authority):

--Approximately \$105.7 million water system revenue refunding bonds, series 2014A.

The Rating Outlook is Stable.

SECURITY

The bonds are secured by net system revenues of the authority, which consist of payments made under water sales contracts from its six members' respective water systems (the charter members).

KEY RATING DRIVERS

SOLID MEMBER CREDIT QUALITY: The rating assigned by Fitch is primarily driven by the credit quality of the charter members' water systems. The largest of such members is the city of De Pere, which represents approximately 31% of CBCWA's water sales, while the next three largest members combine for approximately 59% of the authority's sales. De Pere is rated 'AA-/Stable'.

STEP-UP PROTECTION: If a member defaults on its payment obligation, the remaining members are obligated to make up any shortfall on a proportional basis, via funds available in their respective security fund accounts (held by CBCWA). However, Fitch believes practical limits as to the affordability of increased costs to the members limit the value of this provision to the rating.

STRONG RESERVE BALANCES: The authority's total liquidity in fiscal 2015 equated to a strong 1,500 days of cash available for operations. This is in excess of Fitch's 'AAA' median of 764 days.

SUBSTANTIAL DEBT BURDEN: CBCWA's debt burden is elevated by most metrics. For example, total debt-to-net plant assets is 110% versus Fitch's 'A' median of 67%. These metrics should improve over time due to the limited capital needs and the pace of amortization.

RATING SENSITIVITIES

CHANGES IN MEMBER CREDIT QUALITY: Any changes to the credit characteristics of CBCWA's largest members could impact the authority's credit quality.

CREDIT PROFILE

CBCWA's distribution system provides water on a wholesale basis to the charter members, which include the city of De Pere, the villages of Howard, Allouez, and Bellevue, and the towns of Lawrence and Ledgeview. The charter members service a combined total of approximately 28,000 water connections in and around the city of Green Bay, WI.

SOLID MEMBER CREDIT QUALITY

CBCWA's rating is based primarily on the credit quality of the largest charter members given the step-up requirements of the contract. In fiscal 2015, De Pere accounted for 31% of water sales, Howard accounted for 25%, while Allouez and Bellevue accounted for 17% each. Fitch only maintains a public rating on De Pere's water system; therefore we conduct an internal analysis of each of these other large members as part of our review of the authority. In its reviews, Fitch found each member to be of strong credit quality and, in general, performance has been sound since Fitch's last review in 2014.

WATER SALES CONTRACT

Under the contract between CBCWA and the charter members, CBCWA bills members for operations and maintenance (O&M) costs, fixed costs (including the payment of debt service and capital costs), and security fund deposits. An absolute and unconditional take-or-pay obligation in the water sales contracts requires members to pay debt service regardless of whether or not any water is delivered. Member retail systems make payments as an operating expense of their respective retail water system. As water sales fees charged to members are sized to include all O&M and debt service costs, the authority's annual debt service coverage typically approximates 1.0x (or 1.25x inclusive of amounts held in the coverage account, as allowed per bond covenants).

If a charter member cannot make its payment under the contract, CBCWA is obligated to draw monies from the defaulting charter member's security fund to cover the costs under the contract. Per the joint-and-several nature of the contract, if the draw from the defaulting member's security fund proves insufficient, CBCWA shall draw from the non-defaulting charter member's security fund, thereby providing a step-up obligation of the non-defaulting charter members. Each member's security fund is sized at a minimum of two months of allocable O&M and debt expenses.

LIQUIDITY PROVIDES ADDED STRENGTH

CBCWA maintains a significant level of unrestricted cash in addition to restricted monies in its renewal and replacement account, operations and maintenance reserve, and coverage account. In aggregate, these funds and accounts totaled \$10.5 million in fiscal 2015, or nearly 1,500 days of cash. Going forward, the authority's cash is expected to remain high, albeit at slightly lower levels.

PLENTIFUL SUPPLY PROVIDED BY MPU

Since completion of CBCWA's water distribution system in 2007, the charter members have received 100% of their water supplies from CBCWA pursuant to the water sales contracts. CBCWA is a wholesale water customer of Manitowoc Public Utilities (MPU), which draws water from Lake Michigan. MPU's current treatment capacity allocated to CBCWA is 20 million gallons per day (mgd), well above the combined charter members' average demands of approximately 6.7 mgd in 2015.

DEBT LEVELS HIGH, CAPITAL NEEDS MODEST

Given the borrowing related to the initial construction of CBCWA's distribution system, fixed costs are high and have resulted in significant increases to charter members' cost of service over the last several years. However, with completion of the distribution system, prospects for additional borrowing over the next five to 10 years are modest. Therefore, escalation in CBCWA's pass-through costs to charter members over the intermediate term should be limited absent declines in purchases.

HEALTHY UNDERLYING ECONOMY

Brown County's unemployment rates have historically been below state and national rates. In April 2016, the county recorded an unemployment rate of 3.8%, which was lower than the 4.3% and 4.7% recorded for the state and nation, respectively. The county's median household income levels are about on par with the state and nation.

For more information on De Pere, see Fitch's press release 'Fitch Affirms De Pere, WI's Water Utility Revs at 'AA-'; Outlook Stable', published in October 2015, which is available at www.fitchratings.com.

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Applicable Criteria

Revenue-Supported Rating Criteria (pub. 16 Jun 2014)
https://www.fitchratings.com/creditdesk/reports/report_frame.cfm?rpt_id=750012
U.S. Water and Sewer Revenue Bond Rating Criteria (pub. 03 Sep 2015)
https://www.fitchratings.com/creditdesk/reports/report_frame.cfm?rpt_id=869223

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