

# TOWN OF BOWDOINHAM

## SELECT BOARD MEETING

### MINUTES



Date: January 16, 2025

Time: 6:00 pm

#### I. **Call Meeting to Order and Establish a Quorum**

The meeting was called to order, and a quorum was established by Select Board Chair, Joanne Joy, at 6:00 pm. Select Board members participating were Joanne Joy, Mark Favreau, Jason Hodde, Allen Acker, Peter Feeney, and Nicole Briand, Town Manager. They were joined by Town Attorney, Leah Rachin.

#### II. **Amendments to the Agenda- None**

#### III. **Comments**

Town Attorney, Leah Rachin explained to the Board and members of the public present the statutory requirements for road abandonment. In brief: If a road, for a period of 30 or more consecutive years, has not been kept passable at the expense of the municipality it can be deemed abandoned.

Town Manager, Nicole Briand then presented findings from Town Meeting minutes, Annual Reports, Select Board Minutes and Road files to determine when the Town last maintained the section of Dingley Road in question. A document of the history is attached to the Minutes.

#### IV. **Public Hearing**

Convened 6:17 pm. Adjourned 7:18 pm.

##### A. **Dingley Road Abandonment pursuant to the provisions of 23 M.R.S. § 3028-A**

To begin with, the Public Hearing Joy asked if anyone present had any evidence that the Town had done any maintenance on the section of Dingley Road in question. They did not.

The Town Attorney explained that public use of the road does not determine abandonment. This use would fall under a public easement.

Paul Austin from Pratt Road explained that a portion of the old Dingley trail runs by his property, it connects Pratt Road to the end of Dingley. He questioned if abandoned would the property owners, then prevent public access by making it private property. The Attorney explained that when abandoned, ownership reverts to the abutting property owners. It would depend on whether a public easement is granted as to whether the public would have a right to use that property.

George Christopher addressed the Board with his concern of liability for himself and other property owners if the Town were to grant a public easement. The landowners along the easement would have to purchase additional liability insurance just in case someone was injured

in their section of the public way. He said that he had spoken to his insurance company and this insurance could be expensive.

Mark Dodge stated that there was no need for a public easement. He also stated he would prefer that the Town kept the road.

Feeney asked Dodge if the landowners had an agreement for access if the road was abandoned. Dodge replied that they had come to an agreement but had to wait to find out which way the Board would vote before papers could be drawn up. He also added that it would be a large expense to the landowners if they wanted to build and had to bring the road up to standard.

Acker stated his concern that some of the property owners would be landlocked if the agreement fell through.

Pat McDonough told the Board that he was against having a public easement. He stated that snowmobile trails would not be affected by no easement because they are built by permission of landowners. He also stated his concern that by the Town abandoning the road it would decrease the property values of his and Dodge's properties. He feels the Town should rebuild the road.

Dodge asked the Board to put themselves in their place. He feels the Town should rebuild the road despite what previous administrations did or did not do.

Paul Austin recommended that the Town have Public Works bring the road up to code.

Dodge told the Board that for them to move forward the Board needs to make a decision and take a vote.

Favreau explained that the Board cannot vote at this meeting because it is not a Regular Scheduled Meeting. That the Board must give another 30-day notice before they can take action and vote on the matter.

## **V. Discussion Items**

### **A. Dingley Road Abandonment pursuant to the provisions of 23 M.R.S. § 3028-A**

Joy asked each member of the Board to give their feelings on the matter.

Favreau stated he was for abandonment with no public easement. The section of the road has been abandoned in the public eye for years and not maintained in over 40 years. Nothing was said when the landowners purchased the property that it would be improved. He did not feel the taxpayers should have to pay reconstruct this portion of Dingley Road.

Hodde said that he felt the Board needed to be fiscally responsible to the other residence. He would like to know how much it would cost the Town to reclaim this portion of Dingley Road. Currently he is leaning towards abandonment without public easement.

Favreau added that if they voted to improve the road then they would also have to enter into an agreement with one of the property owners and build a turnaround for the bus and plow truck. This would be an added expense for the land and the turnaround.

Feeney said he was not for an easement. He stated that where the road has gone unmaintained for so long, he feels it is a false assumption that the Town would bring it up to standard. He confessed that he is struggling between the two options of abandoning without easement or keeping it and investing in rebuilding the road.

Acker feels that the current administration should vote to rebuild the road. He feels that the Town has been negligent by not settling this issue years ago. He feels that the Board should stand up for the taxpayers and it is the Town's responsibility to maintain this section of road regardless that it has not been maintained in years.

Joy said she felt it was the Board's responsibility to correct what previous administrations had not followed through and finalized. She said that abandonment without public easement makes sense. She went on to say that it had been a very long time since the Town maintained the road and it would be basically starting from scratch. Joy added that residents have made it clear at Town Meeting that they want to keep taxes level.

Feeney asked if they voted not to abandon the road, could they then pursue discontinuation, he said he understood this would have to be voted on at Town Meeting. He then asked how the determination of damages would be figured.

Rachin explained that discontinuation still left them with the same issues and that it is a cumbersome process. If the Town voted to discontinue the road, they could be liable to pay landowners a determination of damages which is a decrease in the value of a property on the discontinued road. The Town would have to get an appraiser involved. Property owners could then appeal the amounts.

Favreau pointed out that if they went with discontinuance instead of abandonment it would leave the property owners in limbo for another year. Whereas the criteria have been met, and the Board has authority under the Law to determine abandonment.

Hodde said he would like to have everything on the table before making a decision including the cost to reconstruct the road.

Joy asked Briand how they would get that information. Briand replied that she would reach out to Pinetree Engineering and ask them for an idea of what it would take to reconstruct the road. She does not believe that there is a base left to work with and that the project would be starting from scratch.

Feeney said he would also like to know what the difference in the assessment would be if the town discontinued the road.

## **VI. Reopened Public Hearing**

Convened 7:44 pm. Adjourned 7:52 pm.

Joy asked the property owners what the impact would be on them if it was drawn out another year.

Christopher said it would not impact him, whereas he has no intentions on building.

Dodge felt this was a catch 22 question. If discontinued, they could get some compensation, but he already has been waiting over a year and does not want to wait longer.

McDonough asked the Board how many landowners would have to be affected to have influence on how they voted. He added that they know that it was prior administrations that put all of them in this situation and that money is tight.

Dodge said that he felt the amount of taxes the four affect lots have paid over the years should cover the cost of the road being fixed. He also felt it could be done for under \$200,000 and the Town did not need an engineer involved and he felt Public Works could do the work needed.

## VII. Discussion Continued

Acker told the Board that a previous extension of Dingley Road had been made for only two houses and now there are fourteen homes paying taxes. He feels it would be shortsighted of the Board to think they were opening the road for only 2 or 3 homes when rebuilding the road would open a large area of road frontage for potential growth.

Joy said they needed more information and discussion on this issue before they took a vote.

Briand stated she would get information on building the road and what the difference in property values would be. She was unsure if she would be able to have all the information by the next Select Board meeting but would have it for the second meeting in February. At that meeting the Board can decide on the schedule. They need to set a 30-day notice for another public hearing before they can vote.

Rachin reminded them that they could schedule the public hearing and vote for the same meeting.

**Acker motioned that the Board table discussion on Dingley Road Abandonment until it receives more information; seconded by Favreau. Vote was 5-0.**

## VIII. Comments from the Public

Christopher asked the Board if he understood correctly that the Board was not going to grant a public easement. Acker confirmed.

Dodge asked for a timeline. The Board answered a vote would be held in March or April. He also asked if the town only used certain contractors for road work. Favreau explained they put projects out to bid. Briand added that the Town post request for bids on projects. Dodge then asked if his company could submit a bid to rebuild the road. Feeney said he could bring an unsolicited proposal to present to the Board for review.

## IX. Adjourn

Adjournment was at 8:05 p.m.

Select Board  
Town of Bowdoinham, Maine

  
Joanne Joy, Chair

  
Mark Favreau, Vice-Chair

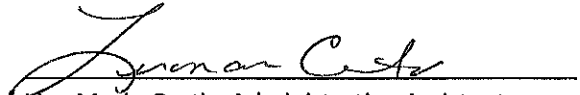
  
Jason Hodde

  
Allen Acker

Peter Feeney

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Respectfully Submitted,

  
Lisa-Marie Curtis, Administrative Assistant

**Dingley Road Abandonment**  
**Prepared by Nicole Briand, Town Manager**

We, myself and staff, have reviewed Town Meeting minutes, Annual Town Reports, Select Board Minutes and Road files to determine when the Town last maintained this section of Dingley Road (along Lot R04-017).

I am confident that the Town has not maintained this section of Dingley Road in over 30 years.

Given the meeting minutes from the January 13, 1987 Special Town Meeting, I believe the Town has not done any work on this section of Dingley Road, along R04-017, since before 1987.

**History**

March 13, 1978 Annual Town Meeting: Article 46 of this town meeting asked to discontinue the portion of Dingley Road from Noel Valdez property (Map R03, Lot 52) to the Vera Kotow property (Map R04, Lot 37, possibly Lot 36). After discussion, the voters amended the article to discontinue the Dingley Road from the northerly boundary of the Valdez property (Map R03, Lot 52) to the south boundary of the Gerald Curtis property (determined to be Map R04, Lot 17 now owned by George Christopher). Town Meeting Minutes are attached.

January 13, 1987 Special Town Meeting: Article 5 asked the Town to approve \$23,000 for repairs and improvements on Dingley Road and was approved. It appears that this funding was to rebuild approximately .9 miles of the road from the Kotow Farm property (R04-036/037) to the Curtis property (R04-017). Town Meeting Minutes are attached.

Prior to 1987 this section of road) had not been used or had not been maintained. Dingley Road had ended at the Kotow farm, despite the 1978 discontinuation discussion and vote.

1991: The last 0.7 miles of Dingley Road was reconstructed. Town Report and Select Board meeting minutes attached.

Despite spending \$23,000 in 1987 to make from the Kotow farm to the farm entrance on Mr. now Christopher's property, R04-017 passable, there were complaints about the condition of the road. Therefore, the Town completed a road design and hired Crooker to rebuild the road.

July 13, 2005 Select Board Meeting: The Select Board discussed this portion of Dingley Road, and their belief was that this section of road was abandoned by the Town. Select Board meeting minutes attached.

2019: In William Post's Manager Transition Document he lists Dingley Road Extension as a pending issue.

"The portion of Dingley Road that begins at the current turn-around at the end of Dingley Road and heads towards Pratt Road for about 300 yards to the end of property owned by George Christopher needs to be made passable. This portion of Dingley Road was thought to be discontinued, but after research, it was determined that it is not and needs to be brought up to standard. Property owners at the true end of the Dingley Road have requested this so that they can develop their property. The Town has an obligation to ensure this is a passable road."

I served as the Interim Town Manager and am confident that Public Works did not conduct any road maintenance on this section of road under my management and Tom Woodin's.

2022: the Town rebuilt the Mallon Brook stream crossing on Dingley Road. Prior to the culvert replacement, a logging operation did some work on this section of Dingley Road so that it was passable for their trucks in equipment.