Abandoned and Discontinued Roads Association

Limited Liability Subcommittee

July 18, 2024

Remote Meeting

In attendance: Jim Katsiaficas, Catherine Nadeau, Karla Black, Roberta Manter, Brian Bronson, and Joe Higgins.

Jim called the meeting to order at 12:03 pm.

Jim opened the meeting discussing the progress that has been made on this issue and whether it make sense to add limited liability to Section 159 A and the issues that could arise from doing so and his thinking that it would not be appropriate since this section is intended to relieve landowners from liability of recreational use of their land. The use of Public Easements for public access is not recreational use.

Jim instead proposed creating a new Section 159-E Section to limit landowner liability for public easements. He walked the Subcommittee through his draft “Section 159 E”, describing what it includes and how it would help those landowners who live on Public Easements that are discontinued and abandoned roads.

Brian, Cathy, Roberta, and Jim discussed reimbursement and different ways someone could be reimbursed for people who live on a road but don’t have a road association and concerns with if they can be reimbursed on Public Easements.

After the discussion, the subcommittee agreed to take out the reimbursement language. They will keep it as a backup in case the Legislature asks. The idea was for those who live and fix the road to be able to recoup money from others who live on the road who want to contribute to costs.

They moved on to a liability for landowners on a Public Easement. Karla raised the idea that landowners be shielded from all liability on the Public Easement, whether or not the town is maintaining it.

There was discussion on what the limited liability applied to between Jim, Roberta, Karla, and Brian.

Karla stated that her group feels that if a town and landowner are not taking care of a Public Easement and someone drives on the road, the landowner should not be held liable.

After a brief discussion, Jim is going to redraft the proposed bill to include Karlas’s suggestion.

The subcommittee moved on to the environmental damage clause.

Jim explained that the law states that even if you didn’t cause the damage to the road that led to environmental damage the state can still make you abate the environmental damage.

Catherine asked for an example of where that could happen.

Roberta gave the example of ruts that cause run off into the lake.

Jim stated the issue is that even if you didn’t cause the issue and even if are no criminal or civil sanctions the state can require a landowner to abate the damage, such as filling in the road and putting up a silt fence. You would still have the right to go and sue the individual, but you might need to track them down and if you can’t find them you are still on the hook. Therefore, the draft being proposed in section 6b changes that and has it written that the landowner is not liable for environmental damage caused by third parties.

Jim warned that this might cause an issue with Maine DEP.

Brian hasn’t heard of Maine DEP going after anyone or even landowners for damage caused by third parties.

Karla said she has not heard of any landowner having issues but has not been engaged with her members on this matter.

There was a discussion between Jim, Roberta, Karla and Brian on how this will work and issues that have or can occur.

Jim stated the draft will limit liability and expand liability protection.

Jim will redraft the limited liability legislation and will send the draft to the subcommittee to review. If anyone has any comments or suggested changes to let Jim know and he will work on a final draft to send to the Commission.

Jim thanked Commissioner Brian Bronson for his hard work on the Commission and wished him the best in retirement.

Meeting ended at 12:50 pm