

MEMORANDUM

Date: July 2, 2021
To: Selectboard
From: Josh Arneson, Town Manager
RE: Williams Hill Rd.

7:00 PM Selectboard Meeting

The purpose of this memo is to outline the timeline regarding the Williams Hill Rd. trail topic. All information that was provided in previous Selectboard meeting packets can be found on this page: <http://www.richmondvt.gov/documents/selectboard-meeting-documents/archived-selectboard-agendas-packets/>.

At the June 7, 2021 Selectboard meeting the Selectboard discussed the Trails Committee's request to create a trail for bikes and pedestrians on the Class 4 section of Williams Hill Rd. which is about 0.7 miles long. Their request is included in the packet for that meeting.

In order to try to get more information for the Selectboard, Town Manager Josh Arneson organized a meeting on May 6, 2021 regarding this request. Members of the Trails Committee were in attendance as were neighbors in the area of the proposed trail and Selectboard Vice Chair David Sander. A summary of this meeting is included in the packet for the June 7 meeting which can be found at the link provided above.

In the meeting Lauck Parke outlined the steps he believes that the Town needs to take prior to approving a trail in this ROW which include:

- Search of Town or State records to see if there is adequate evidence to indicate that there is a legal right of way (ROW). It is important to recognize we are talking about Palmer Rd., not private Palmer Ln.
- Then a survey must be established to establish the precise location of the ROW.
- Then create an ordinance which outlines the use of Class 4 roads.

The Town Manager received the following advice from the Town Attorney:

- The Town can put a trail on the ROW if they want to.
- The Town could hold a hearing to change the designation of the road from a Class 4 road to a Legal Trail. With a Legal Trail designation the Town could ban motorized vehicles on the trail. A Class 4 road is open to motorized vehicles and motorized vehicles cannot

be banned. If the ROW passes any landlocked parcels, landowners would still have a ROW for motorized access.

- The Selectboard needs to look at this as the public's ROW. Per Town policy the Town does not maintain Class 4 roads and the Town does not have to maintain this Class 4 road, but the Town may maintain it if the Selectboard wants to in the form of creating a trail.

After the May 6 meeting, neighbors in the Williams Hill Rd. area put together a petition asking the Selectboard to hold a hearing to discontinue the Class 4 section of Williams Hill Rd. The petition had about 90 signatures as of June 7 and they were still collecting signatures. According to [19 VSA 708](#) a petition of 5% of the voters (which is 130 in Richmond) would be needed to force a hearing on this issue. The Selectboard could also choose to hold a hearing on discontinuance of the road by a vote of the majority of the Selectboard.

Also included in the packet for the June 7 meeting are the following documents combined into one PDF:

- Town Highway Repairs Policy
- Policy for Palmer Lane
- General Policy of acceptance of Class 4 Highways
- Survey map showing Palmer Ln and the southern section of Town Highway 20
- Survey map showing a close up view of Palmer Ln. and Town Highway 20
- E-911 map showing the whole route
- Property tax map of the area

Prior to the June 21, 2021 meeting the Town received a petition asking the Selectboard to hold a hearing to consider discontinuance of Williams Hill Road from 1360 Williams Hill Rd. southward to the point where it intersects with Palmer Road and Beatty Lane.

The petition has 163 signatures which meets the threshold of 5% of registered voters. Per Statute, once a petition is received the Selectboard must promptly set a hearing date. This applies only to setting the date, the actual hearing may be scheduled for several months out, within reason. There is a lot of information to understand regarding this topic so it was on the agenda on June 21 as a discussion item in order to share what information is known and identify questions that still need to be answered prior to setting a hearing. The Town attorney recommends that action be taken to set a hearing date within two Selectboard meetings of receiving the petition.

At the last meeting some residents of Williams Hill Rd. expressed a desire for more evidence that the Class 4 Section of the road was correctly established by the Town. Mr. Arneson posed this question to Town Attorney, John Klesch.

Mr. Klesch noted that the section of the road that is asked to be discontinued is on the current Agency of Transportation (AOT) map dating back to at least 1931 (1931 map and 2019 map are included in the packet for the June 21 meeting.). This indicates that the Town has been taking the position that this is a road for at least the last 90 years.

The Selectboard could choose to do more research into the establishment of the road which would include hiring a professional to look at the on the ground conditions and conduct research into the records for the purpose of finding any documents related to the establishment of the road. If this process is enacted, notice would be given to all abutting landowners so they understand that a researcher will be on the land.

At the conclusion of this process the Selectboard would then have more information regarding how the road was established. In a discussion with Jonathan Croft of VTrans Mr. Croft indicated that if the Town followed the above process the Selectboard could elect to remove the road from the official Town map, however, that would not end the question of if the road actually existed because a suit could be brought by interested parties who believe the road does exist to ask a court to decide the matter. In essence a decision by the Selectboard to remove the road from the map is not legally binding unless a hearing is held or a court decides there is not enough evidence that the road was properly established.

While the Selectboard may elect to do the research outlined above, it is not legally required to do this research to hold a hearing. The Selectboard may decide to proceed with a hearing based on the Town regarding it as a valid Town Highway right-of-way, backed up by the fact that this is a Town road on the AOT map.

When a hearing is scheduled the following notices must be given:

- At least 30 days prior to the hearing the following notices must be mailed:
 - Certified mail to all people living on TH20 and all lienholders of those properties. This will require a title search to ensure that all banks which hold mortgages on properties also receive a notice by certified mail.
 - Certified mail to all 163 people who signed the petition
 - Certified mail to Vermont Forest Parks and Recreation
 - Certified mail to Hinesburg Selectboard.
- At least 10 days prior to the hearing the following notices must be posted:
 - Notice given to the Richmond Planning Commission
 - Posted in physical locations in Town including on file at the Town Clerk's office
 - Published in a paper of record

The discontinuance of a road does not require a survey, but it does require a site visit. The Agency of Natural Resources (AOT) map could be used to plot the GPS coordinates of the section of road in question, and then the road could be flagged on the ground using this data. (A link to the AOT mapping tool and a link to a static map of Williams Hill Rd. is in the packet for the June 21 meeting)

Once the road is flagged a site visit needs to be held prior to the hearing. This is often done on the day of the hearing or a few days prior to the hearing. Given the length of the road the site visit may take a couple of hours. The Selectboard needs to attend the site visit and any members of the public may also attend. The goal of the site visit is for the Selectboard to view the actual road right of way prior to the hearing. At the site visit there may be discussion but the Selectboard should not share any opinion on the topic or answer any questions. The Selectboard may ask questions but answers to those questions should be shared again in the hearing. Any information shared at the site visit cannot be used as part of the determination unless it is shared again in the hearing. Photos and videos may be taken and submitted at the hearing.

The hearing will be conducted as a quasi-judicial hearing. Witnesses need to be sworn in. A video or audio recording of the hearing is recommended for record keeping purposes and will be especially helpful if the decision is challenged in court. The Selectboard would probably hear the petitioners first and can then ask for evidence and relevant information which may include testimony from the Planning Commission Chair, Town Planner, Trails Committee Chair, Town Manager, Road Foreman and any other evidence or testimony from any other person that the Selectboard feels is relevant. There should be time for the public to voice opinions on the topic as well.

The Selectboard needs to base its decision on the legal standard of what is best for the public good, necessity, and convenience of the Town.

Once the hearing is closed the Selectboard has 60 days to issue a decision. The decision can be drafted with the assistance of legal aid. Discussions about the decision are held in deliberative session and are closed to the public. Discussions do not have to be held at a warned meeting and a quorum of the Board may gather without a warned meeting to work on the decision. The decision will be one of three outcomes:

- Discontinue the road
- Retain as Class 4
- Retain but change status to a Legal Trail

Once a decision is made notice of that decision will be mailed to all parties who were notified about the hearing. This notices does not need to be certified mail and can be a letter with a link to a webpage to view the full decision.

After the decision is made the public has 30 days to appeal the decision to the Vermont Superior Court.

At the June 21 meeting the validity of the maps was called into question. Residents were concerned that parcel boundaries were not properly identified on the maps. Mr. Arneson noted that Mr. Croft stated that the parcel boundaries on the AOT maps are taken from the Town records and are only as accurate as the Town records. The Selectboard asked for more information about where exactly the ROW is.

After the June 21 meeting Mr. Arneson followed up with Mr. Klesch regarding how to find accurate maps of the ROW. Mr. Klesch responded with maps from AOT which show the centerline of roads.

In researching the maps for Williams Hill Rd. (or Palmer Rd. as it appears on the map referenced below) it appears that the centerline on the maps from AOT is at times outside of the apparent ROW implied from the parcel overlay. Mr. Arneson spoke with Mr. Croft at AOT and he suggested looking at the current deeds and surveys for the properties bordering the road to see if there is a book and page number which would show the original documents laying out the road. If these can be found then they can be used to draw a line on the map which will be accurate to the original laying out.

Following is information regarding how to locate William's Hill Rd. on the AOT map and obtain GPS coordinates for AOT's official centerline location of TH 20:

- 1) Go to <http://anrmaps.vermont.gov/websites/anra5/>
- 2) In Search bar, type "Williams Hill Rd Richmond VT" and click return or the magnify glass.
- 3) Where Bing address shows in dropdown on left, click on it.
- 4) You can now move the map around and see the centerline for Williams Hill Rd / Palmer Rd

Mr. Arneson asked Town Clerk Linda Parent if she could look at the deeds to see if any of them lead to an original survey for the road. Ms. Parent was unable to find deeds which led to such a survey.

The Selectboard could proceed with using the GPS coordinates from the AOT for the centerline of the road. However, this may raise questions and objections from the abutting landowners because at times the centerline is outside of the apparent ROW as sown by the parcel overlay.

Alternately, the Selectboard could hire a professional who specializes in this type of work to conduct research and provide more data on the centerline of the ROW.

If the Selectboard decides that they would like to hire a professional for more research into the exact location of the ROW it is advisable to still set a site visit and hearing date at the July 6 meeting. The site visit and hearing date could be set for a time far enough in the future where it is assumed that any additional research on the location of the ROW would be completed. If, however, the research regarding the location of the ROW is not completed by the date of the site visit, both the site visit and hearing could be postponed to a later date.