**ABANDONED AND DISCONTINUED ROADS COMMISSION**

Public Use Subcommittee Meeting Minutes

**October 3, 2024**

**Remote Meeting**

**In attendance:** Jim Katsiaficas, Ryan Pelletier, John Monk, Joe Higgins, Roberta Manter, and Karla Black,

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

Jim opened the meeting by discussing where the subcommittee left off last time in their undertaking of researching and proposing minimum maintenance roads.

Jim stated that the subcommittee spoke about creating an option for minimum maintenance roads for municipalities so that homeowners who live on abandoned and discontinued roads, that are public easements, could approach a town and request minimum maintenance of their road but that it would not be mandatory. If the town’s legislative body agreed then until a town meeting that revokes or terminates the town’s agreement, the road would be minimally maintained. The town would be able to decide what level of maintenance it would provide. In addition, the town would not be liable for maintenance it does provide under either the highway defect act or the tort claims act.

Jim stated that he also hopes to fix Section 3105 A to have private ways change to public easements and then add it this section.

Roberta’s concerns are that some towns still won’t help with the minimum maintenance roads, unless it is mandatory. However, she understands that MMA will never approve it if it is mandatory.

Roberta also worried about places where the road starts as a Public Way and morphs into a Public easement or there are parts mixed in, that that will create issues.

Jim replied that in the fourth line of the suggested draft legislation it will only require a minimum level of year-round maintenance repair for a public easement that serves as access to one or more year-round residences, it does not state shall at least maintain the whole road up to the last year-round residents property.

Roberta stated that the last time she worked on this type of draft the Abandoned and Discontinued Road Commission was formed because the Legislature felt it was too complicated. However, the original bill that was put together had a list of requirements that must be met by landowners to the municipalities to maintain the roads. These restrictions included that the it be a resident on an abandoned and discontinued road that had become a public easement, that the resident is taxed as a resident and where the town granted a building permit, but it would be mandatory for municipalities to maintain these roads.

Jim asked for a copy of the draft legislation. Roberta will provide the copy with her comments.

Roberta raised the idea of changing or clearing up language in Title 23 section 3026 A. The discontinuance statute says that it can be used for discontinuing a public easement, but her concern is that it doesn't give any detail as to how to do that. Therefore, it should be amended on how it does apply to public easements.

Roberta also proposed the option of allowing towns or individuals on a public easement to discontinue the public easement, so they don’t have to provide maintenance and make it a shared private easement.

Jim replied that it can be done now under state law.

Roberta raised the issue that it is seldom used as people aren’t aware, it is unclear and cumbersome process. Also, the homeowners can all agree and the town after the year time can say no we aren’t going to change this to a private road.

Roberta feels there should be two options -- either the towns do minimum maintenance, or they allow those on a Public Easements where there is no maintenance to become private roads, as long as no one would be landlocked. No one should be responsible for paying for the public right to use a road that is not funded by the public but private landowners.

Ryan proposed that perhaps the draft language should allow a direct petition to the voters on whether to create minimum maintenance roads. He thought then if there is an issue with the town’s legislative body, a landowner can bypass them and allow the residents of the town to decide if they want a public easement with minimum maintenance. Ryan proposed that in the draft language there should be three ways to bring before the town legislative body, one is the town brings it before the legislative body, the landowners can request to be heard or by voter petition.

John stated that Roberta’s personal situation on her road is a tough one, but the hope would be that with these changes others won’t experience what she has experienced.

Jim is going to work on these proposals to see if he can’t get a rough draft for the Commission to review and ultimately recommend for legislation.

There was brief discussion between Jim and Roberta touching on Limited Liability for those who live on abandoned and discontinued roads and that between the limited liability draft and this language for minimum maintenance it would free homeowners and towns from liability for maintenance on these roads.

Jim is going to review the documents on draft legislation on minimum maintenance roads. He hope to have something to present to the subcommittee and Full commission to see if they have changes and what their thoughts are.

The meeting was adjourned at 1:30 pm.