**ABANDONED AND DISCONTINUED MEETING MINUTES**

**August 8, 2024**

**Remote Meeting**

**In attendance**: Jim Katsiaficas, Roberta Manter, Peter Coughlan, Steven Young, Karla Black, John Monk, Kris MacCabe, Rebecca Graham, Vivian Mikhail, and Ryan Pelletier

**Absent**: Catherine Nadeau and Joe Higgins

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

The Commission unanimously accepted the minutes of the July 18, 2024 meeting, based on a roll call vote.

Jim opened the meeting by asking the Commission to allow Aaron Talgo to give his public comment before the Commission reviewed the subcommittee reports.

Motion so made by John Monk, seconded by Roberta Manter. Motion unanimously carried.

Mr. Aaron Talgo informed the Commission of the situation he is facing on his abandoned road due to logging activities. Jim thanked him for his testimony. (Please see attached public comment).

Jim then turned the Commissioners’ attention to the items on the agenda.

Jim started with the work history of the Public Use Subcommittee and the thinking behind the recommendations on proposed legislation. As such, the subcommittee’s recommendation is to allow municipalities to be allowed to post for Public Easements.

Jim asked for subcommittee members’ input.

Roberta stated that the pictures shown by Mr. Talgo prove that mud season can happen anytime, and the positing should be flexible.

Jim responded that under the draft legislation any posting decision would be left up to the town.

Rebecca and Jim discussed limitation, exceptions, and solutions a municipality could use under the statute.

Jim stated the Commission would work with MMA and Maine Local Road Center (MDOT) to come up with sample policies and guidance for municipalities to adopt.

Peter stated that his impression is that this is a good thing and that by inserting Public Easement into the statute it wouldn’t cause the MDOT to have to reprint posting signs. However, does that mean municipalities would enforce the law on these roads? Overall, he thinks there is a lot of positives to this change.

Jim replied, it would be a first step, but we need to educate the road commissioners, police and town on their options and authority.

Peter said MMA will need to update for the towns. Municipalities can tweak the regulations however they want including limiting the road to only certain vehicles.

Roberta gave an example of her road and issues of enforcement that she has personally faced.

Jim replied they aren’t really any good ways to police these types of roads.

There was a brief discussion among Steve, Jim, and Kris of ideas on how to catch those who are damaging public easements, what the process and pitfalls for a landowner to recover in the courts and current statue for the civil process.

Roberta stated posting the Class E Crimes signs on Public Easements might also help.

Jim responded that you could talk to town officials and ask them if they will put a sign.

Peter asked if the meetings led to this recommendation from the subcommittee.

Steven said he was impressed with the work.

Steven made a motion for the Commission to vote to approve this proposed legislation and send it to State and Local Government Committee , Peter seconded.

Rebecca asked Karla if loggers would have an issue/conflict because it always seems to be the loggers who have issues with postings.

Karla said there is potential but reputable loggers would not be logging in those conditions and therefore should have no objection.

Brief discussion from Peter Rebecca, Steve and Karla that municipalities already had the authority to post, but if it is restated people might have an issue.

Rebecca said the most important thing is that the Commissioners are all together.

Roll call vote for motion to forward proposed legislation changes to section 2395 ( specifying that municipalities can post for Public Easements). Carried unanimously.

Jim then turned to the Limited Liability Subcommittee findings. He explained the issues the Subcommittee looked at, current laws and the proposed legislation to add in section 159 E for limited liability for landowners on Public Easements.

Jim first reviewed the definitions of the type of road it would apply to and the definition of what would constitute repairs and maintenance.

Karla thought that public meeting should be removed from the section.

Roberta thought paving should be removed from the section.

Jim suggested editing the section to say “repairs and maintenance includes but is not limited to snow plowing, snow removal, sanding, ice control, grading, adding gravel and surface materials, installing reclaimed asphalt or grinding existing pavement for reuse, installing, cleaning and replacing culverts”.

Roberta stated sometimes though when you are too specific things are missed. The guidebook for Maine legislation said an overall definition is better.

Jim suggested then using “included but is not limited to”, that way there are no limits and if there are any obvious ones, let’s include them.

Jim went more in depth about who and what actions/nonactions the limited liability would cover.

Roberta and Steven raised the issue that liability should include bad weather and things beyond a reasonable person’s control such as huge boulders in the road.

Steven and Roberta discussed how abandoned and discontinued roads are not built to any road standard.

Jim then summarized how the limited liability for landowners draft addressed environmental damage caused by others.

1) The Landowner would not be liable no matter what.

2) If a person who causes harm to a public easement is found guilty of causing damage the court “shall” award damages to the landowner instead of “may”.

After reviewing the proposed legislation, it was decided that Jim will redraft the legislation with some of the changes suggested and share with the Commissioners before the next meeting.

Jim then asked the Commissioners what else would the commission like to tackle.

Roberta suggested that the Commission explore minimum maintenance roads because more people are buying property on the abandoned and discontinued roads with public easements. Landowners will fix the road, and the Public will use and abuse the road. In her experience, Towns will not want to spend money on Public Easements to bring them up to code. She reiterated that it was not fair that a private landowner shoulder the burden of repairing the road. Furthermore, towns benefit by being able to tax the landowner more money if the property is being developed as a residence, yet the landowner may see no benefit of paying the higher taxes that the town will be able to use for its own purpose. However, a lesser standard of road would allow towns to help those landowners who choose to develop the land, and everyone would benefit. It is not fair that a road can get so run down because it is a public easement that it becomes dangerous and the landowner must fix it.

Jim asked would the change allow towns to decide and create a new classification of road?

Ryan asked, are you suggesting the town would have some responsibility to fix or maintain the road? Ryan is in favor of that idea.

Rebecca and Jim discussed the current process to accept a road , how often and expense.

Rebecca pointed out that if, however, people know the status of the road and they are willing to buy the property, it is on them. In addition, Town/Municipalities already have the authority to fix public easement if they so choose.

Roberta wants to see a poll from towns about how many easements they have, and how many they maintain, to what extent ,and how they decide if they will maintain, and which town would reaccept a road and what are the requirements for that.

Jim stated that New York has tried. The argument to create minimum maintenance roads is when a municipality retains a public easement by discontinuing a road to save money maybe it should be made to do some maintenance. In addition, a public easement is something that benefits everybody because otherwise the landowners and Public wouldn't have any access. However, the idea of a minimum maintenance road would create an opportunity for a level of Maintenance greater than nothing without getting to the requirements of safety, paving and subbase.

Jim asked for a motion to send to the Public Use subcommittee.

Rebecca made a motion to send to the public use subcommittee, but asked the subcommittee to look at NY and see how they are being funded.

Roberta, Rebecca and Jim discussed using tax money, whether it would be fair, where the revenue is going to come from and issues of what types of relief municipalities should give and disclosure of the types of roads.

Jim expressed his understanding that the disclosure law is not working effectively and that maybe the language needs to change. Does the Commission want to work on that?.

Roberta said that it is partially working because now she gets calls before the land is bought. She thinks there is a huge improvement. However, people don’t understand what is a public easement and their responsibility. She discussed the history and whys of Title 23 Section 3121 was passed. However, the law is being applied incorrectly to abandoned and discontinued roads. Roberta thought we should get some insight from Title insurance companies.

Jim said this is beyond our charter.

Roberta stated though it is being applied to abandoned and discontinued roads.

Jim asked if the commission wants to work on the disclosure law.

Peter, Jim, John, Roberta, and Ryan had a brief discussion. The commission decided to send a letter to the Maine Real Estate Association.

Jim and Heather will work on a draft for the next meeting.

Peter raised concerns about minimum maintenance and what it means.

Jim stated Group 1 will look at minimum maintenance.

Jim asked if we should look at the confusing terms in the law.

Peter stated that the terms are important and clearing those up would greatly help.

Roberta brought her concerns on definitions.

Peter, Jim, Roberta, Karla, Rebecca will be on the terms subcommittee.

Heather to send out doodle polls for the next commission meeting for the end of September/beginning of October and for the middle of September for sub commission meetings.

Motion to adjourn made by Peter and seconded by Roberta. Unanimous.

The meeting ended at approximately 2:45 p.m.