

To Members of the Lowell Selectboard

Subject: Closure of Bridge #16 spanning Burgess Brook on Town Highway #15

We appreciate the opportunity to be present at this meeting today to convey our major concerns regarding the September 8th closure of the bridge located on Kempton Hill Rd.

The most serious issue for anyone either residing at, or visiting, the house located at the foot of the Kempton Hill is safety. From that location, without the bridge, one would be forced to drive up an extremely steep slope during the winter months. This hill has been measured to have a 16.75% grade over a 40 foot span near the top, and 14.25% over another section, as measured by a road construction Supervisor using a smart level. Obviously, this could become dangerous and, at times, impossible to traverse with the often sudden shift in weather we are all familiar with, especially in Vermont. Also, emergency vehicles would, at times, be unable to access and exit our residence in case of a health or fire emergency. I am sure you will agree that safety is certainly a primary concern for us all.

So, we could determine what options may be available, we discussed this issue with two lawyers. They have issued the "Notice Of Insufficiency" which we have presented to you as we were instructed to do.

Please turn to next page of handout. Title 19 Paragraph 310 of the Vermont Statutes states that "A town shall keep its class 1, 2, and 3 highways and bridges in good and sufficient repair during all seasons of the year...." According to Para 302 (B), "The minimum standards for class 3 highways are a highway negotiable under normal conditions all seasons of the year by a standard manufactured pleasure car." We were advised that The Town is required to follow this law. Naturally, we are concerned regarding the costs associated with maintaining safety and we want to accomplish this with as little cost to the town as possible.

Thank you,


Arlon Warner


Scott Tallman

The Vermont Statutes Online

Title 19 : Highways

Chapter 003 : Town Highways

(Cite as: 19 V.S.A. § 310)

§ 310. Highways, bridges and trails

(a) A town shall keep its class 1, 2, and 3 highways and bridges in good and sufficient repair during all seasons of the year, except that based on safety considerations for the traveling public and municipal employees, the selectboard shall, by rule adopted under 24 V.S.A. chapter 59, and after following the process for providing notice and hearing in section 709 of this title, have authority to determine whether a class 2 or 3 highway, or section of highway, should be plowed and made negotiable during the winter. A property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title.

(b) Class 4 highways may be maintained to the extent required by the necessity of the town, the public good and the convenience of the inhabitants of the town, or may be reclassified using the same procedures as for laying out highways and meeting the standards set forth in section 302 of this title.

(c) A town shall not be liable for construction, maintenance, repair, or safety of trails.

(d) For class 2 and 3 highways that have routinely not been plowed and made negotiable prior to July 1, 2000, the process requirements of subdivision 302(a)(3)(B) of this title and subsection (a) of this section shall not be required. A property owner adversely affected by this subsection may request the selectboard to plow and make negotiable a class 2 or 3 town highway. However, a property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1999, No. 156 (Adj. Sess.), §§ 29, 30, eff. May 29, 2000.)

The Vermont Statutes Online

Title 19 : Highways

Chapter 003 : Town Highways

(Cite as: 19 V.S.A. § 302)

§ 302. Classification of town highways

(3) Class 3 town highways:

(A) Class 3 town highways are all traveled town highways other than class 1 or 2 highways. The selectmen, after conference with a representative of the Agency shall determine which highways are class 3 town highways.

(B) The minimum standards for class 3 highways are a highway negotiable under normal conditions all seasons of the year by a standard manufactured pleasure car. This would include but not be limited to sufficient surface and base, adequate drainage, and sufficient width capable to provide winter maintenance, except that based on safety considerations for the traveling public and municipal employees, the selectboard shall, by rule adopted under 24 V.S.A. chapter 59, and after following the process for providing notice and hearing in section 709 of this title, have authority to determine whether a class 3 highway, or section of highway, should be plowed and made negotiable during the winter. However, a property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title.

Reclassification (Class 3 or Class 4 Town Highways):

The process for laying out, reclassifying, altering, or discontinuing a town highway is defined in 19 V.S.A. Chapter 7. This chapter provides detail on all the steps necessary to lay out, alter, reclassify, or discontinue a highway. The procedure for changing the designation (reclassification) is contained in 19 V.S.A. § 708 and following sections, and is briefly outlined as follows:

1. Petition to the governing body, signed by at least 5 percent of the voters or landowners, is received. The governing body may act on its own motion without a petition.
2. Hold hearing, giving 30 days' notice to petitioners and the town planning commission. View the highway in question. Receive testimony from interested parties. Generally board members should refrain from carrying on a discussion with the parties, except to clarify facts and issues.
3. Render a written decision, giving the public good, necessity and convenience of the inhabitant's proper consideration. The decision should set out the reason or logic behind the action taken. The action should occur at a duly called meeting of the governing body, and within 60 days after the hearing.
4. A person not satisfied with the decision may appeal to the district court (19 V.S.A. § 726) or the superior court (19 V.S.A. § 740).

The above procedure is generally the one used in any action, including:

1. Acceptance of a new highway
2. Reclassification
3. Discontinuance of highway