ABANDONED AND DISCONTINUED ROAD COMMISSION

SUBCOMMITTEE PUBLIC USE

July 25, 2024

Remote Meeting

In attendance: Jim Katsiaficas, Roberta Manter, Joe Higgins, Karla Black, Ryan Pelletier, Kris MacCabe, John Monk.

Jim called the meeting to order at 12:00 p.m.

Jim opened the meeting discussing the history and progress the subcommittee had made in discussing issues facing landowners on abandoned and discontinued that have become public easements.

Roberta raised the constitutionality of landowners paying for roads being used by the public and that road associations will not fix the issue. She stated that there are two issues to be addressed regarding Public Easements. 1) if someone loses access for their property then they should be reimbursed, and 2) if public is using the roads that private landowners are fixing and not reimbursing them for use.

Jim replied that he understands her point but that if the commission recommends resolving this issue by causing municipalities to pay money then in his opinion nothing will be passed.

Jim reframed the argument by stating the goal of the subcommittee is to keep public easements in good shape especially those that are being repaired by the private landowners.

Jim went over the MDOT restrictions for posting the roads and the restrictions available to municipalities such as weight, limit traffic, mud season etc. There is nothing listing Public Easements being under the control of municipalities and so that should be added into section 2395, which would give municipalities the tools to protect the public easements.

Jim then went over the current available options(Title 17 and 23) to protect those who live on a public easement or punish those who damage public easements.

Jim thought the Commission could recommend adding that municipality can post during mud season, rain or anytime public use could damage the public easement, whether town maintains it or not, in section 2395 which would help alleviate some of the issues.

Ryan asked would it be too intrusive to municipalities to require bonds for those who want to access public easements for logging operations or constructions projects? Ryan gave an example of one of the towns he worked with.

Ryan stated he did ask on the municipal official forum he belongs to how many towns have public easements and how many are maintained. One of the towns stated they had one Public easement and don’t maintain it. But Standish and Gray have many Public Easements. Ryan thought it would be a good idea to speak with them and get a template for towns on how to handle Public Easements. Gray has 30 miles of Public Easements, and some have road associations. Gray also provides snow removal through a private contractor on Public Easements. Ryan suggested it would be good to know how this came into being.

Roberta remembers when the court ruled that it was illegal to maintain roads and some towns stopped immediately and others called them public easements and used the statute to continue maintaining it under the fire and police protection clause.

Jim agreed and said he remembered law firms recommending that towns could continue to maintain these if they had releases and those living on the road allowed public access.

Jim believes that a municipality should have the authority to maintain the integrity of the roads (Public Easements) that people are maintaining.

However, Jim raised the issue of Sections 3021 and 3022 and that there are still two definitions of public easements. One Public Easement is limited to use by motor vehicles and by foot and the other does not have any limitation. These dueling definitions are unwieldly and make it more difficult for law enforcement.

Jim asked if everyone was okay with adding public easement to section 2395 and there was a unanimous agreement. The Subcommittee will present its findings to the Commission.

Jim raised if anyone else has any ideas such as minimum maintenance roads or other ideas that the subcommittee can start looking at those also.

Ryan asked Roberta about minimum maintenance and which states have them?

Roberta said New York had a proposed bill on minimum maintenance. She stated that the issue is that municipalities don’t want to spend any more money than they must maintain roads they already have and are not open to adding a road. Roberta thinks the best way forward is either the municipalities pay to maintain a public easement or minimum maintenance or on those roads where they are not maintaining the public easement they allow Landowners to decide if want it to be private and let the landowners be the final say.

Roberta, Jim and Ryan spoke about public easement history, issues with being landlocked if there is no easement.

Ryan asked if there is no other current statue for minimum maintenance in USA and has there ever been for Maine?

Roberta said she will find one and can give it him

Jim said it was in Maine law and was found unconstitutional. (*Jordan v. Town of Canton*) A town cannot do minimum maintenance and keep a public road without paying damages -- that was found unconstitutional. *Lamb v New Sharon* further decided that non maintenance of a public easement is allowed.

There was a brief discussion on what town/municipalities should do with public easements and whether if they are not maintaining them they should be public easements and how to deal with transferring into private roads and what that would mean for town assessments (more money) and minimum maintenance roads.

Ryan asked Roberta who damages the Public Easements the most -- recreational or other uses?

Roberta said hunting, walking, snowmobiling and properly maintained ATV trails are not an issue. 4x4 trucks that drive in height of mud season and cause the road to wash out are a problem. Logging companies are doing better but the weight of the vehicle is an issue if they grade a road but don’t replace the gravel.

Ryan felt that could be handled with bonding.

Ryan wonders what the reaction would be if you proposed a limit on public easements, such as pickup trucks not allowed unless you are a landowners. Joy riding seems to be the issue that is damaging these public easement.

John asked how much is a rogue rider problem?. Across the state how many remain unresolved other than rogue riders?

Roberta thinks rogue riders are the most obvious, but the more people use a road where it is being maintained by private landowners, the more wear and tear on a road and the heavier cost to the landowner. So, limiting traffic would help.

Jim raised the issue that it is a public easement with public right to access -- it would be hard to distinguish that the people who live on them can have 4x4 but those who don’t can’t. What if you are a visitor or a logger? It needs to be carefully thought out.

Jim thought the next step is to work with MMA so municipalities can have language and knowledge of posting, the right to bond for access to public easement and bring it to the Commission to discuss.

Roberta felt that allowing a sign of warning on damage of road results in consequences might help.

Roberta to look up minimum maintenance laws on roads.

Jim ended the meeting at 12:50 pm.