**ABANDONED AND DISCONTINUED ROADS COMMISSION**

Terms Subcommittee Meeting Minutes

**October 16, 2024**

**Remote Meeting**

**In attendance:** Jim Katsiaficas, Rebecca Graham, Roberta Manter, and Joe Higgins

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

Jim opened the meeting by discussing the subcommittees’ undertaking of research, proposing changes to confusing terms and researching how to define a public easement.

After researching the Public Easement definition, Jim stated that the best way forward would be to remove the term Private Way out of the state law. He stated that even just taking the term private way out of the Road Association statute would help enormously.

Roberta agreed. She gave some history of Public Easements vs. Private Ways and the history behind passing the Private Road Association Statute and her issues with constitutionality of road association on a Public Easement.

There was a discussion between Roberta and Jim about the constitutionality of road associations on a Public Easements, benefits vs. cons including being landlocked, private landowners paying for public access, and issues around the problems created by misinterpretations of abandoned and discontinued road process.

Rebecca responded and raised the issue that if the argument is that private owners don’t have a right to the public easement that creates an enormous problem for the public trails and that the notion that the state or individual needs to ask for an abutting landowner permission is already being practiced. Rebecca didn’t think that you could separate out the private ownership of road that has a public easement over the road. Rebecca felt that the Commission should give the SLG committee a primer on how we got here and how we created the draft legislation. She felt the best way forward is Jim’s suggestion.

Roberta replied that if a Public Easement is necessary for public access then a town should have the responsibility to pay for access not private landowners where they must continue to pay for damage caused by the public on the road and receive no reimbursement for maintaining said road.

Rebecca pointed out ultimately that the town is responsible for damage on public ways but if there was a massive climate event there are funds that people can qualify for to fix the road. If a town tries to plow private roads without an easement , as in Windham, it caused problems, and they had to get all the private roads made into public easements so they could continue the services they provide.

Rebecca said the solution is in the problem. She feels there needs to be an Ombudsman to assist and help communities and people deal with these problems.

Roberta replied that the problem though is that she hears from people who are not getting the help they need from their town or community.

Jim replied that he sees both sides of the issue and that it will continue to worsen as more people move on to abandoned and discontinued roads.

Jim reiterated that the way to move forward is not to define private way, but we should recommend taking out Private way and replacing it with Public easement in 3101-3105, it will have the benefit of allowing those who live on a public easement the opportunity to form road associations and create responsibility for maintaining the public easement. It will only be used though to the extent that the town doesn’t maintain the road.

Roberta was wondering if we could get statistics on how many towns do maintain public easements and how many do not.

Jim suggested changing the title to Section 3101 3104 and have it say only Road Associations. Then, in the body of the law change the wording to “may be formed may be formed for private roads and public easements”.

Roberta states that still wouldn’t solve issues of those who live on a Public easement. She stated that there should be a better answer than having to hire a lawyer when there is an issue with a neighbor or logging company destroying the road because it takes a lot of time and money to get the issue resolved through the courts.

Roberta brought forward how having minimum maintenance roads would solve many issues.

Jim, Roberta and Rebecca discussed road materials with Rebecca suggesting a book by Perkins named Road Materials of Maine. They further discussed liability issues of building standard roads, potholes and defects.

Rebecca felt that a liaison in the Executive Office of the State Planning Office for Community Affairs would be helpful. Or a liaison under Peter in MDOT with the local roads assistance program overseeing mediation as they have a wealth of knowledge.

Roberta also mentioned that the Cooperative Extension’s Agricultural Mediation Program has a great mediation program.

Everyone agreed it would be good to have a way to connect people to more sources or a point person to contact and share information and helpful programs.

Joe stated that private road ownership is hard for inland fisheries trail programs, that they need to work with homeowners/landowners for grant programs, if there was someone who was a specialist it would make it easier. In addition, he would like to see help from the towns in maintaining public easement trails and other trails that bring business into these municipalities.

Jim is going to work on a draft that will allow for Road Associations to be formed to maintain private roads or public easements and change Private Ways to Public Easements in the Road Association law section 3101-3105. The goal will be to bring this to the commission to have an informed conversation over the language and decide how to proceed with the draft.

Roberta reiterated that Public Easements need to be maintained or paid to be maintained by the municipality in which they reside.

There was a brief discussion on whether there was a statute that would prevent someone from being landlocked in Maine but so far no one has seen said statute.

Jim thought it would be a good idea to ask Peter about an ombudsman program thru MDOT and something that could be discussed at next week’s meeting.

The meeting ended at 2:03 pm.