Maine Abandoned and Discontinued Roads Commission

Meeting Minutes, August 3, 2023

In attendance: Karla Black, Brian Bronson, Peter Coughlan, Rebecca Graham, James Katsiaficas, Kris MacCabe, Roberta Manter, Vivian Mikhail, Catherine Nadeau, Ryan Pelletier, Steve Young

Absent: John Monk

Meeting was called to order by Chair Jim Katsiaficas at approximately 1:15 pm, followed by a roll call of the members present.

Jim opened the meeting with a motion to change the order on the agenda and hear testimony from the public first.

The motion was made by Roberta Manter and seconded by Peter. Unanimously carried.

Testimony (attached) was given by:

David Manter-Fayette

Kathy Maher-Cornish Maine

Jennifer Grady-Whitefield, Maine

Greg Hutchins, Whitefield, Maine

Jim Katsiaficas called a close to Testimony.

Jim then turned the meeting to Heather for an update on the Commission website. She explained that she able to secure from informe a free website on maine.gov. The initial picture of content was shown. Heather is working with informe on design and additional content.

Vivian queried about the recorded meetings and Heather stated that they are posted on the YouTube channel @ADRC23 and a link would be provided on the website. The YouTube page was then shown to the Commissioners.

Peter updated the Commission on the road inventory project.

1)THE MDOT mapviewer gives the status of a road maintenance category(private, town, etc.).

2) Peter was able to use E911 system and the MDOT mapviewer to create a PDF which will be on MDOT website when completed and should contain all public roads and most private roads where there are more than one resident. Peter added that it might not be 100% correct as the towns report this information.

Cathy asked about placing it on the Commission’s website and being able to print off PDF.

Heather stated it would be better to have the link on the website for MDOT so it’s the most up to date.

Brian asked about the process of how MDOT receives information on the roads from town etc.

Peter explained E911 receives information via the towns addressing officer. There was discussion about a disclaimer that the information is what is in the MDOT receives and is not a legal determination of the status of a road. Peter stated that he also reminds the towns that if they are blocking or closing something to update 911 because the rescue routes are based on the road inputs.

Ryan asked if there is a requirement by the town for E911 or is that just on their own accord? Peter said no requirement and sometimes it is overlooked as a lot of municipal officials have to wear many hats.

Jim stated that it might even be an opportunity to add to Real Estate disclosure form a place to check off that they looked in the MDOT mapviewer for the road ‘s status, with the caveat that it's only as good as what town's tell MDOT.

There was a brief discussion about safety concerns with people using gates to block access on roads. One solution raised by Jim was if there is a gate then there's must be a kind of universal key that police, fire, and rescue can use to get through.

Ryan raised the issue that some people don’t want to be bothered. He himself and his coworkers have been threatened. People need to be responsible for their own actions.

Jim stated that the problem arises more when there are 40 people living on a road who have building permits from the town and need that road for access but don’t have a deeded easement because it was discontinued without a public easement. Someone buys property rights and puts up a gate and 20 people suddenly can't get to their property. When does it become a town issue? If the town did issue building permits and, in a way, tacitly approved the building requiring the person to show that you have frontage on a public street.

Roberta agreed with what Cathy said about 911 due to personal health reasons.

Rebecca and Jim had a brief discussion on zoning and building permits. Towns are doing things differently depending on their zoning laws. Some with these issues, put on any building permits that they issue that there is zero maintenance on that road. Some require access or frontage on a way and decline a permit that's not either currently on an accepted town way or a public easement or discontinued.

Rebecca stated that there's only about 40% of communities that have zoning.

Cathy wondered if there was a way to make this better. Is it possible that the permit could state No access will be denied?

Jim responded that under the law as it stands, it would be unenforceable.

Steven felt though there should be a law to protect people who had a permit to build on lot.

Jim moved on to the legislative directive of LD 461. He discussed the law changes and what that meant for the Commission. He read the law into the record and what the Commission was charged with:

1. Commission can meet as much as it needs to work on the definition of roads.
2. the report is due January 5, 2024.
3. We area also allowed to have subcommittees.
4. The focus of the Commission will be the definitions of roads

Jim raised that the Committee asked that the Commission should present a list of ideas or changes that help immediately. He further suggested liability issue for maintaining public easement and using MDOT mapviewer on the Realtor Disclosure form or required to look at it when filling out the form. Major charge is to help with the confusion of terms.

Ryan raised the subcommittees around the terms and thought it was good idea, but limited staff would cause issues with FOAA and maybe we should tackle as a group.

Peter raised the fact that Bill LD 461 says in Maine Revised Statute so a word search in the statutes can find or create a definition in those statutes that can be referred back to and hopefully fix all the confusion.

Jim agreed that the Commission work on making the road definitions consistent throughout so that there wouldn't be any issues. He agreed with Ryan’s idea that subcommittee could start working and finding and pulling together the information for the Commission.

Roberta offered her searches that she had done at the law library with the caveat that they would need to shepardized as they might not still be good law. She also looked at the terms, what should change and made a whole list of suggestions for the terms, and where it appears in this statute.

Jim proposed that the subcommittee be called terms and it can look through the statutes and see where these terms are used, how they're used, the different definitions or` contexts, and then at least have the raw material.

Roberta asked about how they would meet and the requirements.

Jim stated that those on the subcommittee each do some homework and bring it to the meeting, when we do have the meeting, it can be in person, or it can be over zoom and the public can attend. It would be on the subcommittee Roberta, Jim, Peter, and Ryan.

Rebecca wondered if Jim was suggesting only looking at the statutes.

Jim said yes.

Rebecca , I think that one of the things that I also want to look at is how those are being used when there was an exemption of the Title 12 statute, because of the changes to the easement statute and usage aspects.

Peter asked if Heather should do a word search to pull the titles.

Jim stated that a better resource would be to ask the state law library to do the search.

Ryan asked about the E911 bureau and reporting.

Peter said an Address officer would log into E911, put in the info, and hit submit and it shows up for MDOT.

Ryan wants to know where he can go and see what roads are public or private.

Peter replied the MDOT mapviewer.

Vivian stated that the MDOT mapviewer information is given by each town.

Roberta said the E911 mapping site, but it is not the most accurate. The Norton Road says it’s a public road and it is not.

Peter asked for Clarification and asked Roberta to send him the website.

Rebecca asked if the LUPC for Ryan does that and is it also updated.

Ryan said they have someone who is the 911 person for Aroostook County. LUPC does not do it.

Jim transitioned onto the next steps for getting a report and draft legislation in December. We need to at least have those issues put together by the committee for September meeting, a rough draft in October/November and a Public hearing for the report.

Rebecca asked what the scope is.

Jim thought the Commission will start on how terms are applied, and that part would be walked through together in September.

Roberta gave an example of how the laws conflict and cause butting heads.

Rebecca agreed and said the definitions in each statute applies differently.

Vivian stated we won’t know what impacts until we are at the end of the list.

Brian pointed out that we don’t need to be so through because the Legislature will pour over the report with their people, lobbyists, and public hearings.

Roberta pointed out that the Commission was given six meetings. She does not want to lose momentum on solving access to people’s property including liability, taxes, and costs. She is still getting three complaints per week.

Steve informed Roberta that Darla, said in the online chat she could talk about her experience. The Commission then heard Roberta’s Testimony on behalf of Darla Elliott and Testimony of Roberta Manter with follow up questions from the Commission.(please see attached testimony)

Jim then proposed the idea of having another subcommittee to look at the priorities of the Commission.

Rebecca raised the fact that now we have no regulation on how many meetings we can do for this purpose on term, but we still are restricted in other ways.

Jim pointed out that was correct, but we could do a subcommittee.

Cathy and Roberta agreed there needs to be a subcommittee.

Then we can put the priorities in our report and report to the committee.

It was determined that a motion was not needed for creation of subcommittee.

Priority Committee are Roberta, Karla, and Cathy.

All scheduling and requests please send through Heather so she can keep track, schedule, and have minutes and notes as a record.

Karla brought up the subject of the FOIA request and questioned if Commission should limit the email traffic back and forth.

Jim stated it is fine if email is being used to speak, send results or comments, set meetings, agenda, and coordinate time ccing Heather. However, do not talk to each other by email about the substance, for example, we should really be doing X about this issue.

Ryan asked about getting a copy of The Maine Municipal Association municipal roads manual.

Rebecca will check with legal at MMA and see if okay for Heather to copy and share.

Cathy asked Peter if it is possible for him to send the PDF that will be on MDOT website of all the roads in the state for Heather to share with the Commission.

Peter said better to access once online as each town roads and it is a searchable PDF.

Cathy asked about it being on the website.

Peter said they are refining it, but the map MDOT Mapviewer online has already everything.

Peter raised the issue of whether Kathy Maher would have any hope. Are any of our priorities to try to help that situation.

Jim stated that one of the suggestions is for there to be a public easement retained over and abandoned or discontinued road and that if there's a public easement that it prevents someone from putting up gates bars or a no trespassing signs. But for someone who already lives on a discontinued road without a public easement, no. That can be addressed in the priority committee, but we should keep the Commission suggestions to a few.

Roberta raised the idea that the old roads that were discontinued so far back and if people are still using them should automatically have a prescriptive easement or whatever the road was before it should go back to.

Jim added that the Commission has heard a bunch of issues regarding private property owners putting gates on discontinued roads, that it probably makes sense to look at that issue.

Brian raised that different places in the law refers to different definitions and what can and can't be done. On those definitions, we want to fix the definitions to reflect these issues.

Jim stated that the issues raised about gates won't turn on whether the definitions are different between sections, but the legislature and Commission are aware of the issue and should be on the list.

Brian feels there should be even application of law especially regarding gates and that so much seems to hinge on which definition is being used.

Rebecca pointed out that there's issues with points in time, issues with use, and there's issues with the definition. She raised the fact that a private way can include a mall parking lot so its complicated.

Roberta raised the issue that the definition of common law 20 years no use is not clear. There should be more guidance for the courts and people to determine what constitutes 20 years. She stated one way to determine the time that has passed would be to see if there are twenty-year-old trees growing in the road.

The Commission talked about meeting in September to discuss what the subcommittee where able to figure out. Heather stated that she would send a doodle poll on dates for the week of September 11 and the following week.

Jim asks for a motion to adjourn

Motion made by Rebecca

Seconded by Cathy

Unanimously carried

Meeting adjourned at 3:45 p.m.