

CALUMET COUNTY HIGHWAY DEPARTMENT
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February 9, 2018

HIGHWAY COMMITTEE MEETING
AGENDA

DATE: Wednesday, February 14, 2018

TIME: 8:30 a.m.

PLACE: **Calumet County Courthouse, Room 015, 206 Court St. Chilton WI 53014**

1. Meeting Announcement and Posting.
2. Roll Call.
3. Pledge of Allegiance.
4. Approval of Agenda.
5. Approval of minutes of January 10, 2018 Highway Meeting.
6. Public Participation (if requested by the Committee Chair).
7. Report of Committee Members.
 - A. Reports of Official Meetings held in the Prior Month.
 - B. Upcoming Events.
8. Communications.
9. Items for Discussion and Action.
 - A. Review and Approve Updates to the Cost Sharing Policy. (Attachment 1)
 - B. Review/Approve Specification and Assign Dates Bids will be Due and Opened for the Purchase of One (1) New 2018 ½ Ton 4WD Crew Cab Pickup Truck.
 - C. Review/Approve Specification and Assign Dates Bids will be Due and Opened for the Purchase of One (1) New 2018 Tri-Axle Cab & Chassis.
 - D. Review/Approve Specification and Assign Dates Bids will be Due and Opened for the Purchase of One (1) New 2018 Tri-Axle Dump Body, Plow, Wing, Material Spreader with Spinner and Pre-Wetting System.
 - E. Review/Approve Specification and Assign Dates Bids will be Due and Opened at a Public Reading for the Purchase of 2018 Hot Mix Asphalt.
10. Report of Department.
 - A. Highway Commissioner Report.
 - B. NACE Conference.
11. Set next meeting date. Tentative Regular Meeting Scheduled for Wednesday, March 21, 2018 at 8:30 a.m.
12. Adjournment.

So as not to disturb the meeting, all cell phones must be placed on vibrate and all calls taken outside the meeting room.

Any person wishing to attend who, because of a disability, requires special accommodation should contact the Highway Commissioner's Office at 920-849-1434 at least 24 hours before the scheduled meeting time so appropriate arrangements can be made.

This is a public meeting. As such, all members or a majority of the members of the County Board may be in attendance. While the majority of the County Board members or the majority of any given County Board Committee may be present, only the above committee will take official action based on the agenda above.

Draft 1/11/18

COST SHARING OF JOINT PROJECTS WITH MUNICIPALITIES

Subject: Cost Sharing Of Joint Projects with Municipalities
Effective Date: May 11, 2016
Replaces: Urban County Trunk Highway Improvement Projects Local Cost Sharing Policy

The following is Calumet County's general policy for joint improvement (i.e. construction) projects on County Trunk Highways. It should be noted there will be no joint projects without prior County approval and funds budgeted by both units. Approval must be obtained for design and again for construction since separate budgets are involved. As part of the project review process, the County requests a copy of the municipality's up-to-date land use and transportation plans (if available). This policy does not relate to maintenance of roadways.

Engineering

The County will share one-half (1/2) the engineering costs, design and construction, in which the County participates; except with the maximum percentage for design and construction engineering costs as a percentage of actual total construction costs shall be 25% for road projects, 30% for bridge projects, and 35% for intersection/signal projects. Plans shall be approved by the County prior to letting and to any agreement for construction being signed.

Right-of-Way

The County shall obtain, gain ownership, and assume all costs associated with roadway right-of-way only for projects where multi-jurisdictional control of adjoining property exists. Any further right-of-way required for municipal amenities such as turn lanes into commercial areas or side roads, sidewalks, bicycle paths, additional lanes, or frontage roads shall be acquired by the municipality. The municipality shall acquire the needed right-of-way for the project if the municipality intends, through agreement with the County, to assume maintenance control of the County trunk after the improvement is completed.

Sidewalk/Trail

The County will not share in the costs of sidewalks/trails.

Curb & Gutter

The County will not share in the cost of curb and gutter construction. County may share in one-half (1/2) cost of curb and gutter construction when there is a jurisdictional transfer or federal funds have been awarded.

Driveway Aprons & Bicycle Paths

The County will not share in the costs of driveway aprons and bicycle paths.

Storm Sewers

The County will share in one-half (1/2) the costs of installation and repair of all storm water facilities necessary to drain the roadway. The municipality may choose to relocate or enlarge the sewer system at the time the project is undertaken. The County's share would be limited to one-half (½) share of the existing facilities.

Sanitary Sewers and Water Mains

The County will not share in the costs of adjusting, relocating, repairing, placing or replacing any sanitary sewer or water main, or appurtenances within or adjacent to the improvement project.

Bridges

The County will pay one-half (1/2) of the local share of a bridge aid project.

Traffic Signals and Signing

The County will assume the costs of all enforceable signing, with the exception of parking, restrictive parking, and school signs, for which the County will not share costs. The County will assume one-half (1/2) of all costs involved in traffic signal installations, and will enter into contracts for their maintenance as long as signals are warranted per accepted engineering standards.

Roadway Pavement, Grading and Base

The county will share in one-half (1/2) of the costs associated with a total street reconstruction. This includes the removal of the pavement and the replacement of new subgrade material. Any costs associated with an overlay or mill and pave project within the standard travel lanes will be the sole responsibility of the county. The parking lanes are the sole responsibility of the local municipality. Street and bridge width in excess of standards. The County will share in one-half (1/2) the costs associated with the pavement, grading and base.

Landscaping

The County will share in one-half (1/2) the costs of general landscaping (seeding and sodding) within the right-of-way. Sodding costs assumed by the County will be limited to areas where it is intended to control erosion, or it is the only viable alternative for right-of-way restoration (areas where seed mulch won't suffice). Major plantings as requested by the municipality shall be at their expense.

Pavement Marking

The County will share in one-half (1/2) the costs of all center line or lane markings. The municipality shall be responsible for the costs of maintenance and repair of the pedestrian markings.

Jurisdictional Transfers

The County shall consider a jurisdictional transfer where a roadway segment is improved to urban standards entirely within one municipality or where multi-jurisdictions can agree to maintain the segment. The County may determine not to participate in the project if a jurisdictional transfer cannot be achieved.

Prior to actual commencement or construction and after the project funds have been appropriated, formal contracts will be entered into by the County and municipalities, which will note all cost sharing items and the financial commitments of all parties for the joint improvement projects.

This revised policy will replace the April 14, 2010 Urban County Trunk Highway Improvement Projects Local Cost Sharing Policy. Revised and Adopted June 21, 2016.

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The Scope of Duty to Maintain & Improve County Highways Running through Cities

—Andrew T. Phillips, WCA General Counsel, von Briesen & Roper, s.c.



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.

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.

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.

County Responsibility for Improvements of Highways Running Through Cities.

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 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 (WisDOT) 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, WisDOT 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 WisDOT 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.

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

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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.

Endnotes

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



The "I'll Just Have One More" Martini

- 3 oz. gin or vodka
- 1/2 oz. dry vermouth
- 3 olives
- 1 automobile
- 1 long day
- 1 diminishing attention span
- 1 too many

Combine ingredients. Drink. Repeat.
Mix with sharp turn, telephone pole.

Never underestimate 'just a few.'
Buzzed driving is drunk driving.

