**Abandoned and Discontinued Road Commission Meeting Minutes**

**January 14, 2025**

**In**: **Jim Katsiaficas, Roberta Manter, Steven Young, John Monk, Ryan Pelletier, Vivian Mikhail, Tom Doak, Peter Coughlan, Joe Higgins, Kris MacCabe, Catherine Nadeau.**

**Absent: Rebecca Graham**.

The December 10, 2024, meeting minutes were unanimously approved by a roll call vote.

Jim opened the meeting discussing the draft questionnaire to be sent to municipalities to gain information on their abandoned and discontinued roads inventory that are public easements.

Ryan raised the issue of the Unorganized counties and how we would gain that information.

After a brief discussion between Ryan, Peter and Jim they will work on the questions to tailor it more to those counties, Ryan will send the questionnaire to those counties that contain unorganized territories.

Steve, Jim , John, Joe, Roberta, and Tom discussed the order of the questions, the time of look back to 15 years, the percentage of people who had replied to MMA 2016 questionnaire, who will be asked to fill out the form, and wording on the questionnaire.

Vote was taken on whether to accept the questionnaire and the cover memo with the following changes: 1) on question number 4 change from are old and abandoned and discontinued roads a matter of concern for your municipality **to** are you aware of concerns landowners or town officials regarding abandoned discontinued roads in your municipality. 2) That Peter and Ryan will work on questionnaire memo for the counties.

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| **Name** | **Vote** | **Total** |
| Peter Coughlan | Yes |  |
| Tom Doak | Yes |  |
| Rebecca Graham | Absent |  |
| Joe Higgins | Yes |  |
| James Katsiaficas | Yes |  |
| Kris MacCabe | Yes |  |
| Roberta Manter | Yes |  |
| Vivian Mikhail | Yes |  |
| John Monk | Yes |  |
| Catherine Nadeau | Yes |  |
| Ryan Pelletier | Yes |  |
| Steve Young | Yes  |  |
|  |  |  |
|  | **TOTAL:** |  |
|  | **Yes**: | 11 |
|  | **No**: | 0 |
|  | **Abstain**: | 0 |

**Motion Unanimously carried. The Commission will send the Memo and questionnaire with the recommended changes to Maine towns, municipalities, and unorganized counties with corrective language and input from Peter and Ryan.**

Jim then presented the following draft legislation the Commission had already voted to forward to the Legislature: 1) An Act to Clarify Municipal Authority to Protect Public Easements by allowing public easements to be closed by a Municipal Authority when the conditions are bad, and 2) An Act to Limit Liability of Landowners whose Property Abuts Public Easement.

Jim then moved on and requested a motion to add to the agenda 1)inventories of abandoned and discontinued roads, 2)right of way template and 3)the suggested draft legislation to change terminology of “private ways” to “public easements” on the road association statutes. The motion was made by Roberta Manter and seconded by Cathy Nadeau. The Commission after a roll-call vote, voted **unanimously** to add these items to the agenda.

Jim then organized the agenda for the meeting as 1)inventories of abandoned and discontinued roads, 2)right of way template and 3)the suggested draft legislation to change terminology of “private ways” to “public easements” on the road association statutes. 4) Minimum Maintenance Roads, 5) Mandatory Minimum Maintenance Roads and 6) Public Comments.

Jim moved to the first item on the agenda, a road inventory for Abandoned and Discontinued roads. He listed the five options that the Commission had created: 1)the Registries of Deeds. 2) Maine DOT for only new discontinuances on mapviewer 3) The newly established Maine Office of Community Affairs 4) the Maine State Library 5) the University of Maine System .

Peter stated that MDOT can not help with the mapviewer issue and he will check with his people to see if they language is okay for number 2.

Tom was concerned that five options might be too many for the Legislature. Tom felt the first and second would be the best options as it is already the law that Municipalities must report to these entities.

Steve felt the University should stay because someone is going to have to do the research as there is no database or current list.

After a brief discussion with Tom, Cathy, Ryan and Roberta about what the available information is and where it is currently stored if at all, the Commission whittled down the options to three.

John made a motion to send to the Legislature the following three options for a road inventory 1) the Registry of Deeds, 2) MDOT (if they can) 3) some other agency including, but not limited to, the Maine Office of Community Affairs, the Maine State Library or the University of Maine system.

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| **Commissioner** | **Vote** | **Tally** |
| Peter Coughlan | Yes |  |
| Tom Doak | yes |  |
| Rebecca Graham | Absent |  |
| Joe Higgins | Yes |  |
| James Katsiaficas | Yes |  |
| Kris MacCabe | Yes |  |
| Roberta Manter | Yes |  |
| Vivian Mikhail | Yes |  |
| John Monk | Yes |  |
| Catherine Nadeau | Yes |  |
| Ryan Pelletier | Yes |  |
| Steve Young | Yes  |  |
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|  | **VOTES:** |  |
|  | **Yes**  | **11** |
|  | **No** | **0** |
|  | **Abstention** | **0** |

**Motion Unanimously carried. The Commission will include the three option in their Annual Report to the legislature.**

Jim moved to the second item on the agenda, the Right of Way template option for those landowners to use when a local unit of government considers discontinuing the road. Jim proposed a motion that in the next year the Commission will research and lay out a technical guide map for affected landowners. Roberta made the motion and Cathy seconded the motion.

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| **Commissioner** | **Vote** | **Tally** |
| Peter Coughlan | Yes |  |
| Tom Doak | yes |  |
| Rebecca Graham | absent |  |
| Joe Higgins | yes |  |
| James Katsiaficas | Yes |  |
| Kris MacCabe | Yes |  |
| Roberta Manter | yes |  |
| Vivian Mikhail | Yes |  |
| John Monk | Yes |  |
| Catherine Nadeau | Yes |  |
| Ryan Pelletier | Yes |  |
| Steve Young | Yes  |  |
|  |  |  |
|  | **VOTES:** |  |
|  | **Yes**  | **11** |
|  | **No** | **0** |
|  | **Abstention** | **0** |

**The Commission voted unanimously to work on formulating a comprehensive guide map for landowners over the coming year.**

Jim then moved on to the third item on the agenda the issue of changing the term “private way” to “public easement” in the real estate statute.

Jim opened the discussion by stating that some members had concerns about the unintended consequences of changing the terms. Jim stated that the antiquated term of “private way” is causing confusion, and it would help tremendously to change the terms to “public easement”. He conceded that there could be unintended consequences, but Jim doesn’t think that this change will have a negative impact.

Tom stated that he realizes the law as it stands now means that those who live on public easements can be forced into road association even if they don’t want to be. However, the language is not clear, and he has concerns that more people will force private landowners into paying for public use. Therefore, he would like to not only change the terms but change the definition for those living on a public easement, to only be able to voluntarily form a road association.

Jim replied Roberta has the same argument that she feels it is unconstitutional. However, people who live on public easements and who maintain a road with this statute can join to help pay for their road maintenance and ease the burden.

Tom replied that he wouldn’t have such an issue if those who lived on the Public Easement could control access to the road, but they can’t under the law.

Ryan asked though if his concern was still that he would have to join a Road Association even if someone had access from another point for their property.

Tom and Ryan discussed this further. It was clarified that Tom felt that only on public easements should Landowners not be forced to join a road association, or if so required then the town should be forced to join the road association.

Tom, Ryan, Roberta, Cathy and Jim discussed how those who live on a public easements feel it is unfair of those homeowners who pay taxes to in addition pay for the public use of an easement, that towns need to offer some support and impacts to those landowners.

Tom reiterated that he would be fine with clarifying the terms if, either it became voluntary to join a road association on public easements or the town is forced to join.

Steve asked if the name change would change the rules as they currently stand.

Jim replied no, but that Tom is concerned that those who live on public easements once that language is clarified will cause people to form road associations on public easements and force people to pay for maintenance of public easements.

Cathy stated the law should be written that towns provide in kind services i.e., gravel, grooming the road, plowing etc.

Jim replied that MMA and the towns would oppose that measure.

There was a robust discussion that included: what MMA’s and towns’ position would be, the idea that the towns should be given a choice to keep the public easement if they are going to maintain it and if not then it needs to be changed to a private road with private easements for landowner to be able to access their property, that public easements are important as people need to have access to their homes, that public easements are used by ATV clubs and snowmobile clubs who also help with maintaining these ways (including the state to keep these trails open),and that Towns should not be required to maintain roads if people build in the willywags..

Jim proposed a vote on amending the Road Association statute term “Private Way” to “Public Easement”. The motion was made by Jim and seconded by Ryan.

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| **Commissioner** | **Vote** | **Tally** |
| Peter Coughlan | Abstained |  |
| Tom Doak | No |  |
| Rebecca Graham | Absent |  |
| Joe Higgins | No |  |
| James Katsiaficas | Yes |  |
| Kris MacCabe | No |  |
| Roberta Manter | No |  |
| Vivian Mikhail | Abstained |  |
| John Monk | Yes |  |
| Catherine Nadeau | No |  |
| Ryan Pelletier | Yes |  |
| Steve Young | Yes  |  |
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|  | **VOTES:** |  |
|  | **Yes**  | **4** |
|  | **No** | **5** |
|  | **Abstention** | **2** |

**Motion does not carry. As per the Commissions earlier decision an unanimous vote on substantial items, will not be forwarded to the Legislature. As this vote was not unanimous, the Commission will continue to work through these issues through the next year.**

The Commission took a 10-minute break.

Jim resumed the meeting by giving a brief overview of the last two items on the agenda, the differences between the proposed Minimum Maintenance Roads and Mandatory Minimum Roads draft legislation.

The Minimum Maintenance Road draft legislation would allow towns to choose to assist those who live on a public easements that have been formed by a formal discontinuance or abandonment by a vote with legislative body and to specify the level of maintenance for that road.

Mandatory Minimum Maintenance would force towns to maintain public easements that have been formed by formal discontinuance or abandonment to provide some level of maintenance of the road.

Jim had concerns about Mandatory Minimum Roads as Rebecca Graham was not able to attend this meeting but did send in her comments that MMA and municipalities would be vehemently opposed to anything mandatory.

There was a discussion between Jim, Peter, Roberta, Cathy, Steve and Tom about standards, year-round maintenance and what should be included, whether it should be an option for the town, whether the standard should be for EMS Vehicles especially considering fire risks and that a town should get to decide what level of maintenance they will provide.

After the discussion a motion was made to vote to include Minimum Maintenance Roads draft legislation in the Annual Report to the legislature.

Jim moved that the draft legislation will provide municipalities an option that the legislative body of the town can choose to perform minimum maintenance on a public easement and added to the current draft the following amendment language “ that a town would have the standard be reasonably passable for residential access as determined by the municipality”. Tom Doak seconded the motion.

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| **Commissioner** | **Vote** | **Tally** |
| Peter Coughlan | Yes |  |
| Tom Doak | Yes |  |
| Rebecca Graham | Absent |  |
| Joe Higgins | Yes |  |
| James Katsiaficas | Yes |  |
| Kris MacCabe | Yes |  |
| Roberta Manter | Yes |  |
| Vivian Mikhail | Yes |  |
| John Monk | Yes |  |
| Catherine Nadeau | Yes |  |
| Ryan Pelletier | Yes |  |
| Steve Young | Yes  |  |
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|  | **VOTES:** |  |
|  | **Yes**  | **11** |
|  | **No** | **0** |
|  | **Abstention** | **0** |

**Motion passed unanimously and therefore the draft legislation with amendment will be forwarded to the Legislature.**

The Commission then briefly discussed the issues and solutions with the Draft Legislation of Mandatory Minimum Maintenance Roads.

As Rebecca Graham could not make the meeting and her comments were against Mandatory Minimum Maintenance legislation, Jim made a motion to table Mandatory Minimum Maintenance Roads until Rebecca is able to be present with the Commission working on a possible draft this year, seconded by Joe.

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| **Commissioner** | **Vote** | **Tally** |
| Peter Coughlan | Yes |  |
| Tom Doak | Yes |  |
| Rebecca Graham | absent |  |
| Joe Higgins | Yes |  |
| James Katsiaficas | Yes |  |
| Kris MacCabe | Yes |  |
| Roberta Manter | No |  |
| Vivian Mikhail | Yes |  |
| John Monk | Yes |  |
| Catherine Nadeau | Yes |  |
| Ryan Pelletier | No |  |
| Steve Young | Yes  |  |
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|  | **VOTES:** |  |
|  | **Yes**  | **9** |
|  | **No** | **2** |
|  | **Abstention** | **0** |

**As this was a vote on whether to table legislation, it is considered a procedural vote, the Motion carries 9 in favor and 2 Nos**. The Mandatory Minimum Maintenance Roads will not be in the report and will be discussed in the following year.

**There was a brief discussion with the Commissioners on the timeline for the due date (February 1) for the report. As the Commission does not have time to meet again to view the agreed upon changes, Jim made the Motion to allow Commissioners to review the agreed upon changes and final report via email. It was seconded by Cathy.**

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| Peter Coughlan | Yes |  |
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| Rebecca Graham | absent |  |
| Joe Higgins | Yes |  |
| James Katsiaficas | Yes |  |
| Kris MacCabe | Yes |  |
| Roberta Manter | Yes |  |
| Vivian Mikhail | Yes |  |
| John Monk | Yes |  |
| Catherine Nadeau | Yes |  |
| Ryan Pelletier | Yes |  |
| Steve Young | Yes  |  |
|  |  |  |
|  | **VOTES:** |  |
|  | **Yes**  | **11** |
|  | **No** | **0** |
|  | **Abstention** | **0** |

**Motion carried unanimously. Jim will send out the final draft of the annual report with draft legislation for review by commissioners via email for approval.**

Jim stated that he would get the draft out to everyone by January 22 and if everyone could let him know by the 28th of January so the final product to Heather by January 30th  for printing and submission to the legislature on Monday February 3, 2025.

Jim then opened the meeting for Public Comment. The Commission heard Public Comments from:

1)Janice Velli, Wellington, ME

2)Raymond Bersch, Windham, ME

3)Sandra, Waterboro Maine

4)Chris Kuzma, Springville, Maine

Jim adjourned the meeting at Approximately 12:45 pm.