



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: April 4, 2016
Submitted by: MCC Chairman Tim Tenhave
Department:
Speakers: Tim Tenhave

Date of Meeting: April 28, 2016
Time Required: 15 minutes
Background Info. Supplied: Yes: No:

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
Public Hearing:	<input checked="" type="checkbox"/>	Old Business:	<input type="checkbox"/>
New Business:	<input type="checkbox"/>	Consent Agenda:	<input type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

TITLE OF ITEM

Public Hearing - Discontinuance of a Portion of South Grater Road

DESCRIPTION OF ITEM

The Town Council will hold a public hearing for the purpose of discussing and voting upon the discontinuance of a portion of South Grater Road, a Class VI public highway, pursuant to RSA 231:43

REFERENCE (IF KNOWN)

RSA:	231:43	Warrant Article:	
Charter Article:		Town Meeting:	
Other:		N/A	

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input type="checkbox"/>

CONTACT INFORMATION

Name:	Tim Tenhave	Address:	
Phone Number:		Email Address:	ttenhave@merrimacknh.gov

APPROVAL

Town Manager: Yes No: Chair/Vice Chair: Yes No:

Hold for Meeting Date: _____



LEGAL NOTICE
Town of Merrimack
Public Hearing



Residents of Merrimack are hereby advised that the Town Council will conduct a public hearing for the purpose of discussing and voting upon the discontinuance of a portion of South Grater Road, a Class VI public highway, pursuant to RSA 231:43, no class IV, V or VI highway may be discontinued without a vote of the Town. The public hearing will be held on **Thursday, April 28, 2016, at 7:00 PM** in the Matthew Thornton Room located at 8 Baboosic Lake Road.

For Town of Merrimack Use:

Posted: April 13, 2016

To Be Published: April 13, 2016 (*Union Leader*)

TITLE XX TRANSPORTATION

CHAPTER 231 CITIES, TOWNS AND VILLAGE DISTRICT HIGHWAYS

Discontinuance of Class IV, V and VI Highways

Section 231:43

231:43 Power to Discontinue. –

I. Any class IV, V or VI highway, or any portion thereof, in a town may be discontinued by vote of a town; provided, however, that:

(a) Any highway to public waters, or portion of such highway, laid out by a commission appointed by the governor and council, shall not be discontinued except with the consent of the governor and council.

(b) Any class V highway established to provide a property owner or property owners with highway access to their property because of a taking under RSA 230:14 shall not be discontinued except by written consent by such property owner or property owners.

II. The selectmen shall give written notice by verified mail, as defined in RSA 451-C:1, VII, to all owners of property abutting such highway, at least 14 days prior to the vote of the town. In the case of a petitioned warrant article calling for discontinuance of a class VI highway, the petitioners shall bear the cost of notice.

III. No owner of land shall, without the owner's written consent, be deprived of access over such highway, at such owner's own risk.

Source. RS 54:1. CS 58:1. GS 65:1. GL 71:1. PS 72:1. 1903, 14:1. 1925, 19:1. PL 79:1. 1931, 12:1; 121:1. RL 95:1. 1943, 68:1. 1945, 188:1, part 9:1. 1949, 13:1. RSA 238:1. 1981, 87:1. 1991, 36:1. 1995, 77:3, eff. June 8, 1995. 2014, 41:1, eff. July 26, 2014.

Approved: April 14, 2016

Posted: April 19, 2016

Councilor Koenig questioned if there is a downside to approval of such a donation. He stated his assumption it would be that \$18,400 would be taken off the tax rolls. Mr. Tenhave stated that results in about \$500/year in tax revenue the Town would no longer receive. He noted the property is not buildable, and will never be worth more than it is. The Title originally alluded to access to Bean Road from the parcel. Research was conducted as far back as could be found online through the Hillsborough County Registry of Deeds and the exact origination of that could not be identified. In order to dig deeper someone would have had to go to the Registry of Deeds to go through the books from the early 1900s, which was determined not to be cost effective. There is great access from the Town owned parcel. He added the upside is in the ability to address invasive issues that are really prevalent further downstream, and protection of the brook.

Gage Perry, Merrimack Conservation Commission, commented on discussions at the State level relative to a State Bobcat season, and noted Mitchell Woods is one of the areas where the Commission has photographic evidence of Bobcat here in Town.

MOTION CARRIED 7-0-0

5. Discontinue Portion of South Grater Road, a Class VI Road

Submitted by Conservation Commission Chairman Tim Tenhave

Merrimack Conservation Commission would like to discuss and gain initial approval for discontinuing a portion of a Class VI road in Grater Woods called South Grater Road. Also a short portion to be made into an Emergency Lane.

Mr. Tenhave stated the desire to reach consensus the Council is willing to go further along with this process. The next steps are legal in nature, e.g., Public Hearings, etc. He was not looking for approval by the Council to presuppose what might be received as feedback from the public during Public Hearings, etc., but rather to ensure the Commission and the Council is in agreement with moving forward.

Mr. Tenhave provided a PowerPoint [Presentation](#). He spoke of the desire to accomplish most of the intent of a Grater Road secondary access point identified in the Grater Woods Stewardship Plan (Plan). When the Plan was put together parking and access on the west side was poor. Since that time, the Town of Amherst created a parking lot. Trails have been connected from that parking lot in. There is an issue with four-wheeled vehicles on the South Grater Road access traveling through wetlands, creating ruts, etc. That is in large what has prompted the request to discontinue a portion of the road. The desire is not to take away the access, but to improve it over the long-term and to do so properly, e.g., move trails out of the wetland, gain better control, etc.

As noted in the Plan, the intent is to eventually install gates, and to vastly improve emergency vehicle access. Currently emergency access from the north is pretty good down through Conservation Drive using the Red Maple Trail project that was done a few years prior and the Gateway Trail takes you in from the east side and brings you deep into the property. On the far western side, emergency access is not that great. This will help address that long-term. An emergency lane is the first step in the process of declassifying the road.

The Commission would like to have a small portion of the road as an emergency lane (700'), which is something that has been done in Town previously with part of Old Kings Highway, which goes through the HHNP. Doing so allows the Town, in general, to spend money to maintain the road in

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order to provide emergency access, but it doesn't obligate the Town to do any of those activities, e.g., doesn't mean that now that road has to meet some standard. A Class VI road by itself is not intended to be maintained, and doesn't have to be kept open.

When asked to provide additional information on Class VI roads for the viewing audience, Mr. Tenhave responded, in the State of New Hampshire, there are 6 classes of roads. The lower numbers are the larger, e.g., highways, etc. Class V roads tend to be what we have here in Town that we all drive on. A Class VI road is a road that exists on paper and may physically exist, but there is no obligation for a municipality to maintain it. It could just completely grow in and be swallowed by the forest at some point if that were the desire. Class VI roads exist because parcel owners that own property on those roads want roadway access to their parcels. It puts the burden on them to make sure it is passable.

Mr. Tenhave stated the other reason the Commission desires this small portion as an emergency lane is that it borders a private parcel/residence, and the Commission would like to ensure they continue to have access to the back of their property utilizing the road that has been there for decades.

The discontinuation of a portion of South Grater Road would be a means of putting an end to bad behavior taking place in that area. When discontinuing a road, the land area is split in the middle and the property owners on either side each receive half. In this case, the property owners are the Conservation Commission and the Town of Merrimack. By discontinuing this portion of South Grater Road we are not preventing the other parcel owners that are further south from getting to their properties because the access from Wilson Hill Road would be left open, which is the access point most of the users would utilize regardless. The Commission is a property owner on a number of those parcels as well. Vice Chairman Mahon noted the property owners in that area previously requested the Council discontinue that end of the road. Mr. Tenhave stated the property owner would appreciate if that were done.

Although the desire is to discontinue the road so that it no longer exists, the intent is for a portion of it to be improved in the form of an internal trail that would be wide enough to support emergency vehicles. The southerly portion of the trail would be moved 100-200 yards further to the east in a higher area and out of the wet area. Although it would provide for access by emergency vehicles, the intent is to gate the area to avoid public use of the trail (private trail versus public road).

Mr. Tenhave noted for long-term improvements, the Commission will either target wetland mitigation funds that may come to the Commission through the proposed NED pipeline or seek out Aquatic Resource Management (ARM) Funds and some combination of other grants.

Mr. Tenhave reiterated the Commission is looking to understand if the Council agrees this is an important thing to do and gives its general support to the idea. If that is the case, the Commission would like approval to work with Town staff to start the notification and Public Hearing process.

Councilor Vaillancourt stated her support of the project. She touched upon some of the bad behavior taking place, e.g., entry point for vehicles as large as pick-up trucks carrying things in and not carrying them out. Gating the area in addition to the improvements the Commission hopes to make is the right thing to do for the property.

Approved: April 14, 2016

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MOTION made by Councilor Mahon and seconded by Councilor Dwyer to grant initial approval for the discontinuation of a portion of a Class VI road in Grater Woods called South Grater Road and for a short portion of the road to be made into an Emergency Lane, and to allow the Commission to work with Town staff to proceed with the process of a Public Hearing

ON THE QUESTION

Vice Chairman Mahon remarked this matter has been discussed since his time on the Commission. He is familiar with the discussions that have occurred relative to damage being done in the area and the desire to discontinue a portion of the road.

Councilor Rothhaus commented there are Ordinances in place to address off-road vehicles going through wetlands, and if they are not being enforced that needs to be addressed. Councilor Dwyer suggested it may simply be a matter of available resources, e.g., manpower. Mr. Tenhave noted that area on the Plan is marked as open for wheeled access, e.g., ATVs, dirt bikes, etc. However, users cannot be going through the wetlands. When the trail is re-routed, that access will remain, but will be done properly. Councilor Rothhaus remarked he has supported ATV use from the start, but he expects there to be respect for the property. Within the past 6 years the Council put in place an Ordinance dealing with off-road vehicles going into wet areas. He remarked just because there is a trail, doesn't allow a user the right to go through and ruin it because it is soaked in water at the time. He added if the Ordinance is not being enforced he has a problem with that. The Police Department has a four-wheeled vehicle and a staff that he believes to be adequate to address those types of issues. It may be a bit of a nuisance taking an officer off the road, but if it is a problem, that is how it should be tackled.

Mr. Tenhave stated patrols would have to be increased noting every time that activity is reported it turns into a three-hour ordeal for the person doing the reporting because they have to wait for someone to come out, they have to take a report, etc. It is not convenient for the folks that witness it. Councilor Rothhaus reiterated if we are not going to enforce it, even if it is a closed Class VI road that will continue to occur. Mr. Tenhave stated that is why the Commission intends to gate it and close it. He noted the gating of Old Kings Highway was successful. Councilor Rothhaus remarked the Council can gate Class VI roads. Mr. Tenhave stated they can be made subject to gates and bars, but you have to leave them unlocked or if they are locked they have to be able to be unlocked and allow passage because it is a Class VI road. By turning it private it can be locked down.

MOTION CARRIED 6-1-0

Councilor Rothhaus voted in opposition

6. Wasserman Park Function Hall Rental Discussion

Submitted by Parks and Recreation Director Matthew Casparius

Town Council to review, discuss and consider the approval of the application / fee structure for the use of the Function Hall at Wasserman Park as a rental facility.

Matthew Casparius, Director, Parks and Recreation Department, stated the waterline to the Function Hall at Wasserman Park is complete, the heating system is essentially done at this point; new propane tank was hooked up the prior day, and final inspections are pending. Bids have been received for the sprinkler system, which will be going in at some point in the next month.

Discontinue a portion and Declare
a portion an Emergency Lane – On
Class VI - South Grater Road

Presented by:
MCC Chair Tim Tenhave
March 24, 2016

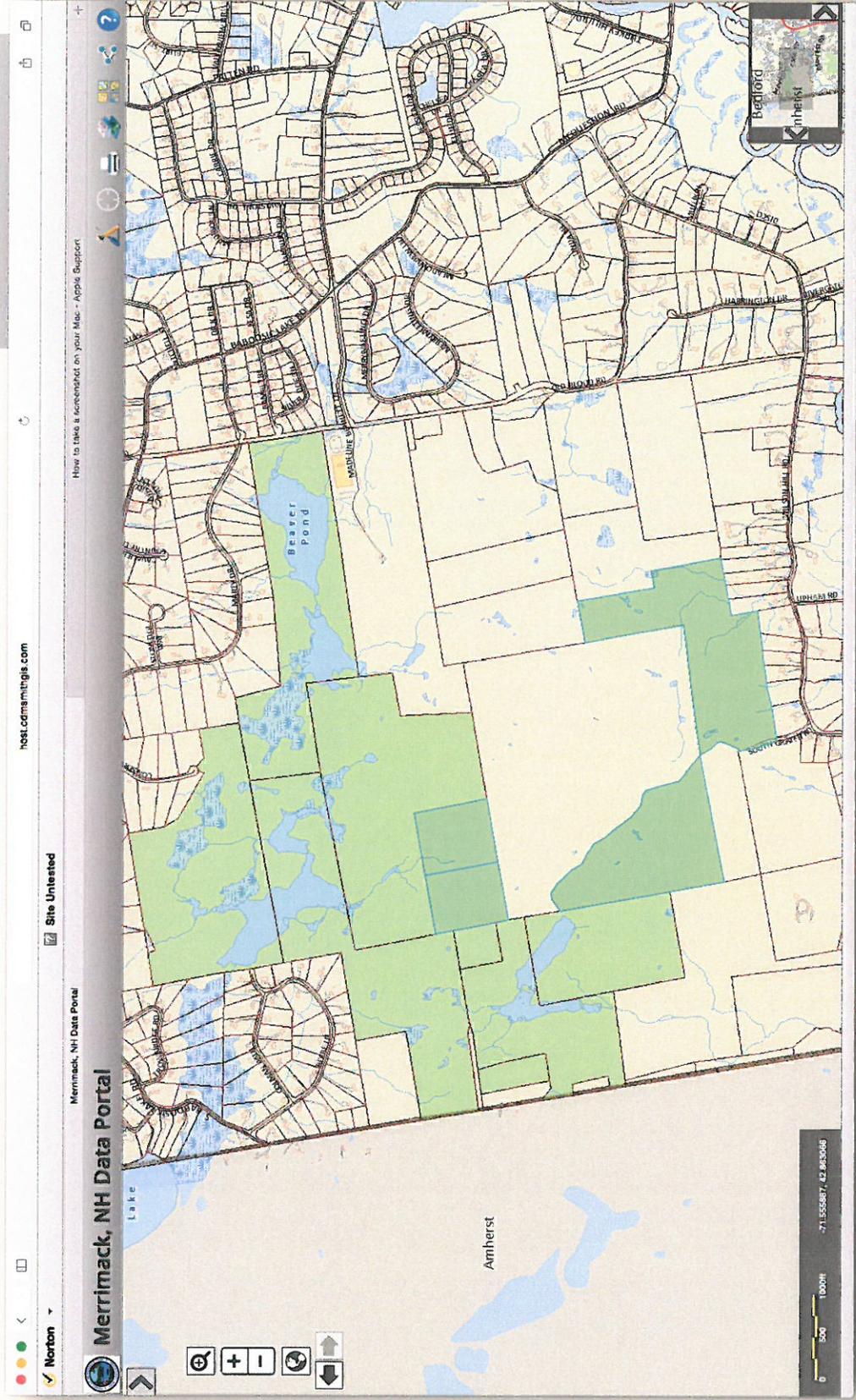
Overview

- To accomplish most of the intent of a Grater Road, Secondary Access point from the Grater Woods Stewardship Plan, pages 60-61.
- Parking area no longer needed, Amherst has done that with access to our trails.
- Access by trucks, jeeps, 4-wheelers, ATVs, needs to be stopped on a portion due to wetland issues (pictures to follow).
- Gates to be eventually installed as noted in the Stewardship Plan.
- Maintain and vastly improve emergency vehicle access.
- Allow access for forestry operations.
- Re-route to avoid wetland impacts and re-open to motorized use (dirt bikes and ATVs).
- No longer allow public non-emergency 4-wheeler (trucks, jeeps, etc.) access through Grater Woods.

Why are we here Today?

- The MCC asks the Town Council to declare a short portion of South Grater Road an Emergency Lane (details next).
- The MCC asks the Town Council to discontinue a portion of South Grater Road (details next).
- There is a legal process to follow including: notice to abutters, public hearing for both, and a vote of the the Town Council.
- MCC is here to ask the Town Council if it supports the actions and if it will follow the process outlined by our Attorney with the support of the MCC (costs born by the MCC).
- MCC is not asking for a final approval, but wants to be reasonably assured the Council supports this.

Grater Woods as of November 2015



Portion for an Emergency Lane

- Just the north end of South Grater Road starting from its intersection with Grater Road and stopping just past the Bender property line (shown in blue below).
- A locked gate to be placed at this ending point (in the future).
- Why...to ensure the Town/MCC has the ability to do maintenance and ensure this portion of the road is able to support emergency/fire vehicles in case they are needed in Grater Woods.
- Approximately 700 feet.



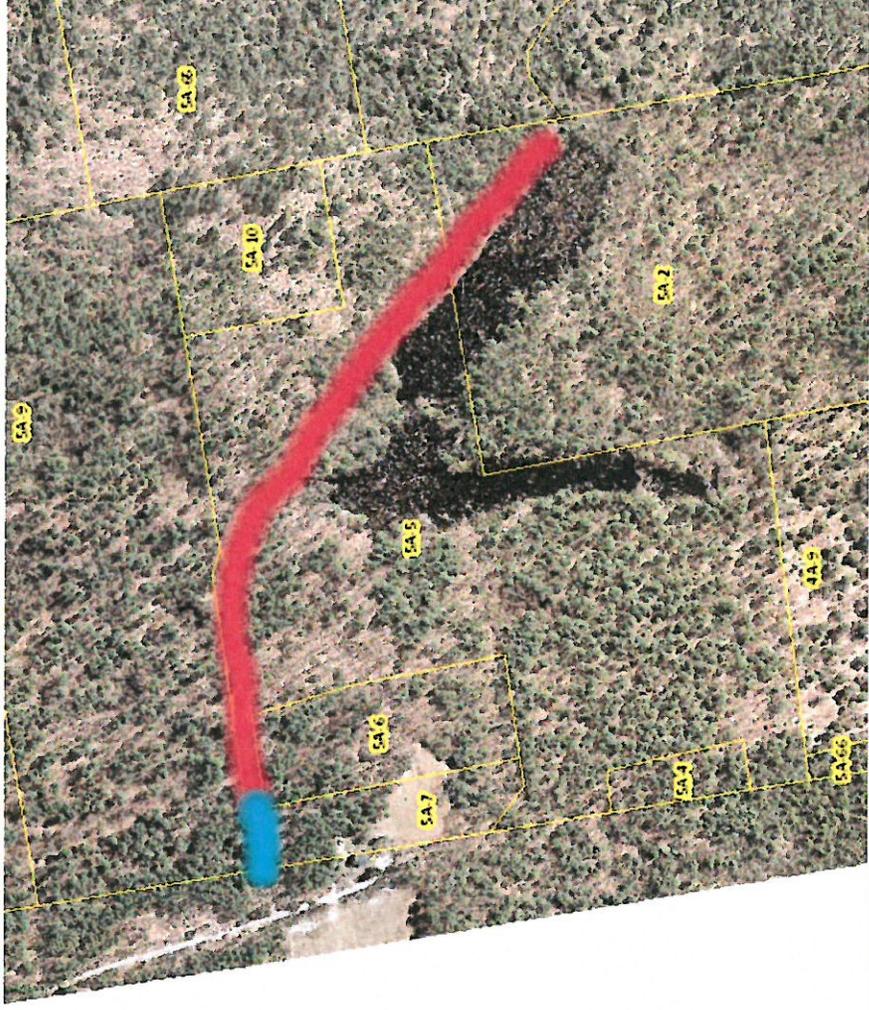
Portion to be Discontinued

- Intent is to make this section (shown in red) no longer a road of any legal kind, it goes away, approximately 2200 feet.
- Roadway is evenly split between the owners of land on each side of the road. In this case, the Town of Merrimack and the MCC. No private landowners directly impacted.
- A locked gate to be placed at the southern end.
- Starts at the gate where the emergency lane ends.
- Next phase would be to create a new emergency woods road that takes the high ground and allows fire and emergency protection.



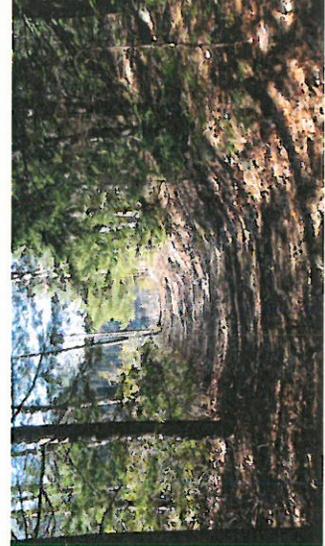
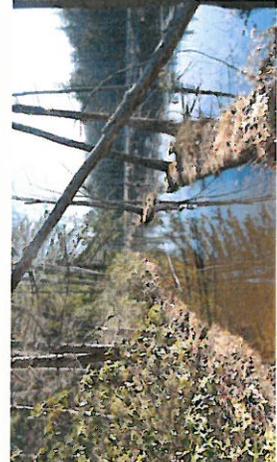
- Future wetland mitigation project, with either ARM funds or NED wetland funds.

Combined in an aerial view...



Show other pictures showing conditions and end points or see next slide...

Questions????



In Closing...

- Commission is looking to see if the Town Council agrees this is an important thing to do and gives its general support to the idea.
- If yes...
 - Commission is asking the Town Council for the OK to proceed and allow the MCC to work with Town Staff to start the notification and public hearing process.
- If not...
 - Is there something you need to know more about?
- Thanks!

Becky Thompson

From: Tim Tenhave
Sent: Tuesday, April 12, 2016 8:54 PM
To: CommDev; Becky Thompson; Kristin Wardner
Cc: ConservationCommission
Subject: Information if the public asks
Attachments: DiscontinuePortionSouthGraterRoad-TC-Mtg.pdf

Hi All,

Since the public hearing notice will soon be posted in the papers and around town and the abutters will be getting a letter, I wanted to provide some information if the public calls Town Hall before the public hearing on 4/28.

Attached is the presentation I used with the Town Council a couple of weeks ago. It has some information and maps. This is a public document. You can quote from it or share it. See below for one mistake in the presentation.

Here are some bullet points:

- 1.) The Emergency Lane portion will start at the north end of South Grater Road at the Amherst Town Line and intersection with Grater Road. It will run about 200 feet, I had a typo in my presentation to the Town Council. The intent is to end it just past the Bender rear property line. This is to allow the Bender family full access to the back of their property just as they have it now.
- 2.) Eventually we plan to install a locked gate at this point. This will make this portion of the road a dead end just past the Bender property line.
- 3.) Declaring this portion an Emergency Lane allows the Town to make some improvements to dirt road so that emergency vehicles can access Grater Woods if ever needed for fire or a medical emergency. Note that this does not mean the Town has to keep the road in perfect order, or plow it in the winter, or pave it, etc. It just means we can do maintenance without making it a full access road.
- 4.) The discontinued portion will start at the gate and extend approximately 2200 feet to the south along South Grater Road. It will go about 100 feet south of the Beaver pond and stop at the Commission's property line for Tax Map 5A-2.
- 4.) Eventually we plan to install a locked gate at this southern point. This will make the portion of South Grater Road from Wilson Hill Road intersection to this second gate a a dead end.
- 5.) Long term we will let the discontinued portion go back to a natural state near the beaver pond and create an access trail for emergency use on high ground out of the wetland.
- 6.) South Grater will no longer be a "through" road. This is necessary since the beaver pond and nearby wetland have consumed the dirt road and it is against State Law to have vehicles driving through a wetland.

Tim