**ABANDONED AND DISCONTINUED ROADS COMMISSION**

 **HYBRID MEETING NOTICE**

December 19, 2023 – 1:00 p.m.

Location: Burton M. Cross Building, Sixth Floor, Rm 600

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The Maine Abandoned and Discontinued Roads Commission will convene a hybrid meeting at 1:00 p.m. on Tuesday, December 19, 2023. The public may attend by joining in person or via the login information provided herein, and the agenda follows.

Zoom Meeting:

When: Dec 6, 2023 09:00 AM Pacific Time (US and Canada)

https://mainestate.zoom.us/j/82791107371?pwd=ek9EWnNoYy9UK2RIVzc4MHhjMElWdz09

Passcode: 06071351

or

YouTube Streaming (watch only): @ADRC23

**AGENDA**

1. Call to order
2. Roll call
3. Adoption of December 6, 2023, meeting minutes
4. Public Hearing
5. Discussion of draft report to Maine Legislature
6. Other business and announcements
7. Adjourn

**ABANDONED AND DISCONTINUED MEETING MINUTES**

December 6, 2023

Hybrid Meeting

**In attendance**: Jim Katsiaficas, Roberta Manter, Brian Bronson, Peter Coughlan, Kris MacCabe, Vivian Mikhail, Catherine Nadeau, John Monk, Steven Young, Karla Black

Absent: Ryan Pelletier and Rebecca Graham

The meeting was called to order by Chair Jim Katsiaficas at 9:00 am.

Jim asked if there was a motion for the adoption of the November 16, 2023, meeting minutes, there were some corrections made, then a roll call vote which was unanimously carried.

Jim opened the meeting discussing the Commission’s report due January 5th, 2024, and the work that has been done so far in formatting the report and drafting legislation.

Brian raised the issue that his department will need to review and that he was concerned with the language around ATVs and whether it might take away access rights. Brian’s concern centered around Roberta’s comments on Private Roads.

Jim responded that no one on the Commission wants to take away access rights. The Commission is trying to clarify what the terms mean so there is no confusion around the terms.

Roberta disagreed with Brian’s characterization and responded her proposal was that the owners of the land under the public easement should be able to decide whether ATV’s are allowed to use an ATVs on their public easement.

Brian wasn’t sure if the Commission should even be looking at ATV access to trails.

Jim responded that the Maine Legislature had asked for recommendations on how to clarify the terms; private road, public way, private way, and public easement, which includes access on these roads and can affect those who use them.

There was further discussion about the issue between Kris, Brian, Jim, and Roberta including zoning on roads, private road associations vs a public easement road associations and the issues with who maintains public easement roads.

Roberta argued there should be no Statutory Road Associations on a Public Easement because then private people are being forced, at the threat of a lien on their property, to use their private funds to maintain a public road for the public’s use. She asserted that if the Public is using a public easement, they should have to provide sufficient maintenance to support the public’s use.

Jim responded Towns have the right to maintain public easements, but some don’t. In addition, public easements are necessary for many people so they can access their property.

Jim transitioned to the current statutes on Road Associations and stated that the language in those statutes use Private Ways which really refers to Public Easements and should be amended to Public Easements. In addition, the statutes should be amended to allow road associations on a public easement where the town does not maintain the easement.

After an extensive discussion between Roberta, Jim, John, Kris, Steve, Brian, and Cathy, it was tentatively agreed to recommend that people should be allowed the **option** to form a voluntary Road Association on a public easement and on changing the term Private Ways to Public Easements in sections 3101-3104.

Jim, Roberta, Kris, Steve, and Cathy, then discussed Limited Liability protection and how to allow voluntary repairs or in-kind service for public easements.

The Commission tentatively agreed that there is a consensus on having limited liability protection on Public Easements.

Kris asked why are towns not contributing to Public Easements? Jim described the history on abandoned and discontinued roads, why towns abandon and discontinue roads and why they become public easements.

There was discussion about Town and State-owned land on public easements, cost to maintain, the future of Maine Roads, and fiscal notes by Brian, Roberta, Kris, and Jim.

Roberta reiterated her thoughts that Towns should contribute enough to support easements for public use and reiterated the idea of minimal maintenance roads for public easements and a lesser standard of maintenance as a solution.

Cathy wondered if the towns would be amenable to putting money in once every five years or on a five-year plan, as it would lessen the fiscal note.

Jim reflected that Roberta’s idea of minimal maintenance roads would be on those roads that are Public Easements. The road would be defined as minimal maintenance if there are residents living on the road or it reaches public land. This would be a separate class of public easements and would obligate a town or the state to maintain them. Finally, Jim asked what would be the standard for minimum maintenance?

A discussion followed on the definition of what passable would look like and that the idea that state/town has a vested interested in people using the public easement or land by Karla, john, Cathy, Roberta, Jim, Steve, Peter, and Brian.

The Commissioners decided to put minimum maintenance roads aside for this report. The Commissioners need time to consider and evaluate what “passable” means.

The Commissioners took a five-minute break.

Jim then presented the idea of having one definition of Public Easement and that the most effective way to resolve the problem of ATVs and Snowmobiles would be placing restrictions to control the access and behavior by the towns in those titles that grant them access.

Brian expressed his concerns about changing the law, how it would impact ATV’s based on Roberta’s drafts and that it could change access for ATV access routes.

Kris stated that as a game warden it is hard to tell who has permission and who can grant access to ATVs.

There was a discussion on how to word access and how to limit access and Rebecca’s recommendations for Title 12 by Steve, Kris, Brian, and Roberta.

Brian felt strongly about not changing Title 12. He was concerned that any changes would lead to access being denied and his department unable to fund trails.

Steve, Kris, Brian, and Roberta discussed who is the actual owner of the land, who can give permission to access, and how to determine the status of the Public Easement.

Jim reiterated that there should be one type of Public Easement with unfettered access and if there should be restrictions on Public Easements for ATVs and Snowmobiles, he argued that it should be up to the town to vote through their process on whether to open their public easements to ATVs and snowmobiles. Furthermore, it would make it easier for law enforcement and towns then to determine where these recreational vehicles are allowed.

Brian raised the issue of buying easements. Jim and Roberta stated that only applies to private land and the changes would apply to Public Easements.

Steve was concerned that banning ATVs will encourage people to use 4x4 trucks on those roads and those are more damaging.

Jim asked if there are people who live on public easements who use snowmobiles and ATVs for access to their homes and whether we shouldn’t be banning them.

Roberta gave the example of a housing development in the town of Rumford.

Brian and Kris stated that there is a chapter in Title 12 section 13157(6) that allows use of ATVs and snowmobiles on abandoned and discontinued ways. Brian felt that could be removed and argued that it would be easier than what Jim had suggested.

There was a discussion among Roberta, Jim, Kris Steve, Brian, and Peter on what the statute means when it says maintained for motor vehicles.

Jim after listening to the discussion reiterated that there is an unfettered right to use public easements. Nonetheless there is no reason why controlling the behavior or access for snowmobile or ATV statutes couldn’t be put into the regulations that must be adhered to.

Roberta would like to see a statute state that if a town is using and maintaining a public easement then they can give access but if people who live on public access roads and maintain those roads, then it would be up to those who live on the road.

Brian reiterated his concerns that the recommendation will affect different groups and that they will change a bunch of different laws across a lot of departments.

Jim said that the goal is to return public easements back to unfettered access.

A lively discussion followed on how to proceed and have draft recommendations with Kris, Jim, Roberta, Karla, and Brian.

Jim will draft legislation for the Commissioners to review with the intention being that Public Easements have unfettered access and will draft restrictions and who can approve access for ATVS/snowmobiles etc.

Jim then moved to Private Roads terminology. He stated the goal is to change language to keep the legislature and others from confusing Private Road, with Private Way and Public Easements.

Roberta raised the idea that the Commission or Legislature should request that the Maine Supreme Court give its opinion on privately maintained roads for public use and whether it is constitutional or not. Roberta believes it is unconstitutional.

Jim disagreed with Roberta and responded that the court has upheld these statutes in the past and therefore he thinks it is constitutional.

Brian reiterated that the sooner he gets the report and draft legislation the better as he will need to have it reviewed by the administration.

Jim will go through Roberta’s comments that she submitted this morning and diligently draft legislation, refine the report, and provide to the Commissioners after this weekend.

Finally, Roberta referred to her comments and stated which ones she thinks are simple changes.

Motion was made to end meeting, seconded, and carried. Meeting ended around 12:30 p.m.