



Administration Building

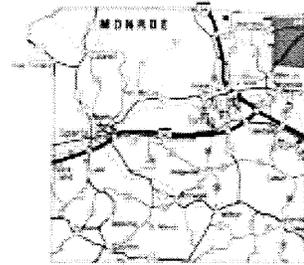
## MONROE COUNTY HIGHWAY DEPARTMENT

JACK DITTMAR, P.E., Highway Commissioner

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# NOTICE OF MEETING

**COMMITTEE:** Highway  
**TIME:** 9:00 A.M.  
**PLACE:** Highway Administration Building  
803 Washington Street, Sparta, WI  
**DATE:** Friday, November 20, 2015

### SUBJECT MATTER TO BE CONSIDERED

[all items are subject to Discussion & (except public comment) Action]

1. Period of Public Comment
2. Last Meeting Minutes
3. Review Payroll
4. Review Vouchers & Credit Card Charges
5. Commissioner's Report (copy attached)  
Projects, Equipment, Facilities, Budget & Personnel
6. Credit Card Approval (Existing Card Increases)
7. Horse Manure & Horse Shoes on CTHs (County Corporation Counsel memo attached)
8. Future Agenda Items

Date Notice Posted: November 16, 2015

**PLEASE NOTE:** A quorum of the Monroe County Board or other committees may be present at this meeting. No business of the County Board or other committees will be conducted at this meeting, only the business noted above.

## September 18, 2015 meeting of the Monroe County Highway Committee

Meeting called to order at 9:00 a.m., by Chairman James Schroeder.

Members present: James Schroeder, Gail Chapman, David Pierce, Wade Blackdeer and Nodji VanWychen.

Members absent: none

Others present: Highway Commissioner – Jack Dittmar, Office Manager – Becky Pitel, County Corporation Counsel – Andy Kaftan (Item VII. only) and Monroe County Publishers Editor – Pat Mulvaney (Item VII. only).

- I. Period of Public Comment – None.
- II. Motion to approve the minutes of the September 18, 2015 meeting made by Dave Pierce, seconded by Nodji VanWychen. All ayes, motion carried.

\*\*\* Agenda rearranged to accommodate guests. \*\*\*

VI. Payroll presented as follows:

Check Date: 10/1/2015

- Field Personnel \$62,543.49
- Administration \$11,885.63
- Total \$74,429.12

Check Date: 10/15/2015

- Field Personnel \$63,208.36
- Administration \$11,885.60
- Total \$75,093.96

V. Vouchers presented as follows:

- Early Pay \$401,922.37
- Credit Cards \$ 3,985.31
- Month Vouchers \$ 38,946.13  
\$444,853.81

**VII. Horse Manure & Rubberized Horse Shoes on CTHs (County Corporation Counsel Invited)**

Corporation Counsel Andy Kaftan stated that there is only one place he knows of that has tried to regulate manure on roads. Kaftan's research showed that the City of Augusta in Eau Claire County has an ordinance that prohibits discharge from anything, which is a very wide range of coverage. Kaftan feels that the county's advantage is questionable compared to city streets. Do we want to spend energy and resources to enforce this law? Kaftan feels that there may be some public relations involved, mainly with the Amish communities. Kaftan is also concerned that there are certain churches within the Amish communities that are already refusing to sign for sanitation permits. He recommended setting up a meeting to determine who the elders are within these communities and if they will comply. Chairman Jim Schroeder stated that there is a list of Bishops available. Corporation Counsel Andy Kaftan discussed with County Sheriff Scott Perkins the application of state statute 346.94(5). Sheriff Perkins still feels that if it comes out of an animal it is an "act of god" and that it cannot be enforced under this statute. If law enforcement could regulate it under this statute the officer would actually have to see it happen to identify the driver of the animal. David Pierce inquired if a person could use a camera to capture the horse droppings on the road. Kaftan stated that the footage would still have to be able to identify the owner of the horse. Kaftan is once again concerned as the Amish community may ignore judgements unless law enforcement resorts to incarceration. In regards to horse shoes, Kaftan stated that the county could tax for damages from horse shoes, but this would need to be approved by the State. Crawford County just passed an ordinance prohibiting certain types of horse shoes on highways. Kaftan reminded the Committee that the county still has to be able to enforce this as well. Meaning that county sheriff's officers would still have to physically see the horse damaging the road surface. He also feels that there would have to be some public relations done on this subject matter as well to get the word out within the communities. The other thing to consider is if the requirement of a certain type of horse shoe would create some kind of safety issue or cause the horse to slip. Chairman Schroeder stated that he has already spoken to an Amish farrier and that there is a certain technique they can use to minimize pavement damage. Schroeder also feels that the horse shoes would not be an issue of damage during the winter season after his discussion with the farrier. Corporation Counsel Kaftan stated that there is a basis for creating such an ordinance, the problem is enforcement. Chairman Schroeder feels that the Amish community needs to be made aware that they have a responsibility to all other county road users. Wade Blackdeer inquired as to what you would do with riding clubs? Office Manager Becky Pitel mentioned that parade horses actually have a canvas tail bag for droppings. Kaftan volunteered to reach out to the Amish communities with the Committee. Kaftan stated that he has attempted to reach out to

September 18, 2015 meeting of the Monroe County Highway Committee

the communities regarding sanitary permits and they have refused to meet with him at this time. Chairman Jim Schroeder asked Corporation Counsel Kaftan if he could draft the Committee an outline to work off of to go forward with these concerns. Kaftan stated that he could definitely put one together.

**VI. Commissioner's Report (copy attached)**

• **Projects:**

- County crews: performed miscellaneous drainage cleaning/ditching, performed maintenance patching & spot sealing, performed some asphalt rut filling, cut some trees, shouldered this summer's CTH BB reconditioning project, shaped and paved around the new cold storage building, replaced a few cross-culverts on the CTH EW reconditioning project, and finished a PbM crack routing & sealing project on USH 12 from CTH O to the Jackson County line, started the second round of mowing, helped with custodial duties at the County Courthouse, performed ditching for the Town of Angelo, and started the CTH U reconditioning project in the Village of Norwalk which includes replacing all of the deteriorated storm sewer at the intersection of Main St & CTH U.
- State crews: repaired guardrail and fencing, performed sign repair and shoulder maintenance, repaired deteriorated concrete, installed liners in some failing cross-culverts, performed drainage ditching, set up message boards for Cranfest, patched interstate asphalt, and took delivery of salt for this upcoming winter.

• **Equipment & Facilities:**

- After much negotiations to try to resolve items that do not meet our specifications, our new Peterbilt cab & chassis which was delivered in August was rejected and another International cab & chassis ordered. \*\*The 2015 budgeted funds for this truck will be carried over into next year's budget.

\*\*As approved at the last meeting, we were able to acquire a 1989 Federal Surplus Caterpillar D7 Dozer with a ripper for less than \$5,000. This dozer has less than 300 hours and on the machinery trader website very similar dozers are being sold for \$50K-\$70K.

• **Budget:**

- Because the just ordered International cab & chassis will not be delivered until 2016, the \$250K budgeted this year was asked to be rolled over into next year's budget.

\*\*We just received our 2016 transportation aids preliminary estimate from the WDOT and it is for \$3,204.53 more than the \$1,000k we budgeted.

• **Personnel:**

- Our Public Works Laborer working full-time in the summer for the County Maintenance Department quit last week.

\*\*Our annual safety day is scheduled for Tuesday December 1<sup>st</sup>. All Committee members are invited to attend all or any part of the day. The winter highway conference is January 19<sup>th</sup>-20<sup>th</sup> and sign up is due in early December. Nodji VanWychen and Dave Pierce would like to be signed up.

\*\* = added to report during meeting

**VIII. County Board Resolution – Authorizing 2016 County Aid for Bridge or Culvert Construction and Repair Under WI Statutes Sections 82.08 & 61.48**

Commissioner Jack Dittmar presented the Committee with the proposed 2016 County Aid for Bridge or Culvert Construction and Repair Under WI Statutes Sections 82.08 & 61.48 resolution for the upcoming annual budget meeting. Requested county aid is about average. **Motion made by Dave Pierce to approve the resolution for 2016 County Aid for Bridge or culvert Construction and Repair Under WI Statutes Sections 82.08 & 61.48 for a total of \$107,426 with 50% County Aid of \$53,714, seconded by Nodji VanWychen. All ayes, motion carried.**

**IX. County Board Resolution – Authorizing 2016 County Highway Bridge & Culvert Special Assessments Under WI Statute 83.03(2)**

Commissioner Jack Dittmar presented the Committee with the proposed 2016 County Bridge & Culvert Special Assessments Under WI Statute 83.03(2) resolution for the upcoming annual budget meeting. This is consistently around \$30k annually. **Motion made by Gail Chapman to approve the resolution for the 2016 County Highway Bridge & Culvert Special Assessments Under WI Statute**

## September 18, 2015 meeting of the Monroe County Highway Committee

**83.03(2) in the amount of \$32,000 to be paid by the towns and villages at tax time in 2016, seconded by Nodji VanWychen. All ayes, motion carried.**

**III. 9:10 a.m. – Attend Finance Committee Budget meeting in Highway Department Conference Rm**

At 10:15 a.m. the Committee, Commissioner, & Office Manager joined the Finance Committee meeting in the Highway Department conference room. Finance Committee member Cedric Schnitzler asked Commissioner Jack Dittmar to explain where the 2016 budget proposed \$600K additional tax levy is going and to also explain what funds have not been spent out of the 2015 budget and where they will be spent yet in 2015. Commissioner Dittmar explained that the \$600K increase is for much needed highway improvements. Administrator Cathy Schmit mentioned that the proposed improvements are listed in book 2 on detail page 446 of the budget. Proposed improvements include reconditioning about a 5 mile section of CTH EW and about a mile of CTH A. There also is another CTH A project which is a significantly more expensive large state aided project, in which the department is hoping to do a little work yet this year. Regarding this year's budget expenditures that haven't been spent, Dittmar explained that the department received a truck that didn't meet specifications and unfortunately the new truck now will not arrive until 2016 so this \$250k is carried over into the 2016 budget. Dittmar also explained that most of the 2015 funds for the large CTH A project may not be spent this year. Dittmar also explained that each of the last two budgets included \$500k revenue noted as Fund Balance Applied to pay for highway improvements. Since the Department is a non-lapsing fund, funds remaining at the end of the year are available to invest in highways the following year as fund balance applied revenue. The past few years we generated more revenue in our machinery fund than we budgeted or expended so that additional revenue was available to roll over to the next year. At the end of 2014 we had a cash balance of just over \$300k. Dittmar also wanted to express that as a Department Head he has never come to the county board to ask for additional funds when we have had severe winters. The department has always absorbed any additional winter expenses in the following year's budget and if the winter is mild then the unspent winter funds are invested the following year in highway improvements. The Finance Committee inquired as to why it appears that only 35% of the department budget has been spent so far this year. Dittmar explained that a larger percentage of the department's budget gets spent in the last half of the year due to summer project work and year-end close out expenses (i.e. depreciation, cost pool adjustments, etc.). Dittmar mentioned that on average the department expends approximately 5% per month for the first 6 months of the year, then about 10% per month from July thru November and the remaining approximate 20% in December. Chairman Jim Kuhn inquired if the department does not get the \$600K what will happen? Dittmar stated, "You will basically get less highway improvement work done". Gail Chapman stated that there are roads all over the county that need to be fixed. Pete Peterson inquired to Mr. Dittmar how he prioritizes his road work. Jack explained that the Committee receives a list of roughly 100 miles that need to be improved. He prioritizes what highways he feels need the most attention and the Committee may or may not agree with his priorities. Jack also expressed that he would really like to see next year's CTH EW improvement project completed as the Town of Scott is willing to take over the north-south  $\frac{3}{4}$  mile of CTH EE if we get CTH EW reconditioned. Highway Committee Chairman Jim Schroeder does not feel that the county can take funds from this department even if the department does not use it within the calendar year. Schroeder feels there is going to be a time that this department will need instant money. At this time, filling in wheel ruts because the county cannot afford to rebuild the road surface properly will catch up with the county at some point. County Board Chairman Jim Kuhn expressed that the state roads have been built to handle equipment up to 92,000 pounds and the county roads are not going to handle this weight for the way they have been historically constructed and maintained. Dittmar stated that he is not going to spend money just to spend money, morally he cannot do that. Chairman Kuhn does not feel that we are going to take any of the highway department funds. He also stated that it is nice to see things finally turning around after 12 years of flat tax levy for the highway department. Jim Schroeder inquired to the Finance Committee how they can formulate a budget with such a short fall in funding. He would also like to see if the county could actually start influencing the state and to quite grabbling over things we cannot change. Schroeder also stated that the budget has been pretty flat for 20 years. Gail Chapman stated that some people feel that we need to lower taxes, but when the county has lowered the tax levy we have also thrown that money away.

**X. Future Agenda Items**

Horse manure & horse shoes to be further discussed with County Corporation Counsel outline.

Motion to adjourn at 11:00 a.m. by Nodji VanWychen, seconded by Wade Blackdeer. All ayes, motion carried.

## ***County Highway Commissioner's Report for: November 20, 2015***

### **Projects:**

- County crews: performed miscellaneous drainage cleaning/ditching, finished interior railing and corner bollards for the new cold storage building, continued with the second round of mowing, continued helping with custodial duties at the County Courthouse, performed ditching for the Town of Angelo and finished the CTH U reconditioning project in the Village of Norwalk which includes replacing all of the deteriorated storm sewer at the intersection of Main St & CTH U.
- State crews: widened the STH 131 right turn lane at the STH 71 intersection, repaired guardrail and fencing, performed sign repair and shoulder maintenance, installed liners in some failing cross-culverts, performed drainage ditching, sealed some concrete bridge decks, patched interstate asphalt, and took delivery of salt for this upcoming winter.
- State & county crews: crack routed & sealed STH 71 from Sparta to Norwalk and suited up trucks for winter maintenance.

### **Equipment & Facilities:**

- Our new heavy equipment trailer is here.
- Patrol truck bids are scheduled to be opened at the December meeting.

### **Budget:**

- September monthly budget analysis is attached. Even with significantly reduced budgets for our 3 main accounts, we continue to be real close to combined historic average expenditures for these accounts.
- Since we have been reducing our year end cash balance and our tax levy over the last few years, cash balance continues to be under historic averages and is currently about \$300k under.

### **Personnel:**

- Nothing to report.

# 2015 SEPTEMBER MONTHLY BUDGET ANALYSIS

## MONROE COUNTY HIGHWAY DEPT.

Year to Date (YTD) Expenditures (EXP) of 3 Major Accounts  
 (Summer & Winter Maintenance and Supplemental Construction)  
 AND Cash Balance (BAL) as of 9/30/2015

\* NOTE: All \$ are thousands \*

Account #	Account Name	2015 BUDGET	2015 YTD EXPENDITURES	2015 YTD PERCENT OF BUDGET	3 YR AVE YTD EXP (% TOTAL EXP)	10 YR AVE YTD PERCENT TOTAL EXP
1-53311	County Routine Maintenance	\$1,547	\$1,553	100.4%	\$1,389 76.4%	69.1%
1-53312	County Snow & Ice Control	\$604	\$561	92.9%	\$505 71.7%	68.6%
1-53319	C.T.H. Supplemental Construction	\$2,265	\$474	20.9%	\$472 30.1%	49.6%
	<b>TOTALS =</b>	<b>\$4,416</b>	<b>\$2,588</b>	<b>58.6%</b>	<b>\$2,366</b> <b>57.7%</b>	<b>59.9%</b>

	2015 TAX LEVY	2015 YTD CASH BALANCE	2015 YTD PERCENT OF TAX LEVY	3 YR AVE YTD BAL (% TAX LEVY)	10 YR AVE YTD PERCENT TAX LEVY
CASH BALANCE	\$2,982	\$1,806	60.6%	\$2,441 82.5%	57.5%

# Monroe County Corporation Counsel Office

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Andrew C. Kaftan, Attorney  
Lisa Aldinger Hamblin, Attorney  
Samantha Wright, Assistant

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October 23, 2015

To: Highway Committee

From: Corporation Counsel

Re: **Horse manure & Horseshoes on Highways**

You had asked me to look at the issues of horse manure and horseshoes on highways in the County. There are two primary issues to consider: required elements for creation of an ordinance and enforcement of that ordinance.

Ordinances are created as an expression of legal authority. This authority typically comes from state statute or from "police powers" that allow for government regulation to ensure public health, safety and welfare.

Horse manure ordinance.

I was unable to find a state law that a Wisconsin county could utilize to specifically address horse manure on highways. The closest possibility is:

**346.94(5)** PLACING INJURIOUS SUBSTANCE ON HIGHWAY. No person shall place or cause to be placed upon a highway any foreign substance which is or may be injurious to any vehicle or part thereof.

To prosecute horse manure droppings using this law, one would have to have the court find that the state legislature intended "foreign substances" to include horse droppings and that such droppings, when encountered by a vehicle, injurious to that vehicle. In reviewing §346.94(5), I did not find any case law that supports the position that horse droppings constitute a foreign substance under the statute. There is some indication the production of manure by a horse is an "act of God" and not a citable offense and clearly distinct from the transportation and spilling of manure by spreader.

An example of use of "police powers" would be a county ordinance not created pursuant to a state statute. I was advised that the City of Augusta in Eau Claire County, Wisconsin, is using an ordinance to address horse droppings on its city streets. After reviewing the city ordinance, I believe the city is using either an unlawful to dump garbage provision or a hazardous waste type ordinance which prohibits discharges within the city. Neither provision is directly on point. There is a different dynamic when you compare city streets and rural roads.

Lastly, if you want to explore drafting an ordinance to addressing the droppings, the first question is whether it could be limited to horses or does it need to include all livestock. Secondly, it would not be the drop that is the issue but the failure to cleanup.

Horseshoes ordinance.

Crawford County recently created an ordinance, sec. 7.10, which prohibits horseshoes with protuberances (e.g. Drill-tech or Borium) on Crawford County highways. However, it does allow the County Highway Department to issue permits for the use of such horseshoes. In my opinion, the lack of guidance in the ordinance as to when such a permit can be issued opens Crawford County to a question of selective prosecution. Since there is no objective standards set out in the ordinance governing issuance of such exemption permits, there no basis for issuing a permit or denying a permit.

In addition, given that the protuberances are allegedly used for the horse to get a better grip, the need to weigh damage to roads against public safety comes into play in drafting any ordinance. Will there be a rise in horse drawn vehicles getting stranded due to lack of traction or horses slipping and falling as to create greater safety concerns? While liability is not an issue under a properly enacted ordinance, the enactment will need to assess these competing concerns.

Enforcement.

Enforcement requires the proper foundation for a citation to be issued. There must be clear and convincing evidence to support issuing a citation. For a traffic stop, law enforcement officers (LEO) must have a minimal threshold of reasonable suspicion of a violation.

With horse droppings, enforcement would require admissible evidence of droppings being left on the road and who drove the vehicle at that time. Merely, finding horse manure on the road is not going to lead to a citation due to proof issues. The horse would have to be caught in the act, so to speak.

As to horseshoes, the LEO would need appropriate reason to suspect a violation to stop a vehicle. Then have the knowledge, training and ability to safely inspect the shoes on the side of the road. In speaking to the Chief Deputy Sheriff, safety when enforcing traffic violations is a primary concern.

Compliance through education/outreach.

In considering implementation of an ordinance the question of gaining compliance should be discussed. This issue of manure and horseshoes are not commonly addressed through ordinances in Wisconsin. While enforcement may bring about some compliance thru deterrence, education of the public of the new rules may have a greater impact on compliance. Prior to amending or adding ordinances to address concerns, discussions with leaders of the groups that cause the concern might bring about greater adherence to laws. Consideration may be given to this option to reach out to those who are the stakeholders to see if they might have suggested changes which might ameliorate the perceived problems and avoid implementation of an ordinance.

Sincerely,



Andrew C. Kaftan  
Corporation Counsel  
ACK/sew