

**MARATHON COUNTY METROPOLITAN PLANNING COMMISSION  
AGENDA**

**JULY 9, 2019  
2:00 P.M.**

**ROOM 5  
212 RIVER DR., WAUSAU, WI**

**Marathon County Mission Statement:** *Marathon County Government serves people by leading, coordinating, and providing county, regional, and statewide initiatives. It directly or in cooperation with other public and private partners provides services and creates opportunities that make Marathon County and the surrounding area a preferred place to live, work, visit, and do business. (Last updated: 12-20-05)*

**Commission Purpose:** *The Commission shall be concerned with studies and recommendations relating to activities including but not limited to land-use; natural resources; utilities; and transportation systems within the metropolitan planning area. (Commission Bylaws last updated: 6-12-08)*

**Members:** *John Robinson – Chair, George Peterson – Vice Chair, Allan Opall, Betty Hoenisch, Steve Hagman, Robert Mielke, Tim Buttke, John Prah, Milton Olson, Chris Voll, Wally Sparks, Brent Jacobson, Kregg Hoehn, WisDOT NC Regional Director*

**AGENDA ITEMS:**

1. CALL TO ORDER;
2. WELCOME AND INTRODUCTIONS;
3. PUBLIC COMMENT;

**POLICY DISCUSSION AND POSSIBLE ACTION:**

4. APPROVE MINUTES OF THE MAY 14, 2019 MEETING;
5. 2019-2022 TRANSPORTATION IMPROVEMENT PROGRAM (TIP) AMENDMENT;
6. SURFACE TRANSPORTATION PROGRAM-BLOCK GRANT FUNDING;
7. SURFACE TRANSPORTATION PROGRAM-BLOCK GRANT EVALUATION CRITERIA;
8. POTENTIAL DEVELOPMENT OF A COMMUNITY "DIG ONCE" POLICY;
9. OPPORTUNITIES FOR COLLABORATION IN LAND USE, UTILITIES, AND NATURAL RESOURCES FOR COMMISSION MEMBERS;
10. DISCUSSION ON ISSUES FOR FUTURE MEETINGS;
11. NEXT MEETING DATE – AUGUST 13, 2019;
12. ADJOURN.

**Any person planning to attend this meeting who needs some type of special accommodation in order to participate should call the County Clerk's Office at 715-261-1500 or e-mail [infomarathon@mail.co.marathon.wi.us](mailto:infomarathon@mail.co.marathon.wi.us) one business day before the meeting.**

848-936 SIGNED   
PRESIDING OFFICER OR DESIGNEE

FAXED TO: Daily Herald (848-9361) City Pages (848-5887)  
Midwest Radio Group (848-3158)  
CenterState Marketplace (446-2370)  
FAXED BY: BI \_\_\_\_\_  
FAX DATE/TIME: 07/03/2019 11:00am

NOTICE POSTED AT COURTHOUSE:  
By: \_\_\_\_\_  
Date: \_\_\_\_\_  
Time: \_\_\_\_\_

**MARATHON COUNTY METROPOLITAN PLANNING COMMISSION**  
**Minutes**  
**May 14, 2019**

**Commissioners:** John Robinson – Chair, George Peterson – Vice-chair, Dave Meuret (for Wickham), Steve Kunst (for Opall), Robert Mielke, Keith Donner (for Sparks), Tim Buttke (for Zunker), Milton Olson, Randy Fifrick (for Voll), Jeff Gates (for Jacobson)

**TAC Members:** Dave Mack, Andrew Lynch, Darryl Landeau, Eric Lindman

**Others Present:** Brenda Iczkowski, Tonia Speener, Mike Leischner

1. Call to Order

In the presence of a quorum, with the agenda being properly signed and posted, the meeting was called to order by Chair Robinson at 2:05 p.m. in the Large Conference Room, 210 River Drive, Wausau, Wisconsin.

2. Welcome and Introductions

All were welcomed and introductions were made. Tim Buttke will be representing the Town of Stettin on Raynard Zunker's behalf.

3. Public Comment – NONE

4. Approve Minutes April 9, 2019 meeting

**Action:** MOTION / SECOND BY MIELKE / DONNER TO APPROVE THE APRIL 9, 2019 MINUTES AS DISTRIBUTED WITH THE FOLLOWING CORRECTION: TO INCLUDE THE CHANGES TO RESOLUTION #5-19 BY REPLACING THE WORD INSIST WITH REQUEST IN THE TITLE AND BODY. MOTION CARRIED BY VOICE VOTE, NO DISSENT.

5. State Highway 52/Business 51 Reroute Proposal, City of Wausau

**Discussion:** Mack included in the packet maps showing the impacts from rerouting State Highway 52/ Business US 51. The blue lines are the impacts extending Highway 52 southbound and westerly on Scott St. Business US 51 would be northbound on 6<sup>th</sup> St and turn westerly onto Scott St.

Lindman shared that the schedule they are following is reliant on the WisDOT. A traffic study was done by a consulting company who presented information to the WisDOT at a public hearing. The WisDOT asked the City of Wausau to present the project to the MPO for their endorsement.

Muerett shared that WisDOT has reviewed the traffic study and there were a few changes. WisDOT is waiting for the environmental document to be reviewed before decisions are made.

**Action:** MOTION / SECOND BY GATES / DONNER TO ENDORSE THE PROPOSAL TO SUPPORT THE REROUTE OF STATE HIGHWAY 52/ BUSINESS US 51 IN THE CITY OF WAUSAU. MOTION CARRIED BY VOICE VOTE, NO DISSENT.

**Follow Through:** A letter of support from Chair Robinson to be sent to the City of Wausau indicating the support by the MPO because the official minute of this meeting will not be approved until the June meeting.

6. 2019-2022 Transportation Improvement Program (TIP) Amendment

**Discussion:** Information regarding the amendment to the Transportation Improvement Program was included in the meeting packet. Projects that get State and Federal funding need to be including in the TIP. The Amendment includes traffic signal updates for safety improvements on Scott St. between 1<sup>st</sup> and 6<sup>th</sup> Streets in the City of Wausau utilizing Highway Safety Improvement Program (HSIP) funds.

**Action:** MOTION / SECOND BY OLSON / MIELKE TO APPROVE RESOLUTION #6-19 ADOPTING THE AMENDMENT TO THE 2019-2022 TRANSPORTATION IMPROVEMENT PROGRAM FOR THE WAUSAU METROPOLITAN AREA. MOTION CARRIED BY VOICE VOTE, NO DISSENT.

**Follow Through:** Staff will make the appropriate changes to the TIP and send to WisDOT and FHWA.

**MARATHON COUNTY METROPOLITAN PLANNING COMMISSION**

May 14, 2019

7. Surface Transportation Program-Block Grant Funding

Discussion: In the packet was a table Mack shared that he received from WisDOT. The table shows the disbursement of the Surface Transportation funds to all the MPO's throughout the state. The Transportation Technical Advisory Committee ranks and allocates the funds to the projects. They have been re-evaluating the allocation criteria's for the past few months. Wausau's annual share is \$628,672 with a balance of \$2,490,648 estimated available for the 2021-2025 Cycle. Currently scheduled is the North 6<sup>th</sup> St and County Road K which is the \$652,714. The application packets will be ready in the next few weeks and will need to be submitted to the MPO this fall.

Lynch included the Transportation Alternative Program (TAP) applications will also be available this fall for the 2020-2024 cycle. This includes the Bicycle/ Pedestrian projects and Safe Ride to School projects

Action: **FOR INFORMATIONAL PURPOSES ONLY.**

Follow Through: Staff to inform commission of future updates.

8. Discussion on Issues for Future Meetings

Functional Classification, Schedule on project deadlines for applications

Action: **FOR INFORMATIONAL PURPOSES ONLY.**

Follow Through: Staff to inform commission of future updates.

9. Next Meeting – June 11, 2019

Action: **CONSENSUS REACHED THAT THE NEXT MEETING WILL BE SCHEDULED JUNE 11, 2019 AT 2:00 PM.**

Follow Through: This meeting will be scheduled.

10. Adjourn

Action: There being no further business to come before the members, **MOTION / SECOND BY MEURETT / OLSON TO ADJOURN THE MEETING OF THE MARATHON COUNTY METROPOLITAN PLANNING COMMISSION AT 2:40 PM. MOTION CARRIED BY VOICE VOTE, NO DISSENT.**

Submitted by:

Dave Mack, MPO Director

Marathon County Conservation, Planning and Zoning

DM: BI

May 28, 2019

**AMENDMENT  
TO THE  
2019-2022  
TRANSPORTATION IMPROVEMENT  
PROGRAM (TIP)  
FOR THE  
MARATHON COUNTY METROPOLITAN PLANNING  
COMMISSION/WAUSAU AREA METROPOLITAN  
PLANNING ORGANIZATION (MPO)**

**July 9, 2019**

**MARATHON COUNTY METROPOLITAN PLANNING COMMISSION**

**RESOLUTION # 7-19**

**RESOLUTION ADOPTING THE AMENDMENT TO THE  
2019-2022 TRANSPORTATION IMPROVEMENT PROGRAM  
FOR THE WAUSAU METROPOLITAN AREA**

**WHEREAS**, the Marathon County Metropolitan Planning Commission was designated the Metropolitan Planning Organization for the Wausau Urbanized Area; and

**WHEREAS**, in compliance with Metropolitan Transportation Planning Regulations by the U.S. Department of Transportation, the Marathon County Metropolitan Planning Commission has developed a four-year transportation improvement program (TIP) for the Wausau Metropolitan Area; and

**WHEREAS**, the Transportation Improvement Program identifies transit, pedestrian/bicycle, and highway improvement projects and programs consistent with current transportation plans;

**NOW, THEREFORE, BE IT RESOLVED**, that the Marathon County Metropolitan Planning Commission endorses the *Long Range Transportation Plan for the Wausau Metropolitan Area* and the *Transit Development Program for the Wausau Area Transit System*, which will be continually updated and maintained as part of the urban transportation planning process;

**BE IT FURTHER RESOLVED**, that the Marathon County Metropolitan Planning Commission includes the *Mill and Overlay project on US Business 51 from Everest Dr. to the Eau Claire River Bridge* as part of the amendment to the 2019-2022 Transportation Improvement Program for the Wausau Metropolitan Area; and

**BE IT FURTHER RESOLVED**, in accordance with 23 CFR 450.336, the Wausau Metropolitan Planning Organization for the Wausau, WI urbanized area hereby certifies that the metropolitan transportation planning process is addressing the major issues facing the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

1. 23 U.S.C. 134 and 49 U.S.C. 5303, and this subpart;
2. Sections 174 and 176 (c) and (d) of the Clean Air Act as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;
3. Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000d-1) and 49 CFR part 21;
4. 49 USC 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;

5. Section 1101(b) of the Fixing America's Surface Transportation (FAST Act) (Pub. L. 114-357) and 49 CFR Part 26 regarding the involvement of disadvantaged business enterprises in the US DOT funded projects;
6. 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
7. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and 49 CFR Parts 27, 37, and 38;
8. The Older Americans Act, as amended (42 U.S.C. 6101, prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
9. Section 324 of title 23, U.S.C. regarding the prohibition of discrimination based on gender; and
10. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR 27 regarding discrimination against individuals with disabilities.

**BE IT FURTHER RESOLVED**, that the Marathon County Metropolitan Planning Commission certifies that the Transportation Improvement Program contains only projects that are consistent with the transportation plan for the urban area and recommends that this document be submitted to the appropriate federal and state agencies for approval.

Dated this 9th day of July 2019.

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John Robinson, Commission Chairman

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Rebecca J. Frisch, Commission Secretary  
Director, Marathon County  
Conservation, Planning and Zoning Department

**2019 - 2022 TABLE 1 AMENDMENT**  
TIP PROJECT LISTING (\$)  
July 9, 2019

Red text Indicates Changes

PRIMARY JURISDICTION/ PROJECT LOCATION	PROJECT DESCRIPTION	TYPE OF COST	2019				2020				2021				2022				COMMENTS FOS# & Let Date P=preservation E=expansion
			FED	STATE	LOCAL	TOTAL	FED	STATE	LOCAL	TOTAL	FED	STATE	LOCAL	TOTAL	FED	STATE	LOCAL	TOTAL	

**Transit Section - Project Additions**

State of Wisconsin	Mill and Overlay	PE ROW CONST TOTAL		\$159,000		\$159,000													Let Date: 11/2019 & 5/2020 ID # 6999-10-30/60/61 P
	US Business 51 Everest Drive to Eau Claire River Bridge						\$1,045,000		\$1,045,000		\$423,750		\$423,750						
Rothschild, Schofield & Weston	373-19-023			\$159,000		\$159,000		\$1,045,000		\$1,045,000		\$423,750		\$423,750					

# Cost Share

The following policy is used by the Wausau MPO in allocating the STBG funds for the Wausau Metropolitan Area.

The Wausau MPO has established the federal share of STBG projects at seventy percent (70%). The balance of project costs, thirty percent (30%), is the responsibility of the sponsoring local government. No project will be funded below the fifty-five percent (55%) federal level. Any remaining funds will be distributed in rank order to bring projects to the eighty percent (80%) federal level.



# Project Eligibility

The following criteria used by the Wausau MPO in determining STBG project eligibility and are consistent with WisDOT and FHWA eligibility criteria.

STBG funds will only be programmed within the Wausau adjusted urbanized area boundary approved by the Wausau MPO and state DOT.

The STBG funding should be primarily utilized for roadways under county, city, village, or town jurisdiction.

Transit capital and bikeway projects in conformance with the FAST Act requirements are eligible for STBG funding.

The sponsoring local government is required to present a letter of agreement indicating financial commitment to the STBG funded project.

The costs of feasibility studies are not eligible for STBG funding.

Projects with total construction costs of less than \$100,000 are not eligible for STBG funding.

Relocation costs are not eligible for STBG funding.

Isolated traffic signal installation projects are not eligible for STBG projects.

The cost of preliminary design is not eligible for STBG funding.

Right-of-way acquisition costs are not eligible for STBG funding.

Sidewalk projects are not eligible for STBG funding unless the project is in conjunction with an STBG funded project.

Railroad crossing projects are not eligible for STBG funding unless the railroad crossing project is in conjunction with an STBG funded project.

# Project Scoring

## [Prioritization Criteria for Transportation Facilities](#)

In 2018-9, the Technical Advisory Committee reviewed and revised the system for scoring projects into eight criteria. A component of this scoring system is an opportunity for the applicants to provide detailed information about certain criteria on a worksheet that serves to better inform MPO staff. The criteria are also weighted as indicated by the % in each title.

#### Key Component of Transportation System (20%)

This criterion gives merit to projects according to their functional classification status and their overall relationship with the rest of the transportation system.

Functional Classification: Arterials = 2 points, Collector = 1 point  
Impact on Region: Project with regional impact = 2 points

#### System Condition (15%)

This criterion rewards projects that focus on road segments in need of repair.

Condition Rating: <5 = 2 points, 5-7 points = 1, 7+ = 0 points

#### Project Coordination (10%)

This criterion rewards municipalities that work together on shared roads or projects.

Two or more communities coordinating on project = 2 points

#### Safety (20%)

This criterion points to projects that create safer conditions and where project areas have a high crash rate.

Roadway safety improvements: Same road profile = 0 points, Some improvements = 1 points, Major safety improvements = 2 points;  
Crash Rate calculation for projects that create safer conditions: Highest crash incidence = 2 points, 2<sup>nd</sup> highest incidence = 1 point

#### Congestion (5%)

This criterion rewards projects that alleviate congestion issues as identified by local municipalities or the MPO traffic model.

Identified area of congestion: Level of Service (LOS) is D = 2 points, LOS is C = 1 point, LOS is B or A = 0 points  
Local input on congestion issue = Maximum of 1 points

#### Freight (10%)

This criterion awards points on the projects proximity to or increasing access to industrial or concentrated commercial areas.

Project is within one mile of freeway system interchange = 1 point  
Project facilitates access to industrial or concentrated commercial corridor area = 1 point

#### Multimodal (15%)

This criterion rewards projects that that accommodate multimodal use.

Complies with Federal Regulations on bicycle and pedestrian accommodations = 1 point  
Context-sensitive design = 1 point  
Project is identified in MPO Bicycle and Pedestrian Plan or addresses a significant need = 2 points

#### Environmental Justice (5%)

This criterion awards points to projects in identified areas of low income or racial minorities.

Project is in an area of low-income or racial minority = 1 point

# Wausau MPO Worksheet for STBG Scoring

This worksheet will assist MPO staff and the Technical Advisory Committee in scoring your project for STBG funding. Please explain in detail and attach any necessary diagrams or maps.

## Key Component of Transportation System

Describe the Regional Impact of this project

## Safety

Describe how this project will create safer conditions for users and address any issues from crash data or local feedback.

## Congestion

Describe any points of congestion in this project scope that cause concern and are not displayed on the traffic model.

## Freight

Describe how this project will facilitate freight access to an industrial or concentrated commercial area.

## Multimodal

Describe in detail the bicycle and pedestrian facilities designed for this project

If applicable, describe how this project addresses a significant need in bicycle or pedestrian infrastructure that is not addressed in the MPO Bicycle and Pedestrian Master Plan.



Melinda Osterberg  
Community Development  
Educator

Merrill: 715-539-1080 Wausau: 715-261-1204  
[Melinda.osterberg@wisc.edu](mailto:Melinda.osterberg@wisc.edu)

## Potential Development of a “Dig Once” Policy for Marathon County

### Background

Marathon County has established high speed internet accessibility as a primary goal within the County Strategic Plan 2018-2022. Recognizing that dig once ordinances can facilitate the installation of conduit and associated broadband infrastructure, Strategy D of Objective 8.7 of the Plan states that *Marathon County will establish a dig once policy for county roadway reconstruction and bridge projects that engages providers in a discussion about whether to include conduit for fiber.*

Fiber installation is a high cost endeavor. Dig once policies seek to lower the financial barriers to broadband expansion by coordinating the installation of conduit, fiber and other related infrastructure with planned road improvements. Studies estimate that fiber installed as part of a dig once project costs approximately one-quarter of the total cost if constructed as a standalone project.

There are a variety of options open to communities seeking to facilitate broadband deployment through the use of a dig once policy/ordinance. Depending on the financial means and how aggressive a community wants to encourage broadband development, the following policies can be pursued:

- Municipal installation of conduit and fiber with road reconstruction projects
- Coordination of utilities and internet service providers through mandatory communication, financial incentives, or prohibitions

Attached is a Dig Once Model Ordinance drafted by the Northeast Colorado Association of Governments and contained in the 2016 Minnesota Governor’s Task Force on Broadband Annual Report. Highlights of the Model Ordinance include the following:

- An annual meeting between Marathon County and area utility companies to encourage communication and inform utility purveyors about County road improvement plans
- Prior to authorization to work in the right-of-way, any utility would have to provide information about the location of their existing infrastructure in relation to the project and Marathon County would inform other utility companies of the work and facilitate collaboration
- Require joint excavation for projects planned to occur within a two year timeframe
- Conduit installation with new road construction

## Appendix E: Model “Dig Once” Local Ordinances and Examples

Draft Regional Broadband Strategic Plan,” Northeast Colorado Association of Local Governments (Jan 8, 2016) (found at [https://www.google.com/?gws\\_rd=ssl#q=Northeast+Colorado+broadband+plan](https://www.google.com/?gws_rd=ssl#q=Northeast+Colorado+broadband+plan))

### MODEL OPEN TRENCH/DIG ONCE ORDINANCE<sup>21</sup>

WHEREAS, obstructions and excavations in City/Town/County rights of way disrupt and interfere with public use of the Rights of Way; and

WHEREAS, obstructions and Excavations in City/Town/County Rights of Way result in loss of parking and loss of business to merchants and others whose places of business are in the vicinity of such obstructions and Excavations; and

WHEREAS, it is desirable to adopt policies and regulations which will enable the City/Town/County of \_\_\_\_\_ to gain greater control over the disruption and interference with the public use of public streets and Rights of Way, in order to provide for the health, safety and well-being of the City’s/Town’s/County’s residents and users of City/Town/County Rights of Way; and

WHEREAS, significant public funds have been invested to acquire, build, maintain and repair the streets within the City/Town/County, and Excavations in the Rights of Way reduce the useful life of the pavement infrastructure; and

WHEREAS, significant public funds have been invested to place and maintain Landscaping within Rights of Way in the City/Town/County and Excavations in the Rights of Way cause damage to, and increase the costs of maintaining that Landscaping; and

WHEREAS, at the present time, the City’s/Town’s/County’s Department of Public Works does not have [or desires to update, as appropriate] a detailed map or database indicating the location, nature, or extent of the system underground utility, communications and similar Facilities; and

WHEREAS, the various public and commercial utilities, broadband and communications providers and similar entities which install, maintain, and operate Facilities under the City’s/Town’s/County’s Rights of Way are constrained, from time to time, to make excavation cuts which degrade the surfaces of these Rights of Way, thereby reducing their useful life; and

WHEREAS, demand for access to broadband services is growing, and in order to fill such demand, more broadband network infrastructure is being installed in Rights of Way; and

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<sup>21</sup> This Model Open Trench/Dig Once Ordinance is intended as a starting point to address issues that local governments might include in their own rights of way codes. It may be considered as a separate ordinance or for inclusion in a more comprehensive ordinance government rights of way management, permitting and construction. All provisions relate in some way to coordinating and attempting to minimize excavations, but all may not be appropriate in every jurisdiction. The provisions of this Model may also, where authorized, be modified and adopted as local policies or regulations.

WHEREAS, in other jurisdictions, the demand for access and the number of entities seeking to install Facilities has sometimes resulted in multiple, serial Excavations within the Rights of Way, which can and has resulted in traffic disruption, a weakening of pavement integrity, and a shortening of the useful life of paved surfaces; and

WHEREAS, while Colorado state statutes, particularly, C.R.S. 38-5.5-109, contains some procedures for addressing joint trenching in connection with broadband provider operations in the Rights of Way, at the present there is no comprehensive mechanism nor legal requirement that all public and commercial entities coordinate Excavation in the Rights of Way, and construct Facilities in newly developed areas to minimize future Excavations; and

WHEREAS, the [City/Town/County] of \_\_\_\_\_ intends to responsibly manage its Rights of Way by anticipating such demand and planning accordingly.

NOW, THEREFORE, be it enacted by the City/Town/County of \_\_\_\_\_ as follows:

I. PURPOSE AND OBJECTIVES

A. Purpose: to provide principles and procedures for the coordination of construction Excavation within any public Rights of Way, and to protect the integrity of the Rights of Way and road system.

B. Objectives. Public and private uses of Rights of Way for location of Facilities employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the City/Town/County must insure that the primary purpose of the Rights of Way, namely the safe and efficient passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. In addition, the value of other public and private installations, Facilities and properties should be protected, competing uses must be reconciled, and the public safety preserved. The use of the Rights of Way corridors for location of Facilities is secondary to these public objectives. This ordinance is intended to assist in striking a balance between the public need for efficient, safe transportation routes and the use of Rights of Way for location of Facilities by public and private entities. It thus has several objectives:

1. To insure that the public health, safety and welfare is maintained and that public inconvenience is minimized.
2. To facilitate work within the Rights of Way through the standardization of regulations.
3. To conserve and fairly apportion the limited physical capacity of the public Rights of Way held in public trust by the City/Town/County.

4. To promote cooperation among the Applicants and Permittees (as defined herein) and the City/Town/County in the occupation of the public Rights of Way, and work therein, in order to (i) eliminate duplication that is wasteful, unnecessary or unsightly, (ii) lower the Permittee's and the City's/Town's/County's costs of providing services to the public, and (iii) minimize Rights of Way Excavations.

## II. DEFINITIONS

For the purpose of this Chapter the following words shall have the following meanings:

- A. "Applicant" means an owner or duly authorized agent of such owner, who has submitted an application for a Permit to Excavate in the Rights of Way.
- B. "City"/"Town"/"County" means the City/Town/County of \_\_\_\_\_, Colorado.
- C. "Conduit" means a single enclosed raceway for cables, fiber optics or other wires, or a pipe or canal used to convey fluids or gases.
- D. "Department" means the Department of Public Works.
- E. "Developer" means the person, partnership, corporation, or other legal entity who is improving property within the City/Town/County and who is legally responsible to the City/Town/County for the construction of improvements within a subdivision or as a condition of a building permit or other land use or development authorization.
- F. "Director" means the Director of Public Works of the City/Town/County or his/her authorized representative.
- G. "Emergency" means any event which may threaten public health or safety, or that results in an interruption in the provision of services, including, but not limited to, damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged electrical and communications facilities, and advanced notice of needed repairs is impracticable under the circumstances.
- H. "Excavate" or "Excavation" means any Work in the surface or subsurface of the Rights of Way, including, but not limited to opening the Rights of Way; installing, servicing, repairing or modifying any Facility(ies) in or under the surface or subsurface of the Rights of Way, and restoring the surface and subsurface of the Rights of Way.
- I. "Facilities" means, including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, poles, ducts, fixtures and appurtenances and other like equipment used in connection with transmitting, receiving, distributing, offering, and providing broadband, utility and other services.

J. "Landscaping" means materials, including without limitation, grass, ground cover, shrubs, vines, hedges, or trees and non living natural materials commonly used in landscape development, as well as attendant irrigation systems.

K. "Major Work" means any reasonably foreseeable Excavation that will affect the Rights of Way for more than five (5) consecutive calendar days.

L. "Owner" means any Person, including the City, who owns any Facilities that are or are proposed to be installed or maintained in the Rights of Way.

M. "Permit" means any authorization for use of the Rights of Way granted in accordance with the terms of this ordinance, and other applicable laws and policies of the City/Town/County.

N. "Permittee" means the holder of a valid Permit issued pursuant to this Chapter and other applicable provisions of applicable law for Excavation in the Rights of Way.

O. "Person" means any person, firm, partnership, special, metropolitan, or general district, association, corporation, company, or organization of any kind.

P. "Rights of Way" means any public street, road, way, place, alley, sidewalk or easement, that is owned, held or otherwise dedicated to the City/Town/County for public use.

Q. "Work" means any labor performed on, or any use or storage of equipment or materials, including but not limited to, construction of streets and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, street lights, and traffic signal devices. It shall also mean construction, maintenance, and repair of all underground structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar Facilities located below surface, and installation of overhead poles used for any purpose.

### III. POLICE POWERS

A Permittee's rights hereunder are subject to the police powers of the City/Town/County, which include the power to adopt and enforce ordinances, including amendments to this ordinance, and regulations necessary to the safety, health, and welfare of the public. A Permittee shall comply with all applicable ordinances and regulations enacted, or hereafter enacted, by the City/Town/County or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City/Town/County reserves the right to exercise its police powers, notwithstanding anything in this ordinance or any Permit to the contrary. Any conflict between the provisions of the ordinance or a Permit and any other present or future lawful exercise of the City's/Town's/County's police powers shall be resolved in favor of the latter.



#### IV. JOINT PLANNING AND CONSTRUCTION; COORDINATION OF PLANNED EXCAVATIONS

A. Excavations in City/Town/County Rights of Way disrupt and interfere with the public use of those Rights of Ways and can damage the pavement and Landscaping. The purpose of this section is to reduce this disruption, interference and damage by promoting better coordination among Applicants and Permittees making excavations in City/Town/County Rights of Way and between these Persons and the City/Town/County. Better coordination will assist in minimizing the number of Excavations being made wherever feasible, and will ensure the Excavations in City/Town/County Rights of Way are, to the maximum extent possible, performed before, rather than after, the resurfacing of the Rights of Way by the City/Town/County.

B. Any Permittee owning, operating or installing facilities in City/Town/County Rights of Way, providing water, sewer, gas, electric, broadband, communication, video or other utility or utility-like services, shall meet annually with the Director, at the Director's request to discuss Permittee's excavation master plan. At such meeting, to the extent not already in possession of the City/Town/County, Permittee shall submit documentation, in a form required by the Director, showing a location of the Permittee's existing Facilities in the City/Town/County Rights of Way. Permittee shall discuss with the Director, its excavation master plan, and identify planned Major Work in the City/Town/County. The Director may make his own record on a map, drawing or other documentation, of each Permittee's planned Major Work in the City/Town/County; provided, however, that no such document prepared by the Director shall identify a particular entity, or the planned Major Work of that particular entity. An excavation master plan shall be submitted in both hard copy and digital format. As used in this subsection, the requirement to identify planned Major Work refers to any Major Work planned to occur more in the ensuing three (3) years after the date that the Permittee's master plan or update is discussed. Between the annual meetings to discuss planned Major Work, a Permittee shall use its best efforts to inform the Director of any substantial changes in the planned Major Work discussed at the annual meeting.

C. The Director shall review the major excavation plan and identify conflicts and opportunities for coordination of Excavations. The Director shall notify affected Owners and Permittees of such conflicts and opportunities to the extent necessary to maximize coordination of Excavation. Each Applicant for a Permit shall coordinate, to the extent practicable, with each potentially affected Owner and Permittee to minimize disruption in the Rights of Way.

D. The City/Town/County may disclose information contained in a Permittee's master excavation plan to any public or private entity planning on conducting Excavation activities in the Rights of Way only on a need-to-know basis in order to facilitate coordination

among excavators and to avoid unnecessary Excavation in the Rights of Way. To the maximum extent permissible under the Colorado Open Records Act, as amended, the City/Town/County shall not otherwise disclose to the public any information contained in a master excavation plan submitted by a Permittee that is proprietary, trade secret or is otherwise protected from disclosure; provided, however that the City/Town/County shall have no duty to decline to disclose any information that the Permittee has not identified on its face as proprietary, trade secret or otherwise protected from disclosure. The City/Town/County shall notify a Permittee of any request for inspection of public records that calls for disclosure of any master excavation plan on which any information has been identified as proprietary, trade secret or otherwise protected from disclosure. The City/Town/County shall consult with its legal counsel regarding any such request and shall inform the affected Permittee either that the City/Town/County will refuse to disclose the protected information or, if there is no proper basis for such refusal, that the City/Town/County intends to disclose the requested information unless ordered otherwise by a court.

E. The Director shall prepare a Repaving Plan showing the Rights of Way resurfacing planned by the City/Town/County. For purposes of this section, the Repaving Plan shall include a Landscaping or other Rights of Way improvement plan. The Repaving Plan shall be revised and updated on an annual basis. The Director shall make the City's/Town's/County's Repaving Plan available for public inspection. In addition, after determining the City's/Town's/County's Rights of Way resurfacing Work that is proposed for each year, the Director shall send a notice of the proposed Work to all Permittees that have had an annual meeting with the Director, and those broadband providers that are identified on the list maintained by the Colorado Department of Transportation pursuant to C.R.S. 39-5.5-109 (1)(b).

F. Prior to applying for a Permit, any Person planning to Excavate in the City's/Town's/County's Rights of Way shall review the City's/Town's/County's Repaving Plan on file with the Director and shall coordinate, to the extent practicable, with the utility and street Work shown on such plans to minimize damage to, and avoid undue disruption and interference with the public use of the Rights of Way.

G. In performing location of Facilities in the Rights of Way in preparation for construction under a Permit, Permittee shall compile all information obtained regarding its or any other Facilities in the Rights of Way related to a particular Permit, and shall make that information available to the City/Town/County in a written and verified format acceptable to the Director. If the Permittee fails to provide the locate information requested by the City/Town/County, the City/Town/County may obtain this information and charge the Permittee the actual costs for obtaining the information.

V. JOINT EXCAVATION

A. **Public Entity Excavators.** Whenever two or more public entity excavators propose Major Work in the same block within a three-year period, such Work shall be performed by one public entity excavator. The participants to the excavation shall pay their pro rata share of the Work, or as otherwise agreed to by the affected public entities. For purposes of this subsection, the public entity excavators shall be treated as a single Permit Applicant and shall submit one application.

B. **Private Entity Excavators.** Whenever two or more private entity excavators propose Major Work in the same block within a three-year period, such Work shall be performed by one private entity excavator. For purposes of this subsection, the private entity excavators shall be treated as a single Permit applicant and shall submit one application.

C. **Public Entity Excavator and Private Entity Excavator.** Whenever a public entity excavator(s) and a private entity excavator(s) propose Major Work in the same block within a three-year period, the Department shall condition Permits for such Work in a manner that maximizes coordination and minimizes the total period of construction.

D. **Excavations Not Identified on Major Excavation Plans.** When an Applicant seeks a Permit for an Excavation, and such Excavation has not been identified on a major excavation plan so as to allow the City/Town/County to coordinate joint Excavation as set forth in subsections A through C of this section, an Applicant may, in the discretion of the Director, be required to circulate a description of its proposed Excavation to the Permittees and other parties described in Section IV.E above, to determine whether any Persons have requirements for installing Facilities along the proposed route.

1. The Persons notified should be provided with the Applicant's proposed route plan, the target commencement date and the estimated completion date.

2. Within ten (10) working days after the notification required by this subsection, any interested Person must notify the Applicant of their requirements so that the Applicant may incorporate these requirements, where reasonable, in its Permit application. The Applicant should summarize the responses it receives from other Persons in its Application.

3. If the Applicant believes that it is not reasonably feasible to entertain the requests made by another Person(s) for conditions of joint Excavation, it should notify City/Town/County and the other Person(s) within ten (10) working days from the date of receiving the requirements from the other Person(s) and provide reasons why it is considered not reasonable to do so. The parties are expected to endeavor to resolve any technical or commercial concerns among themselves, and the Applicant shall report the results of these efforts together with its application for a Permit.

E. Waiver of Joint Excavation Requirements. Permit Applicants may seek a waiver of the joint Excavation requirements with respect to a particular Excavation.

1. Except in cases of Emergencies, within thirty (30) calendar days of receipt of a written request for a waiver, the Director, in his or her discretion, may grant a waiver to the joint Excavation requirements for good cause. In making his or her decision on the request for waiver, the Director shall consider the impact of the proposed Excavation on the neighborhood, the applicant's need to provide services to a property or area, facilitating the deployment of new technology and improved services, and the public health, safety, welfare, and convenience. The Director shall indicate in written, electronic, or facsimile communication the basis for granting any waiver pursuant to this subsection.

2. The Director may waive the requirements for joint Excavation in cases where Emergency conditions exist.

3. The Director may place additional conditions on any Permit(s) subject to a waiver, including, without limitation, the charging of additional fees. The Director's decision regarding waivers of the joint Excavation requirements shall be final.

#### VI. CONSTRUCTION OF NEW STREETS

A. Intent. The intent of this section is to provide for the construction of infrastructure sufficient to allow broadband communications entities desiring to deploy Facilities in the future to do so by pulling the same through the conduit and appurtenances installed pursuant to this section and without Excavating within the Rights of Way. This section is not intended to require Owners of broadband Facilities to install additional ducts or conduit in existing Rights of Way; rather, it is intended to require those constructing public streets, including the City/Town/County and Developers, to provide and install such conduit and appurtenances as may be necessary to accommodate future broadband needs within the Rights of Way without further Excavation.

B. Requirements—Adoption of Standards. Whenever any new public street is constructed, whether by the City/Town/County as a public works project or by a Developer or other private party in conjunction with development, the following shall be required:

1. In all new local streets serving or abutting residential development, a minimum of two 2" conduit with pull box every 1000' feet or less (and at every 90 degree turn) shall be installed by the party constructing the street.

2. In all new collector or arterial streets serving or abutting residential development, and in all new streets serving or abutting nonresidential development, a minimum of four 2" conduit with pull box every 1000' feet or less (and at every 90 degree turn) shall be installed by the party constructing the street; provided however that at the discretion of the Director, the number and size of the conduit and spacing of pull box may be modified to address the reasonably known plans and/or demand for broadband capacity in these locations.

3. In addition to installing conduit, the party constructing the street will be required to install such vaults and other appurtenances as may be necessary to accommodate installation and connection of broadband Facilities within the conduit.

4. All construction and installation shall be accomplished according to construction standards adopted by the City/Town/County. The construction standards shall be adopted with due consideration given to existing and anticipated technologies and consistent with industry standards.

5. All Facilities installed by Developers or other private parties pursuant to this section shall be conveyed and dedicated to the City/Town/County with the dedication and conveyance of the public street and/or Rights of Way.

6. All installation costs shall be the responsibility of the party constructing the public street.

C. Use by Broadband Service Providers and Network Owners. Whenever conduit installed or to be installed under this section is available or will become available within a newly constructed public streets or Rights of Way upon dedication, all broadband service providers or network owners thereafter locating Facilities within such street or Rights of Way shall be required to locate their communications lines within such conduit unless it can be demonstrated to the reasonable satisfaction of the City/Town/County that such location is not technologically feasible or reasonably practicable. Conduit capacity shall be allocated to broadband service providers or network owners on a first-come, first-served basis; provided, that the City/Town/County may reserve capacity within such conduits for its own use; and provided further, that the Director may adopt additional rules for conduit allocation in order to ensure that all broadband service providers and network owners have reasonable access to the Rights of Way and that no barriers to entry or competition result from the allocation of conduit space.

D. Fees. The City/Town/County reserves the right to charge reasonable fees for the use of conduit installed pursuant to this section, to the extent consistent with and as limited by federal and state laws. Any such fees shall be established by resolution or ordinance.

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# MARATHON COUNTY METROPOLITAN PLANNING COMMISSION BYLAWS

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## ARTICLE I - NAME

Section 1. The name of this commission shall be the Marathon County Metropolitan Planning Commission and hereinafter, shall be referred to as the Commission.

## ARTICLE II - PURPOSE AND GOALS

Section 1. To the extent authorized by State Statutes, the Commission shall be an advisory body to the Marathon County Board of Supervisors; the Executive Committee of the Marathon County Board of Supervisors; and to local units of government within the metropolitan planning area.

The objectives of this Commission shall be to promote public health, safety, convenience, and general welfare.

The Commission shall be concerned with studies and recommendations relating to activities including but not limited to land-use; natural resources; utilities; and transportation systems within the metropolitan planning area.

## ARTICLE III - COMMISSION MEMBERSHIP

Section 1. The members of the Commission shall be the chief elected officials of all the municipalities or a designee as authorized by the chief elected official within the urbanized area of the Metropolitan Planning Organization (MPO) boundary. The Towns of Mosinee, Rib Mountain, Stettin, Wausau, and Weston, Villages of Brokaw, Kronenwetter, Maine, Rothschild and Weston, Cities of Mosinee, Schofield and Wausau; a representative from the Wisconsin Department of Transportation; and a representative of the Marathon County Infrastructure Committee.

## ARTICLE IV - TERM OF OFFICE

Section 1. A member shall remain on the commission until a successor has been duly elected or appointed, or until his/her death, resignation, disqualification, incapacity to serve, or removal in accordance with the law.

## ARTICLE V - OFFICERS

Section 1. The officers of the Commission shall be a Chairperson, a Vice-Chairperson and a Secretary.

- Section 2. Chairperson – The Chairperson shall preside over all meetings and may appoint other members to represent the MPO on councils, committees, task forces, etc. or at meetings or other events, or to perform certain tasks.
- Section 3. Vice Chairperson – In the event of the Chairperson’s absence or at his direction, the Vice Chairperson shall assume the powers and duties of the Chairperson.
- Section 4. Secretary – The Director of the Marathon County Conservation, Planning, and Zoning Department shall serve as the Secretary of the Commission. This will be an *ex officio* position. The Secretary shall provide or otherwise delegate staff services for the MPO, as needed, and will be responsible for taking summary minutes of the Commission’s proceedings and be the custodian of all records and documents of the Commission and MPO.
- Section 5. Alternates – Upon written notice to the Chairperson, each member community may appoint an alternate to its representative. That alternate member may serve as a full voting member during any meeting where that community’s representative is not in attendance. Proxy and absentee voting are not permitted.
- Section 6. Appointment of Officers – The County Board Chairperson shall appoint the Chairperson and Vice Chairperson of the Commission for a term of two years at the first regularly scheduled meeting after the spring elections in April of the even numbered years. The newly appointed Chairperson and Vice Chairperson shall take office immediately following the appointment. If an officer leaves their position as described in Article IV, Section 1, the County Board Chairperson shall appoint a replacement officer as soon as possible.

## **ARTICLE VI - MEETINGS**

- Section 1. The Commission shall meet as required. Special meetings may be called by the Chairperson, by petition of three (3) members of the Commission, or the Secretary.
- Section 2. Commission meetings shall be conducted in accordance with Robert's Rules of Order; Newly Revised Edition and the Open Meetings Law of Wisconsin.
- Section 3. Commission meetings shall be open to the public.
- Section 4. In the absence of the Chairperson and the Vice Chairperson, the Secretary may preside over that particular meeting. In the absence of all three officers the remaining members of the Commission may elect a person to preside over the meeting and assume the powers and duties of the Chairperson for that particular meeting.

## **ARTICLE VII - QUORUM**

- Section 1. At any meeting of the Commission, a quorum shall consist of at least six (6) members a majority of the total current membership of the Commission.
- Section 2. Each member shall have all voting privileges and be entitled to one (1) vote.

## **ARTICLE VIII - SUB-COMMITTEES**

- Section 1. The Commission may create sub-committees to carry on the purposes and goals of the Commission, and the Commission Chairperson shall designate the chairperson of those committees. Sub-committee meetings shall be governed by Article VI above.
- Section 2. The Commission shall appoint a Technical Advisory Committee, made up of technical transportation representatives to advise the Commission on transportation matters. The Technical Advisory Committee shall be composed of staff from the municipalities within the MPO planning boundary; representatives from the Wisconsin Department of Transportation; representatives from the Federal Highway Administration; a representative from the Wausau Area Chamber of Commerce; a representative from the North Central Wisconsin Regional Planning Commission (NCWRPC); a representative from the Wausau Area Transit System (WATS); a representative from the Central Wisconsin Airport (CWA); the Marathon County Highway Commissioner; and Conservation, Planning and Zoning Department Staff.
- Section 3. The Commission shall appoint a Water Quality Management Technical Advisory Committee, made up of technical water quality management representatives to advise the Commission on water quality management matters. The Water Quality Management Technical Advisory Committee shall be composed of staff from the municipalities within the 208 Sewer Service Area boundary (Towns of Mosinee and Rib Mountain, Villages of Kronenwetter, Maine, Rothschild and Weston, Cities of Mosinee, Schofield and Wausau), , representative from North Central Wisconsin Regional Planning Commission (NCWRPC), a representative from the Wisconsin Department of Transportation, and Marathon County Conservation, Planning and Zoning Department Staff.
- Section 4. Such other Technical Advisory committees may be appointed on a temporary basis by the Chairperson, which are deemed necessary to carry out the functions and responsibilities to the Commission. The Chairperson shall designate the chairperson of these committees.

## **ARTICLE IX - GENERAL**

- Section 1. The Commission may cooperate with, and contribute or accept services from Federal, State, or local agencies, public or semi-public agencies, private individuals, or corporations and may carry out such cooperative undertakings.
- Section 2. The Marathon County Conservation, Planning and Zoning Department will be the staff for the Commission.
- Section 3. To keep Marathon County's Executive Committee informed of the Commission's activities, the Executive Committee will receive the yearly Unified Planning Work Program and budget.
- Section 4. All Commission member communities shall pay a percentage of the local share necessary to fund the required Commission functions. The allocation of cost for



each community shall be determined by a majority vote of the commission members. The allocation of costs will be represented in the annual Unified Planning Work Program.

## **ARTICLE X - AMENDMENTS**

Section 1. A majority vote of the Marathon County Executive Committee shall be required to forward any amendment to these Bylaws to the Marathon County Board of Supervisors. A majority vote of the Marathon County Board of Supervisors shall be required to amend these Bylaws. Approval of the amendments by the Marathon County Board of Supervisors shall be obtained before the amendment is effective.