**Abandoned and Discontinued Road Commission Meeting Minutes**

**December 10, 2024**

**In**: **Jim Katsiaficas, Roberta Manter, Steven Young, John Monk, Ryan Pelletier, Vivian Mikhail, Tom Doak, Peter Coughlan, Rebecca Graham**.

The November 15, 2024, meeting minutes were unanimously approved by a roll call vote.

Jim opened the meeting welcoming Tom Doak from Woodland Lot Owners as the new Commissioner replacing Karla Black.

Jim moved on to the topic of sending a questionnaire to municipalities to gain information on abandoned and discontinued roads that are public easements. Jim thanked Rebecca for sending a previous survey from the municipalities for the subcommittee to review.

Rebecca, Jim, Tom and Roberta discussed the language of the questions, who it would be sent to and whether having an accompanying memo and what the memo should say that would encourage municipalities to participate and give them guidance if they were unsure. Jim, Rebecca, Roberta, and Pete agreed to continue developing the questionnaire and cover memo.

Jim then reviewed what the Commission has voted to forward to the State and Local Government Committee as suggestions to make changes to the law: 1) allowing public easements to be closed when the conditions are bad, and 2) Limited Liability where private landowners are maintaining the public easement.

Jim then moved on to the suggested draft legislation to change terminology of “private ways” to “public easements” on the road association statutes. Jim went over how and why public ways should change to public easements in the road association statutes.

Tom has concerns for this universal change and he worries that it would affect something else. He asked if it had been examined enough. He also is concerned that people who live on a public easement where there is road association would be forced to join and maintain a public easement.

Jim stated that it could be a consequence. Jim said if there were four or more owners on a public easement, yes people would need to pay the road association. (But this currently is the law). However, the alternative is that individuals still must pay to maintain the road without sharing the burden of the cost of road maintenance.

Tom asked if the town that has kept the public easement should be a partner in the road association when people are being forced into a road association on a public easement.

Jim replied that the concern is that the town doesn’t own the road, they only can maintain and defend access, but they don’t own any land and currently would not have to join.

Tom stated that since the town can enforce how the road is used it is a troubling issue for a landowner that they may or not benefit from .

There was a discussion by Jim, Tom, John, Roberta, Rebecca, and Ryan about the solutions and issues around public easements. They discussed whether the towns should not hold public easements, the impact on those landowners who need a public easement to access their land, the unfairness of paying for the public to use the road when private funds are being used, whether the legislature should tweak section 3026 Discontinuances to make it easier for a shared private easement, whether there should be a lesser standard of road for those towns that can’t afford to maintain an easement to the standard of town way, and allowing people to opt out of a road association if they have means to access the property without using the road makes sense.

Tom felt that a solution for the public easement issue would be identifying those public easements that were retained to prevent land locking and allow them to convert to private easements. However, if the town or public wanted to keep the easement because it allowed the public access to water or land then the town should be contributing to maintenance too. He felt that Roberta’s idea to amend section 3026 a to allow for easier conversion of a discontinuance was a good idea.

Jim replied that the issue is more people are cutting off access when they buy land and the towns do not know the legal status of a road. A lot of these issues then are litigated by the courts and take years.

Jim stated maybe the best way forward is to ask towns to look at their public easements and whether they can go back to being private roads or maybe we need to change the road association statute to state that a public easement road association cannot be formed.

Roberta stated that they probably get push back from those who use these roads for recreational use. However, she feels that access should be in the hands of landowners, not the towns.

John stated that snowmobile and ATV clubs are not strongly represented on some levels but are frustrated with finding avenues being closed by landowners.

Rebecca raised the issue of public easements receiving funds due to catastrophic effect and if changed to a private easement there would be no funds for those roads.

Tom, Roberta, Jim, Steve and Ryan had a robust discussion on public easements, how to and what would happen if ended public easements and possible solutions.

There was clarification that currently in some Maine counties, public easements are receiving grants from towns that received federal disaster funds and that you can’t convey a public’s right to a private group. A private group is not allowed to control and extinguish the public’s rights. You must first extinguish the public rights. This could also lead to landlocking if someone decides not to play fair.

Vote was taken to see if the Commission would support moving forward with a recommendation to the Legislature on changing private way to public easement for the purpose of the road association statutes. Steven made a motion. Motion was seconded by John.

Vote Taken

|  |  |  |
| --- | --- | --- |
| **Commissioner** | **Vote** | **Tally** |
| Peter Coughlan | Yes |  |
| Tom Doak | No |  |
| Rebecca Graham | Yes |  |
| Joe Higgins | Absent |  |
| James Katsiaficas | Yes |  |
| Kris MacCabe | Absent |  |
| Roberta Manter | Abstained |  |
| Vivian Mikhail | Yes |  |
| John Monk | Yes |  |
| Catherine Nadeau | Absent |  |
| Ryan Pelletier | Yes |  |
| Steve Young | Yes |  |
|  |  |  |
|  | **VOTES:** |  |
|  | **Yes** | **7** |
|  | **No** | **1** |
|  | **Abstention** | **1** |

**As per the Commissions earlier decision and vote on items that would be forwarded to the Legislature for examination as this was not unanimous this will be tabled until next year.**

Jim will work with Tom and Roberta and see if they are able to resolve their concerns.

Jim moved on to the task of providing the legislature with options for creating a road inventory of abandoned and discontinued roads. He gave a brief overview of Peter Coughlan’s efforts on the Mapviewer tool and that everyone can use the database to determine if a road is publicly maintained.

Jim then asked the Commissioners where would be the best place for an Abandoned and Discontinued Roads database.

Roberta felt that MDOT should host as they have Mapviewer tools and the county records of discontinued roads, but it would be just an index, and individuals would still have to contact the towns.

Tom felt the Registry of Deeds would be a great place because it should be someplace where it is recorded. It should not fall to the landowner to figure out or have a determination on the legal status of a road. The towns should know the road status.

Rebecca stated though not all roads were town roads and landowners should know the status of their road. She raised the concern that the roads that haven’t had a legal determination could be an issue. She felt the Legislature should pay for communities to do this as it will require a lot of time but at least the towns can send what they have. There already is a centralized location for town roads at MDOT.

Jim stated that is not always the case, there could be a public easement that is being maintained now but might not be after someone bought the property. A landowner wouldn’t necessarily know that information as there is no way to know. So where should that information be stored so it is easily accessible?

Rebecca raised the issue that Towns could be sued if the information is not correct.

Jim disagreed and replied that many towns should have already completed their road inventory, and they haven’t been sued over the inventories because inventories only contain those things that don’t create problems just information.

Jim turned to Peter and Meghan Russo from MDOT for their opinion on where to store an Abandoned and Discontinued Road Database.

Peter said MDOT gives towns the money for the roads they maintain, they don’t get into the legal status of roads. They only know what the towns maintain. The MDOT’s property office has a lot of discontinued old county way records but not town discontinuance records. The current process requires a town to follow the process for discontinuance and send a copy to the registry at the county and to the maintenance and operations office in MDOT. Peter gets maybe one copy a year. Peter stated the property office is happy to receive any discontinued roads notice. But MDOT is not going to prepare and house an entire index or database on past discontinued town roads.

Meghan (Director of Government Affairs) agreed. She has a few concerns about the option of creating a road inventory within MDOT of abandoned and discontinued roads. MDOT is against their agency creating a website and tracking down the information on abandoned and discontinued roads. If MDOT is required to do this the department would come out against this and testify why they will not do this. Meghan is happy to work with Commission on language or find a solution.

Tom asked how much work would it be for MDOT to include information from the towns and have Mapviewer show a color to let people know that the legal status of the road is in question. The problem being that no database exists, and people must go to the individual town or towns and research the records, which is time consuming.

Peter said already on Mapviewer the roads that are grey indicate that the roads are not public roads and gives a starting place. MDOT could start from here forward, which would not be a big deal, but to input the last 20 years of town discontinuances is not something MDOT is set up to handle and it is not in their mission.

Jim said the problem is that the bulk of discontinuances happened years ago. He asked Peter if it wasn’t housed with MDOT where would it go? Jim asked Ryan if the counties could house the list.

Ryan felt that except for Cumberland County, the registry of deeds position is elected and can’t be directed to implement an abandoned and discontinued road database. The County commissioners records are typically either vaulted away or in attics. They could dig through their records, but he was not sure what office would work best.

Peter asked if someone came into the county office and asked about the road is that filed or indexed?

Ryan replied that in the case of old county records in offices it is not asked often. Usually, it is a surveyor. The Registries of Deeds have some that are recorded. The biggest issue is that not every County uses the same software and therefore can’t be searched. So, then it is an in-person search, and you need to have a general idea of what you are looking for beyond the 1960s.

Steve raised that there is a lot of work to be done to find and document these roads as the records aren’t easily available. There needs to be money to be able to make this possible. He wondered what kind of data is already collected that could be used.

Jim suggested a ten-minute break.

When the meeting resumed there was a brief discussion on the MDOT’s compilation of County Roads that have been discontinued.

The discussion moved to ideas of how to structure or where to place a database. Jim suggested the new Maine Office of Community Affairs, Steve thought partnership with the University of Maine for research and storage, and Roberta suggested the collection go to the Maine State Library after compilation.

Peter stated that the Commission came up with a lot of ideas, but none are clear solutions yet. MDOT could go forward with putting in the discontinued road on Mapviewer but nothing else. Peter spoke to the E911 office, and it is not set up to keep track of roads.

Roberta asked if she sent 20 roads from Fayette could they put it on map viewer.

Peter said he will talk to the database group and see what we can do.

Jim said that for now the Commission will state in the report that the Commission is continuing to explore options that will work. Ultimately the Registry of Deeds might be the place.

Jim asked to postpone items of 8 and 9 on the agenda to the January meeting.

Jim then opened the meeting to Public Comment. Heather read two letters into the record. The Commission received and read the previous four letters. These letters are attached to the 2024 report under “public comments. “

Then we heard from

1)Jennifer Whitemore, Sumner Maine

2)Elizabeth Splain, Windham, Maine

3)Gretchen

4)Jonathan, Portland, Maine

4) Roberta Manter, Fayette

5) David Manter, Fayette

Jim adjourned the meeting. Heather to put together a doodle poll for January meeting.