

# MEMO

To: Selectboard  
From: Hyde Park Road Committee   
Date: June 23, 2014  
Re: Private Roads

---

At the May 12, 2014 Road Committee meeting, a list was created of private roads that are now being maintained by the town (summer and/or winter maintenance totaling 0.63 miles).

- i. Sylvan – off west side of Johnson St Extension near Route 15 (0.10 miles)
- ii. Crabapple Lane (0.15 miles)
- iii. Richardson – turnaround at house/barn (0.01 miles)
- iv. Mason (0.25 miles) & Hemingway (0.12 miles)

This memo recommends that the Selectboard take one of the below actions:

- 1) **Discontinue town maintenance** immediately, with notice to landowners that they should start performing private maintenance, including contacting private contractors for the upcoming 2014-2015 winter season. Note: There are many privately maintained roads (defined as having 4 or more homes), in addition to the 0.63 miles identified by the Committee. Under Vermont law, all roads are private until formally accepted by the Selectboard as a town highway (but maintaining private roads may bind the town to continued maintenance or until it is officially discontinued following public notice), **or**
- 2) **Upgrade these private roads** to public roads (acquiring the required right-of-way & completing any improvements to meet minimum town road standards). This work can either be at town taxpayers' expense, at the expense of only the landowners utilizing the road, or a combination of town/landowner expense. Note: The 2012 Hyde Park Road Acceptance Policy sets out the steps for acceptance as a public highway, **or**
- 3) **Schedule public hearings** to review the above two options, or other options, with affected landowners.

The above recommendations are based on the following:

- Town equipment and labor are paid for by taxpayers with the expectation that those funds are for "public road maintenance" no private subdivisions, etc.
- Town insurance may deny coverage for the cost of damages or injuries that occur to the town crew or residents on private roads, unless such work was specifically authorized by the town; typically for events such as sanding a road for emergency response vehicles.
- Private roads are not identified on the Official Town Highway Map and thus the state does not recognize that mileage in its calculation of state highway aid payments
- Maintaining private roads could conflict with the federal Commerce Clause, since a public agency should not be used to compete with private road maintenance contractors.
- In order to maintain roads, the town should have clear title to the road (meaning no encumbrances that limit the town's rights to improve or expand the road unless the Selectboard first grants permission)
- Continued maintenance or repair to private roads may be seen as an acceptance of the road as a town highway, without regard for the condition of the road or other liabilities.

We are available to answer any questions you may have in regard to the above at our regular monthly meetings on the 2<sup>nd</sup> Monday of each month or by attending your meeting.