

**Brandon Select Board Hearing
Proposed Steinberg Road Class 4 Discontinuance
August 9, 2021**

Board Members Present: Seth Hopkins, Brian Coolidge, Tim Guiles, Michael Markowski, Tracy Wyman

Others Present: Dave Atherton, Melly Flynn, Joe Flynn, Tom McLaughlin, Jason McLaughlin, Tom P. McLaughlin, Ralph Ethier, Amy Munger, Bill Moore

Others Via Zoom: Keith Whitcomb, Will Ariadne

1. Call to order

Seth Hopkins, Chair, opened the hearing at 6:30PM.

2. Public Comments

Seth Hopkins noted the hearing was to discuss discontinuance of the Class 4 unmaintained portion of Steinberg Road that is 0.48 miles that starts at the last house and is the end of the Class 3 road.

Melly Flynn asked what will be gained by discontinuing the road. Seth Hopkins advised there has been a petition from the adjoining landowners to discontinue the road. The Town would lose the right to public access and would not have to maintain the road to the Class 4 standards that includes replacement of culverts.

Tim Guiles stated there is the possibility for making it a trail for running, snowmobiles or trail bikes. Melly Flynn advised that the Greenways brochure indicates this is a walk through area and is one of the places that people can get a sense of no traffic and peacefulness. Mr. Guiles stated the use of this area would depend on the level that the Town gives up. If it is kept at a trail which the landowners may be open to, there could still be foot traffic. Ms. Flynn knows there are a lot of tires dumped there and they understand that the landowners do not want this happening.

Tom McLaughlin stated it has been in the family since 1784 and they don't have a problem with bikes, snowmobiles or people walking the road, but they have a problem with trucks dumping trash. He also noted that there is no signage indicating the Class 4 road and there has been an instance when a tractor trailer came down the road with nowhere to turn around and pulled siding and wires off a house in trying to get back to Route 7. He noted these issues have to stop.

Ms. Flynn asked what would protect the landowners from liability if they were to allow people to use the property. Seth Hopkins stated there is a State statute that protects landowners who allow the public to use their property. If it were reclassified as a legal trail, the Town would assume the

liability for the area. Mr. Hopkins noted that if the road were thrown up, the Town would not have to do something affirmative to assure the landowners were not liable for the public use as the State statute would apply. Ms. Flynn suggested the Town confirm this with the town's attorney.

Ralph Ethier advised that he would like to improve the road to allow tractors to access the property.

Seth Hopkins advised the options the Select Board could consider would be to leave it as a Class 4 road, turn it into a Class 3 road so that cars could travel through, reclassify it from a Class 4 road to a legal trail owned by the Town or entirely give up the road with the adjoining property owners taking over the road. Mr. Hopkins stated the maintenance on the Town's part would be very low if it were reclassified as a trail. Tom McLaughlin noted that his sons now own the property and have decided it will always remain in the family and will not be sold.

Motion by Tim Guiles/Mike Markowski to reclassify the road from a Class 4 to a legal trail status.

Ralph Ethier asked if it does become a trail whether the Town could in the future reclassify it to a Class 3 road. Tim Guiles stated it would be an injustice and would not be fair. Seth Hopkins stated it would have to be found to be a public convenience and would have to be required, as there has to be reasons provided to make a legal highway. Dave Atherton advised the width of a road in reclassifying it does not change and will have the same right of way the Town has for the Class 3 and Class 4 roads. Mr. Atherton noted that once a road is declassified and no one lives on it, the Town does not maintain it in the winter. Mr. Hopkins suggested a forest service size gate be installed to block regular traffic.

Seth Hopkins questioned what the process would be going forward if the motion passed. Dave Atherton advised there are a certain number of days the Select Board has to make a decision and the action did not have to be done at the hearing. Once a decision is made, there would have to be another discontinuance notice to provide information on what has been determined. Mr. Hopkins suggested the gates could be similar to what was done at Estabrook Park this year. Mr. Atherton confirmed that could be done. There would be a gate the entrance on Hollow Road and at the end of the Class 3 road on Steinberg Road. Ms. Flynn asked about parking. Mr. Hopkins stated there could possibly be a trail head at the other end of the trail. Tim Guiles suggested it indicate no parking at either entrance. Mr. Atherton stated nothing would change if the landowners were to become the stewards of the area and they are still going to let people walk and ride their bikes and it would be advantageous for the Town to discontinue the road. Tracy Wyman agreed with discontinuing the road. Joe Flynn suggested putting signs at the entrance from Route 7 indicating no thru traffic. Melly Flynn stated if the Town gives it up to the landowners and it is blocked off, it is putting the parking problem on the landowners and the parking should be addressed. Ms. Flynn thought that many people walk to the trail from town. Mr. Wyman asked if the landowners felt it would be an issue if the road was discontinued. Tom J. McLaughlin did not think anyone should be allowed to use the area due to liability. Ms. Flynn reiterated there is the State statute that protects the landowners from liability. Mr. Atherton

suggested individuals who would like to use the property could ask permission from the landowners. Ms. Flynn noted concern that the Greenways brochure advertises to visitors that this is an area to visit and it does not indicate that permission is required. Mr. Guiles thought that making it a trail solves the problem. Mr. Wyman noted there is parking available at Estabrook Field. Tom McLaughlin stated from the access on Hollow Road, if someone wanted to park near the trail it could be done and it should not create a problem.

Bill Moore advised the legislature's protection for landowners' trails has been tested by the Vermont Supreme Court and homeowners were not found liable. Melly Flynn asked how private owners could keep people off their property and Mr. Wyman stated the property would have to be posted.

The motion passed – (4) yes – (1) no vote.

Seth Hopkins advised the decision will be noticed and there can be further public input based on the notice.

The Hearing Closed at 7:00PM.

Respectfully Submitted

Charlene Bryant
Recording Secretary