**ABANDONED AND DISCONTINUED ROADS COMMISSION MEETING MINUTES**

**September 23, 2024**

HYBRID MEETING

**In attendance:** Jim Katsiaficas, John Monk, Roberta Manter, Catherine Nadeau, Karla Black, Peter Coughlan, Kris McCabe, and Steven Young.

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

The Commission unanimously accepted the minutes of the August 8, 2024, meeting, based on a roll call vote.

Jim opened the meeting by discussing the letter sent to the MEREDA on how to use the MAPVIEWER tool to see MDOT listing of Public ways.

Jim raised the issue of whether the current Real Estate forms disclosure statement should be amended to have it comply with MDOT regulations.

Roberta, Jim and Peter discussed the information on the current form and what if any changes should be made to the current form. Commission members decided to examine this issue at the next meeting.

Jim asked for a motion to amend the agenda to be able to review group 2 limited liability draft legislation.

Roberta made the motion; Steve seconded motion; motion carried unanimously.

Jim went through the history of work the commission has done on limited liability and proposed legislation. Jim explained that the best way forward was to continue using the Section 159, but make a separate section under 159, so 159 E. Jim explained that in the draft legislation he has removed the language around paving, and that this section will make a landowner on an abandoned and discontinued road and public easement not liable for the public being hurt or environmental damage. In addition, the municipality will be able to post on the public easements to protect the roads. It is hoped that it will lessen the burden on landowners and prevent them being held responsible for someone else damaging a road that they maintain.

There was a brief discussion with Kris about Title 17. Ultimately it was decided that the landowner would not be protected under this section, but the perpetrator could be held liable under the current law.

Karla asked if the wording “not repaired and maintained by municipality” could be removed.

Jim removed that language.

Peter asked if a town is maintaining a public easement does the defect law apply?

Jim replied no, because that says Town Way, which wouldn't apply to the town's maintenance of a public easement, so the town doesn't need any kind of protection. This applies to where the landowner is an abutter in possession of the property and is the one fixing the road.

There was a brief discussion between Roberta, Jim and Peter about how it would apply to towns with abandoned and discontinued roads that have become public easements and either provide some maintenance or seasonal maintenance

Jim suggested that in limitation section 3A and B of 159 E add in the language “does not apply where a municipality or county provides year maintenance and repair for a public easement,” thereby allowing the statute to apply in these situations.

Jim asked the commission if there was a motion to accept this language and present it to the legislature. Roberta so moved and Kathy seconded. The roll call vote was unanimous.

Jim moved on to Group 3 Subcommittees’ work on minimum maintenance roads.

Jim requested Roberta give an overview of what the subcommittee has been researching.

Roberta discussed the history of public roads and a brief description of public road standards. She explained that the subcommittee looked at other state statutes, but nothing fit the purpose of a lower standard of road.

Jim then asked whether the commission wants to create another category of road. Jim thought for one or more people living on a road, a town could have the option of a minimum maintenance Road or remote standard of road. The town’s Legislative body would look at this and decide if it would be an option for a particular former abandoned and discontinued road that is now a Public Easement.

Roberta brought up that on this type of road a Municipality should be required to post about the road and that it is a minimum maintenance, and the public enters at own risk.

Steve raised the issue of people moving into or unto Public Easements in the summer, but they aren’t plowed in the winter, wouldn’t that burden the towns by requiring them to plow?

Jim responded that the public will always have the right to go down the roads, but they doesn’t mean that the town's going to maintain it. However, under this category if the town is going to issue building permits on those roads, people can ask the town to maintain it to certain levels and have a reasonable expectation that until there is a town meeting that reverses their decision, then maintenance stays in effect. It would be an option, so it's not a mandate on the towns. It will be up to the town if they want to provide maintenance and at what level.

It was decided that Jim will look at remote roads in other jurisdictions to see what the language is around these types of roads.

Jim transitioned the discussion to Term Group Three. He discussed what the terms group has worked on in the past year and the current solutions they are researching to clean up language for Public/Private Way/Public Easement. He hopes by the next full Commission meeting to have language for the Commission to review.

Jim then laid out the timetable and set goals for this commission to put together a report and recommend draft legislation.

Jim will also ask the Legislature for funding as we are not a funded commission at this time. We submitted a budget with the Attorney Generals’ office but were turned down by Department of Administrative and Financial Services. Jim stated that at the very least those who are on the Commission should be reimbursed for time and mileage.

Meeting adjourned at 1:45 pm by unanimous agreement.