

KNOX COUNTY COMMISSION

Special Meeting

Tuesday – November 24, 2015 - 9:00 a.m.

A special meeting – work session of the Knox County Commission was held on Tuesday, November 24, 2015, at 9:00 a.m., at the county courthouse, 62 Union Street, Rockland, Maine.

Commission members present were: Carol L. Maines, Commissioner District #1, and Roger A. Moody, Commissioner District #3. *Commissioners not present: Richard L. Parent, Jr., Commissioner District #2.*

County staff present included: Administrator Andrew Hart, and Administrative Assistant Candice Richards.

Others present: County Attorney James Katsiaficas (*via teleconference*); Vinalhaven Town Manager Andrew Dorr, and Vinalhaven resident Jessica MacDonald Martin.

Special Meeting – Agenda

Public Hearing:

Petitions for Appeal From Seasonal Road Closing Final Determinations by the Town of Vinalhaven Pursuant to 23 M.R.S.A. §2953

Tuesday – November 24, 2015 – 9:00 a.m.

I. 9:00 Meeting Called To Order

II. 9:01 Petitions for Appeal From Seasonal Road Closing Final Determinations by the Town of Vinalhaven:

1. One Petition, Dated October 19, 2015, Filed by Seven Legal Voters of the Town of Vinalhaven, Appealing From the Seasonal Closure of a Portion of Zeke’s Point Road.
 - a. Public Hearing
 - b. Commission Chair Closes Public Hearing.
 - c. Act on Petition for Appeal From Seasonal Road Closing Final Determination by the Town of Vinalhaven Pursuant to 23 M.R.S.A. §2953 for a Portion of Zeke’s Point Road.
2. One Petition, Dated October 20, 2015, Filed by Nine Legal Voters of the Town of Vinalhaven, Appealing From the Seasonal Closure of a Portion of Crockett’s River Road.
 - a. Public Hearing
 - b. Commission Chair Closes Public Hearing.
 - c. Act on Petition for Appeal From Seasonal Road Closing Final Determination by the Town of Vinalhaven Pursuant to 23 M.R.S.A. §2953 for a Portion of Crockett’s River Road.

III. 9:30 Adjourn

I. Meeting Called to Order

Commission Chair Roger Moody called the special meeting of the Knox County Commission to order at 9:00 a.m. He noted that the notice was sent to the news media and sent to the Town of Vinalhaven and to all of the petitioners.

II. Petitions for Appeal from Seasonal Road Closing Final Determinations by the Town of Vinalhaven:

1. One Petition, Dated October 19, 2015, Filed by Seven Legal Voters of the Town of Vinalhaven, Appealing from the Seasonal Closure of a Portion of Zeke’s Point Road.

a. Public Hearing

Commission Chair Roger Moody opened the public hearing at 9:03 a.m.

Administrator Hart explained that Attorney Jim Katsiaficas was participating via teleconference and introduced Vinalhaven Town Manager Andrew Dorr, who was present at the public hearing.

Administrator Hart briefly listed the items that were in the packet that was mailed out to the Commission, and copied to the town manager and all of the petitioners:

1. Cover memo
2. Agenda
3. Outline for Special Commission Meeting
4. Notice of Public Hearing & Copies of Petitions
5. Town of Vinalhaven's Selectmen's Order (Including 9 28 2015 Selectmen's Meeting Minutes)
6. Town of Vinalhaven Town Meeting Minutes
7. Copies of Correspondence from Residents/Individuals
8. Memo from Andrew Dorr, Vinalhaven Town Manager – Winter Road Closure by the Board of Selectmen Votes of 10/26 & 11/9/2015. Email Providing Facts on Road Population, Use & Travel on Each Road.
9. Maps of Zeke's Point Road and Crockett's River Road Showing E-911 Roads & Observed Structures.

Administrator Hart explained for the record that because of the statute, the County Commission is the only governing body with the authority to overturn the Town of Vinalhaven's decision within one year of the Town's decision having been made. The Town is not able to change their action until after one year.

Town Manager Dorr explained that the Vinalhaven Select Board changed its position after seeing the petitions, but is unable to change their ruling because of the statute. There is no one living on Zeke's Point Road during the winter but there is construction going on and property owners are concerned about people being able to get to the property if there is a security alarm that goes off or needs to do some other kind of maintenance to the property. The decision to close the road was because it's difficult to maintain, and since there was no one at the hearing to speak against it, the selectmen voted to close the road. Manager Dorr noted that he had sent out a memo in an email explaining that the Select Board had changed their minds.

Vinalhaven resident Jessica MacDonald Martin explained that she is a caretaker and personal secretary for one of the families that own property on the island, and she also checks on property owned by a few other families. She said she knew the Select Board meeting was going on but wasn't able to attend. She added that most of the families are not on the island in the wintertime. She felt that closing the road off and not allowing access would open up the town to liability since she and other property caretakers have to go to those properties every day to check the alarm systems and the generators. These property owners would lose their insurance if the insurance companies found out that emergency personnel were unable to get to the property in a timely manner because the road is closed.

Commissioner Maines commented that she had seen in one of the letters that the condition of the road is poor to begin with and asked if that makes it harder to maintain in the winter. Ms. MacDonald Martin said that she and the other caretakers realize it's not a priority road and that it's not going to be plowed first. They just care that the Town is making an effort.

Manager Dorr noted that the biggest issue is the very steep hill on that road, which is what makes it so hard to maintain. The Town contracts out the plowing for that road, but if a contractor isn't willing to do it, the Town has to do it with its own equipment. Ms. MacDonald Martin showed the commissioners on the map where homes were in relation to the "hill of doom". She noted that sometimes the caretakers try to help plow.

Commissioner Moody asked about whether the Town had gotten out a notice letting residents know the road closures were going to be voted on by the Select Board. Manager Dorr answered that the Town has a "paper" that goes out weekly and the notice was in that. Copies were also posted around town.

- b. Commission Chair Closes Public Hearing
Commission Chair Roger Moody closed the public hearing at 9:22 a.m.
- c. Act on Petition for Appeal from Seasonal Road Closing Final Determination by the Town of Vinalhaven Pursuant to 23 M.R.S.A. §2953 for a Portion of Zeke’s Point Road.
Commissioner Maines briefly went over the main concerns citizens had for the road closure.

The commissioners took a 2-minute break to review the Order on Petition emailed to the administrative assistant. Commissioners relayed some edits to attorney Katsiaticas on the phone so he could make the changes and email a revised Order.

STATE OF MAINE
KNOX, SS

COUNTY COMMISSIONERS
November Term, 2015

IN THE MATTER OF:

PETITIONS FOR APPEAL FROM	)	ORDER ON PETITION
SEASONAL ROAD CLOSING FINAL	)	APPEALING FROM FINAL
DETERMINATIONS BY THE TOWN OF	)	DETERMINATION ON
VINALHAVEN PURSUANT TO	)	SEASONAL CLOSURE OF A
23 M.R.S.A. §2953	)	PORTION OF ZEKE’S POINT ROAD

Following public hearing and deliberation upon the above-captioned Petition Appealing from Final Determination on Seasonal Closure of a Portion of Zeke’s Point Road (“Petition”), the Knox County Commissioners find, conclude and order as follows:

JURISDICTIONAL FACTS

We, the County Commissioners of the County of Knox, State of Maine (the “Commissioners”), find the following facts upon which to base our jurisdiction in the above matter:

1. The Petitioners, Jessica MacDonald Martin, Daniel Martin, Christine Martin, Bruce R. Young, Roberta E. Hall, Walter Day and Lance E. Morton, are legal voters of the Town of Vinalhaven, Maine.
2. The Petitioners filed their Petition dated October 19, 2015, appealing from the Vinalhaven Board of Selectmen’s September 28, 2015 final determination approving a seasonal closure of a portion of Zeke’s Point Road, to the Commissioners on October 19, 2015.
3. The Vinalhaven Board of Selectmen had jurisdiction to make such a final determination under 23 M.R.S. §2953 and under Article 53 passed by the Vinalhaven Town Meeting on June 24, 2015.
4. The Petitioners’ filing of their Petition was within 30 days of the final determination appealed from and so is timely.

NOTICE OF HEARING

Pursuant to the order of the Commissioners dated November 10, 2015 (“Order”), legal notice was given to all interested parties of our intention to consider the matters set forth in the Petition at a hearing scheduled for November 24, 2015 at 9:00 am at Knox County Courthouse. Notice of said Petition and Order was duly made by causing true copies thereof to be mailed to the following persons and entities by certified mail, return receipt requested:

Clerk of the Town of Vinalhaven,

Petitioners Jessica MacDonald Martin, Daniel Martin, Christine Martin, Bruce R. Young, Roberta E. Hall, Walter Day and Lance E. Morton.

An Affidavit of Knox County Administrative Assistant Candice Richards evidencing: the

provision of notice to and receipt of return receipts from each of the persons above described, the posting of notice and the publishing of attested copies of said Petition in the *Rockland Courier-Gazette* has been received and entered into the record of this proceeding.

HEARING

On November 24, 2015 at 9:00 am, a hearing was commenced on the Petition appealing from the seasonal closure of a portion of Zeke's Point Road as scheduled in said Order.

Present at the hearing were: the Commissioners; Knox County Administrator Andrew Hart, Town of Vinalhaven Town Manager Andrew Dorr and Jessica MacDonald Martin.

The Petitioners, in their Petition, had expressed concern that police, fire and ambulance would not be able to access the properties in a timely manner to respond to emergencies at any of the homes or constructions sites because of unplowed snow if this portion of Zeke's Point Road were closed to winter maintenance. By email to the County Commissioners dated October 29, 2015, Peter Codella of PC Builders in Vinalhaven stated that his company is in the middle of a construction project for Mary Gooderham and Andrew Cohen on Zeke's Point Road, and that it would be difficult to continue the project if the road is not plowed. By letter to the County Commissioners dated November 1, 2015, Mary Gooderham explained that she was having construction work done along the closed section of road asked the County Commissioners to keep the road open and maintained in all seasons; a letter from property co-owner Andrew Cohen to the County Commissioners dated November 2, 2015 raised similar points. By letter to the County Commissioners dated November 12, 2015, Harvey Geiger noted that the Cohen residence is being constructed and stated that the decision to close this portion of Zeke's Point Road to winter maintenance creates "a potentially dangerous situation for all homeowners, contractors and caretakers, along with emergency service responders, including fire and EMS personnel." By letter to the County Commissioners dated November 12, 2015, Michael S. Hudner, the owner of a home at 216 Zeke's Point Road, objected to the seasonal closing determination, stating that he and other homeowners make limited demands on the Town, but depend "upon the Town to keep the roads open throughout the year to facilitate access by contractors, caretakers and emergency service providers."

At the hearing, Mr. Dorr explained that there are nine (seasonal) property owners on the portion of this road that was closed to winter maintenance. He also said that the Board of Selectmen has changed its position on seasonal closure of the road and now supports keeping it open year-round. He said that numerous individuals have come forward since the Board of Selectmen's decision to closure this portion of Zeke's Point Road stating their need to access homes year-round. Caretakers have an expectation to check security systems, maintain (albeit limited) the properties, and contractors have work scheduled beyond the closure area. Jessica MacDonald Martin explained that she is a caretaker for the Hudners and other families on the closed portion of the road, and that it is necessary to keep the road open year-round, despite the steep hill, for caretakers and contractors and for liability and insurance reasons.

FINDINGS, CONCLUSION AND ORDER

We, the undersigned County Commissioners for the County of Knox, State of Maine, make the following findings, conclusion and order:

1. Based upon the testimony of Mr. Dorr and the numerous letters from homeowners and contractors, the Commissioners find the following regarding the location of this portion of Zeke's Point Road, of its use and travel upon it: that the owners of property along and accessed by the portion of Zeke's Point Road that was closed have a need for emergency response personnel and for their caretakers and contractors to travel upon this portion of road year-round to access these properties.
2. On the basis of these findings, the Commissioners hereby conclude that this portion of Zeke's Point Road is so located with reference to population, use and travel thereon, that it is necessary to keep this portion of Zeke's Point Road maintained and open for travel

during the months of November, December, January, February, March and April or any part of these months.

3. Therefore, the Commission orders that the Petition appealing from the September 28, 2015 Final Determination of the Board of Selectmen of the Town of Vinalhaven is granted, and that Final Determination is reversed.
4. A copy of the within Order shall be mailed forthwith to the Clerk of the Town of Vinalhaven and to each of the Petitioners.

WHEREFORE, the Knox County Commissioners do hereby issue this Order on Petition Appealing from Final Determination on Seasonal Closure of a Portion of Zeke's Point Road.

Dated at Rockland, Maine this 24th day of November, 2015.

- A motion was made by Commissioner Carol Maines to grant the petition of the Determination closure of Zeke's Point Road, adopt the written Order. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

2. One Petition, Dated October 20, 2015, Filed by Nine Legal Voters of the Town of Vinalhaven, Appealing from the Seasonal Closure of a Portion of Crockett's River Road.

a. Public Hearing

Commission Chair Roger Moody opened the public hearing at 9:35 a.m.

Town Manager Dorr explained that the Vinalhaven Select Board changed their position after seeing the petitions, but is unable to change its ruling because of the statute. The Town didn't know that there would be someone living on Crockett River Road over the winter. Having heard no issues with the closure at the Select Board meeting on September 28th, the Select Board decided to close Crockett's River Road at Long Cove Road. Manager Dorr showed the commissioners were one petitioner lives on that road. He noted that the Town was unaware that the resident would be living there during the winter. The road has been closed in the past and no one spoke up at the Select Board meeting in September so nobody realized there would be a problem. The Town will maintain the road past the resident's property to until wherever the road crew (Town's crew – not a contractor) can safely turn around.

Commissioner Moody asked if there was any public comment; there was none.

It was noted that there were similar reasons for citizens not wanting this road closed as there was for Zeke's Point Road. There are individuals who will need access to properties on the road, as well as fire and EMS needing access if there is an emergency.

b. Commission Chair Closes Public Hearing

Commission Chair Roger Moody closed the public hearing at 9:38 a.m.

c. Act on Petition for Appeal from Seasonal Road Closing Final Determination by the Town of Vinalhaven Pursuant to 23 M.R.S.A. §2953 for a Portion of Crockett's River Road.

The commissioners took a two-minute break to review the Order on Petition emailed to the administrative assistant. Commissioners relayed some edits to attorney Katsiaticas on the phone so he could make the changes and email a revised Order.

STATE OF MAINE
KNOX, SS

COUNTY COMMISSIONERS
November Term, 2015

IN THE MATTER OF:

PETITIONS FOR APPEAL FROM	)	ORDER ON PETITION
SEASONAL ROAD CLOSING FINAL	)	APPEALING FROM FINAL
DETERMINATIONS BY THE TOWN OF	)	DETERMINATION ON SEASONAL
VINALHAVEN PURSUANT TO	)	CLOSURE OF A PORTION OF
23 M.R.S.A. §2953	)	CROCKETT’S RIVER ROAD

Following public hearing and deliberation upon the above-captioned Petition Appealing from Final Determination on Seasonal Closure of a Portion of Crockett’s River Road (“Petition”), the Knox County Commissioners find, conclude and order as follows:

JURISDICTIONAL FACTS

We, the County Commissioners of the County of Knox, State of Maine (the “Commissioners”), find the following facts upon which to base our jurisdiction in the above matter:

1. The Petitioners, Sylvie M. Lacey, Dallas Anthony, Kristine Davidson, Heather Seawell, Chris Waring, Bruce Hopkins, Suzanne Heller and Priscilla Rosen, are legal voters of the Town of Vinalhaven, Maine.
2. On October 23, 2015, the Commissioners received the Petition dated October 20, 2015, appealing from the Vinalhaven Board of Selectmen’s September 28, 2015 final determination approving a seasonal closure of a portion of Crockett’s River Road.
3. The Vinalhaven Board of Selectmen had jurisdiction to make such a final determination under 23 M.R.S. §2953 and under Article 53 passed by the Vinalhaven Town Meeting on June 24, 2015.
4. The Petitioners’ filing of their Petition was within 30 days of the final determination appealed from and so is timely.

NOTICE OF HEARING

Pursuant to the order of the Commissioners dated November 10, 2015 (“Order”), legal notice was given to all interested parties of our intention to consider the matters set forth in the Petition at a hearing scheduled for November 24, 2015 at 9:00 am at Knox County Courthouse. Notice of said Petition and Order was duly made by causing true copies thereof to be mailed to the following persons and entities by certified mail, return receipt requested:

Clerk of the Town of Vinalhaven,

Petitioners Sylvia M. Lacey, Dallas Anthony, Kristine Davidson, Heather Seawell, Chris Waring, Bruce Hopkins, Suzanne Heller and Priscilla Rosen.

An Affidavit of Knox County Administrative Assistant Candice Richards evidencing: the provision of notice to and receipt of return receipts from each of the persons above described, the posting of notice and the publishing of attested copies of said Petition in the *Rockland Courier-Gazette* has been received and entered into the record of this proceeding.

HEARING

On November 24, 2015 at 9:30 am, a hearing was commenced on the Petition appealing from the seasonal closure of a portion of Crockett’s River Road as scheduled in said Order.

Present at the hearing were: Commissioners Roger A. Moody and Carol L. Maines; Knox County Administrator Andrew Hart, and Town of Vinalhaven Town Manager Andrew Dorr.

Petitioner Sylvia M. Lacey had written in her petition that she is a year round resident who needs this portion of Crockett’s River Road maintained in order to have access to her home.

At the hearing, Mr. Dorr explained that there are five property owners on the portion of this road that was closed to winter maintenance, and that one an individual is living in a home year-

round now that is less than a ¼ mile from Long Cove Road (the proposed turn-around area). He explained that the Selectmen were unaware of the year-round resident when they ordered the closure of this portion of the road. Caretakers have an expectation to check security systems, maintain (albeit limited) the properties, and contractors have work scheduled beyond the closure area. He also said that the Board of Selectmen has changed its position on seasonal closure of the road and now supports keeping it open year-round.

FINDINGS, CONCLUSION AND ORDER

We, the undersigned County Commissioners for the County of Knox, State of Maine, make the following findings, conclusion and order:

1. Based upon the testimony of Mr. Dorr and the petition from Ms. Lacey, the Commissioners find the following regarding the location of this portion of Crockett's River Road, of its use and travel upon it: that the owners of five properties along and accessed by the portion of Crockett's River Road that was closed have a need for emergency response personnel and for their caretakers and contractors to travel upon this portion of road year-round to access the seasonal properties, and that the year-round resident, Ms. Lacey, must be able to access her home and obtain municipal services.
2. On the basis of these findings, the Commissioners hereby conclude that this portion of Crockett's River Road is so located with reference to population, use and travel thereon, that it is necessary to keep this portion of Crockett's River Road maintained and open for travel during the months of November, December, January, February, March and April or any part of these months.
3. Therefore, the Commission orders that the Petition appealing from the September 28, 2015 Final Determination of the Board of Selectmen of the Town of Vinalhaven is granted and that Final Determination is reversed.
4. A copy of the within Order shall be mailed forthwith to the Clerk of the Town of Vinalhaven and to each of the Petitioners.

WHEREFORE, the Knox County Commissioners do hereby issue this Order on Petition Appealing from Final Determination on Seasonal Closure of a Portion of Crockett's River Road.

Dated at Rockland, Maine this 24th day of November, 2015.

- A motion was made by Commissioner Carol Maines to grant the petition of the Determination closure of Crockett's River Road, adopt the written Order. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

III. Adjourn

- A motion was made by Commissioner Carol Maines to adjourn the meeting. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

The meeting adjourned at 9:45 a.m.

Respectfully submitted,

Candice Richards
Administrative Assistant

The Knox County Commission approved these minutes at their regular meeting held on December 8, 2015.