

An excerpt from an e-mail from Chief of Police Tom Hanley re: Abbey Pond Road

6-6-13

The road is a class IV town highway and is used all year. Hikers and hunters will occasionally go up there early in the morning (6a.m. + or -) and some people engaging in one or both of those activities may not return until after nightfall.

I have not seen any proposal or plan for gating the road. The issue and questions I have with a gate are:

1. Who will manage the gate opening and closing 7 days a week? What are the times?
2. What will happen with a person using the trail for recreation who returns after the gate is locked – who does the person call, who opens the gate?
3. How do we deal with a lost/ injured hiker? Locks would have to be daisy chained with each interested agency maintaining their own lock (USFS, PD, DPW, FD, MVAA, VSP, Fish and Wildlife, Case St Redi-Mix).
4. What about winter maintenance?
5. Who does a person call who wishes to use the trail during “open times” and finds the gate closed?
6. How does the forest service deal with other public roads (if any) that it gates – such as the Duclos Rd in Bristol, the old “Toll Road” on the Oak Ridge Trail, and other roads?

It is difficult to formulate an opinion with no plan in place. At first blush I'd say no gate- it's a public highway, access and use are conditional (weight limits) but not otherwise restricted. The road is the access to an unrestricted public recreational area. I do not want the PD responsible for any gate. It's easy to suggest since the department is on duty 24 X 7. However, I resist housekeeping and regular maintenance duties as we are primarily a first response agency and dynamic and emergency calls are our first priority. The gate could not be maintained in any sort of regular fashion.

Information from VLCT re: trails, pent roads and gates

6-19-13

These types of gated off sections of road are referred to "pent roads." A pent road is a town highway which, under written permission of the selectboard, is enclosed by adjoining landowners with unlocked stiles, gates and bars. "'Pent road' is any town highway which, by written allowance of the selectmen, is enclosed and occupied by the adjoining landowner with unlocked stiles, gates, and bars in such places as the selectmen designate." 19 V.S.A. § 301(4). Unlike the four classes of highways and trails, a pent road is not a separate classification of highway. The selectboard cannot give permission to a property owner to put a locked gate or permanent barrier restricting access to a town highway or trail. Statute only grants the selectboard the authority to grant permission to owners of land to pent roads and trails with an unlocked gate or bar. The enabling statutory authority provides that a selectboard may "grant permission to enclose pent roads and trails by the owner of the land during any part of the year, by erecting stiles, unlocked gates and bars in the places designated and to make regulations governing the use of pent roads and trails and to establish penalties not to exceed \$50.00, for noncompliance. Permission shall be in writing and recorded in the town clerk's office." 19 V.S.A. § 304(a)(5).

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Title 19: Highways

Chapter 3: TOWN HIGHWAYS

19 V.S.A. § 304. Duties of selectmen

§ 304. Duties of selectmen

(a) It shall be the duty and responsibility of the selectboard of the town to, or acting as a board, it shall have the authority to:

(1) see that town highways and bridges are properly laid out, constructed, maintained, altered, widened, vacated, discontinued, and operated, when the safety of the public requires, in accordance with the provisions of this title;

(2) take any action consistent with the provisions of law, including determinations made pursuant to subdivision 302(a)(3)(B) or subsection 310(a) of this title, which are necessary for or incidental to the proper management and administration of town highways;

(3) purchase tools, equipment, and materials necessary for the construction, maintenance, or repair of highways and bridges, and to incur indebtedness from the municipal equipment loan fund as established in 29 V.S.A. § 1601 for these purchases. It may contract with governmental or private agencies for the use of tools, equipment, road building material, and services;

(4) order hills graded, surfaces graveled, or treated with a dust layer, or surface treated with bituminous material, upon any town highway either laid out by them or already existing;

(5) grant permission to enclose pent roads and trails by the owner of the land during any part of the year, by erecting stiles, unlocked gates, and bars in the places designated and to make regulations governing the use of pent roads and trails and to establish penalties not to exceed \$50.00, for noncompliance. Permission shall be in writing and recorded in the town clerk's office;

(6) make special regulations as to the operation, use, and parking of motor vehicles on highways under their jurisdiction, as provided in Title 23;

(7) make special regulations as to the speed of motor vehicles using the highways under their jurisdiction, as provided in Title 23;

(8) lay out winter roads and lumber roads pursuant to chapter 9 of this title;

(9) change the course of a stream, pursuant to chapter 9 of this title;

- (10) erect embankment on stream, pursuant to chapter 9 of this title;
- (11) construct a watercourse, drain, or ditch from a highway across lands of any person, pursuant to chapter 9 of this title;
- (12) lay out, alter, classify, and discontinue town highways, pursuant to chapter 7 of this title;
- (13) forward the town's annual plan for the construction and maintenance of town highways to the agency of transportation;
- (14) keep accurate accounts, showing in detail all moneys received by them including from whom and when received and all moneys paid out by them, to whom and for what purpose, and settle the accounts with auditors not less than 25 days before the annual meeting;
- (15) receive grant funds and gifts from public and private sources;
- (16) unless the town electorate votes otherwise, under the provisions of 17 V.S.A. § 2646, appoint a road commissioner, or remove him or her from office, pursuant to 17 V.S.A. § 2651. Road commissioners, elected or appointed, shall have only the powers and authority regarding highways granted to them by the selectmen;
- (17) number houses and name highways if desired;
- (18) participate in cooperative purchasing arrangements with the state or other municipalities;
- (19) prepare a transportation plan and capital budget for transportation for voter approval;
- (20) retain staff and consultant assistance if needed in carrying out duties and powers;
- (21) issue permits for work in highway rights-of-way pursuant to 19 V.S.A. chapter 11;
- (22) regulate the location and relocation of utility wires and poles pursuant to 30 V.S.A. chapter 71; and
- (23) publish and adopt after public hearing(s) road specifications for highways to be built or rebuilt within the town in compliance with applicable statutes.

(b) Nothing in this chapter shall be construed to affect the rights and powers conferred on incorporated villages and cities by their charters to appoint street commissioners, collect and disburse highway taxes, and repair and maintain highways under their care. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1999, No. 156 (Adj. Sess.), § 28, eff. May 29, 2000; 2001, No. 64, § 21, eff. June 16, 2001.)