**ABANDONED AND DISCONTINUED MEETING MINUTES**

**June 18, 2024**

**Remote Meeting**

**In attendance**: Jim Katsiaficas, Roberta Manter, Brian Bronson, Peter Coughlan, Steven Young, Karla Black, John Monk, Kris MacCabe and Rebecca Graham

**Absent**:, Vivian Mikhail, Ryan Pelletier, and Catherine Nadeau

The meeting was called to order by Chair Jim Katsiaficas at approximately 1:00 pm.

The Commission unanimously accepted the minutes of the January 3, 2024, meeting, based on a roll call vote.

Jim opened the meeting by asking who would like to present the findings of the Subcommittees.

Roberta then presented the findings from the Public Use subcommittee:

1. That the Public do not carefully use or respect the Public Easements and cause damage.
2. The damage causes ruts in the roads that leads to washed-out roads.
3. The landowners who live on Public Easements do not have unlimited money to spend on fixing the damage which affect their access to their homes on a public easement.
4. Damage caused by ATV, Hunter, and Trucks can be severe and ruin a road.
5. If the purpose of a Public Easement is to provide access to the public a private citizen who lives on the road should not have to shoulder the responsibility entirely.

Steve and Roberta discussed that abandoned and discontinued roads are not built to any road standard.

Steve stated that if these roads were properly fixed it wouldn’t be an issue but since there aren’t the roads should be closed at certain times.

Jim agreed and stated that municipalities have standards for roads that they maintain but abandoned and discontinued roads, the municipality no longer has the obligation to take care of them because they weren’t needed. Jim thinks it would be hard to get municipalities to bring those roads up to standard just because people now are buying property and want to live on them.

Kris stated how forestry has the power to tell paper companies and logging to fix improper roads and to correct the issue. There are standards for private roads in existence that aren’t as stringent as municipal roads.

Brian spoke about how the law does not allow ATVs on the trails at certain times of the year. Brian feels roads and trails should be closed to pickups and jeeps during certain times of the year also. Brian stated that ATV maintenance has become less expensive because of closures.

Steve liked Roberta’s idea from the last meeting, that there should be a tax on heavy duty trucks, especially jacked up trucks.

Brian raised that New Hampshire has a sticker for those who use their vehicles off road. The payment goes into enforcement and damage.

Jim asked if we knew how New Hampshire is breaking down the costs and thought even with a sticker program the funds might not help abandoned and discontinued roads.

Brian stated a sticker program would give a list of those vehicles that are off roading which would help law enforcement and give a chance to educate those who are off roading on damage prevention.

Brian shared based on his experience that dirt roads have more damage from hunters in their trucks and that he found that when they closed the ATV trails it prevented 95% of the damage.

Kris thinks that the people who are causing the damage aren’t going to be the ones who buy a permit to go off-roading.

Kris is also concerned about taxes on trucks and where the line would be as there are tricked out trucks, but they are only driving in Portland.

Roberta said it would have to be specific regulations.

There was a discussion of ideas proposed by Steve, Jim, Brian and Kris. The ideas discussed included a tax, written permission to be on the land, excise tax or super excise tax for big trucks, banning trucks on certain roads during mud season, a law where roads are closed to public traffic during certain times of the year, or $500 fine for trucks who are on closed roads.

Kris was asked why there are not seasonal gates on abandoned and discontinued roads?

Brian added that private roads are closing to recreational activity because of reckless behavior and that mud season is year to year decision on when to open and close.

Jim stated in response to Kris’s question that Towns or municipal officials can adopt a law and post the roads for seasonal closings depending on certain categories. Since the abandoned and discontinued roads are public easements municipality should be able to so. However, winter closing is not the same thing as posting the roads.

Steve stated that Abandoned and Discontinued roads should be closed roads.

Rebecca asserted that towns can close for Public easements, but towns get a lot of push back for these closings.

Jim stated we are talking about protecting the road, not closing the road entirely.

Peter talked about the current laws on the books.

There was a brief discussion on whether the current laws apply to Abandoned and Discontinued roads.

Roberta reiterated that people who live on abandoned and discontinued roads not only pay to fix and maintain the road so that they may access their property but also are paying and fixing the road for the Public. Law enforcement is called to help when there is damage done to abandoned and discontinued roads, but the police won’t and can’t do anything.

Kris said on public easements such as abandoned and discontinued roads vehicles are allowed to drive on the easements.

John thinks that it would make sense to keep people who do not live on the roads out during certain times of the year to protect the roads.

Jim went over the chart that was created by the Public Use Subcommittee.

Jim, Roberta, Kris, Brian, Peter, Rebecca, John and Steve had a discussion on roads, conservation easement, seasonal closing and weight limits restrictions, exception for residents or landowners, when to post and how postings are done and who would post.

Peter proposed to change the language in 159A.

Jim proposed adding in Public Easement.

Discussion on whether towns would post for public easement.

Brian felt that it would help with enforcement if there was a law to keep people out unless they live on the road. He described the postings that the state posts.

Jim explained the rights and responsibilities of the town and people who live on abandoned and discontinued roads.

John asked are we trying to make a law to help those landowners on these roads or trying to keep people out?

Jim replied that because it is a public easement the public have a right to use the road.

Brian asked if towns could close public easements.

Jim said municipalities go through this each year. Towns have the right to regulate the roads to protect the roads. There are exceptions such as fuel trucks for residents etc.

There was a discussion on whether towns have the authority to do this already by 30 A 3009 by Peter, Jim, and Brian.

Jim will update the chart and focus on the impacts and how to reduce impacts on the abandoned and discontinued roads.

Rebecca, Brian and Jim talked about closing the road for mud season and an exception for property owners.

Brian, Roberta, Steve, Kris, and Karla discussed who the closing would impact, who would support a closure, who should be allowed on the road and who can be kept out.

Roberta presented her next slide show which went over the damage and issues of public safety on discontinued and abandoned roads for recreational use. She explained how this damage not only prevented landowners from reaching their property but also emergency vehicles.

Discussion by Brian and Roberta on discontinued roads and building bridges. Brian advocates that if the public and state, county and local get together then things can be built. There needs to be a process for mediation.

Brief Ten-minute break

Jim moved on to the findings from subcommittee on Limited Liability.

Jim described that those landowners who live on abandoned and discontinued roads are liable for any damage that hurts those traveling on that road. Jim referenced the recreation exemption in Maine State law. The idea would be to use that example.

Jim asked the Commission to look at the draft Limited Liability proposal.

He then walked the Commission through the proposed language.

Kris asked if it included the language “agent of”?

There was a discussion on contractors or agents and what that means.

Jim said the contractor or agent should have insurance.

Jim explained the idea is that if someone is going to charge to do work on the road then they would not be covered. Those who are using it to maintain only their road, cost of repairs, materials, equipment would be okay. It would need to be no profit.

There was a discussion on the language and how to make it clearer.

Karla stated that the Woodlot owners have concerns that the language proposed is too broad. Karla thinks it would be better to look at the limited liability law that already exists and have it include Abandoned and Discontinued Roads.

Jim said the problem is that the limited liability statue in effect is for recreational use of private property and the landowner is inviting them on to the land. Abandoned and Discontinued Roads people have the right to use it without an invitation and the risks are different.

Discussion by Brian, Jim, Karla and Rebecca on the current liability law and liability.

Rebecca went through the difference between town and landowner liability.

Roberta raised the issue of signs for Class E crime signs on those roads which state if damage is done they are responsible for the damage.

Discussion Brian, Roberta and Karla on how to make sure the landowner is not liable for environmental damage but then who would fix it and pay for the damage.

Karla proposed for acts of God the landowner should be responsible and if a person who causes damage, the town.

Rebecca said that MMA would not support it.

Brian stated that maybe the change needs to just state the landowner is not liable and that is where it needs to end. No other determination on who pays if they cannot find the person responsible.

Kris asked if anyone was aware of any landowner being sued for environmental damage for someone else doing the damage?

Brian stated he has only seen issues on how a road or trail is built but they always go after the clubs or contractor, not the landowner.

Jim said we are trying to protect landowners who are fixing the road. Not for people walking the road or protect landowners from those using it as recreation.

Brian asked that if we are just trying to protect landowners, will it impact the town with what is drafted now?

Rebecca answered no. This is not closing the road, there is another standard for closed roads where municipalities are more liable but that is not the case here.

Jim reiterated when you close a road for winter maintenance that road is a town road. The town is responsible for the road and damage, and they do not want people messing around with the road. The town has 24 hours to fix issues on the road.

Jim brought the discussion back to Abandoned and Discontinued Roads.

Brian advocates for not touching 159 A as the AG office, his group and kris would say no.

Jim state he will work on the 159A draft and the current draft and see what happens and what everyone likes.

Jim proposed a Commission meeting in August and subcommittees meetings in three weeks.

Heather will send out a doodle poll on dates for all the meetings.

Jim said we will provide some options in writing out the proposed legislation, but everyone seems to be on board with limiting access to those who do not own property on the Abandoned and Discontinued Roads.

Discussion from Roberta, Kris, Jim and Brian on some of the items in the chart.

Everyone will look through the chart and send changes or recommendations and concerns to Jim.

The meeting ended at approximately 3:53 p.m.