

CERTIFICATE OF HIGHWAY MILEAGE year ending FEB. 10, 1993

Fill out form, make & file COPY with the Town Clerk, & mail ORIGINAL before Feb. 10, 1993 to:
Vt. Agency of Transportation, Planning Dept., 133 State Street, Montpelier, Vt. 05633.

< IF NO CHANGES IN MILEAGE, OMIT PART I, CHECK PART II, SIGN PART III >

We, the Selectmen or Trustees or Aldermen of BRIDGEWATER, WINDSOR COUNTY
on an oath state that the mileage of highways, according to Title 19, V.S.A., Sec#305, added
1985, is as follows:

PART I - CHANGES & TOTALS - Please fill in and calculate totals. DISTRICT 3,4

TOWN HIGHWAYS	PREVIOUS MILEAGE	ADDED MILEAGE	SUBTRACTED MILEAGE	TOTAL	* SCENIC HIGHWAYS
CLASS 1	.000		*	*	*
CLASS 2	2.460	-	- *	2.460 *	*
CLASS 3	43.730		.750 *	42.980 *	*
STATE HWY	10.689	-	- *	10.689 *	*
TOTAL(no Class 4)	56.879		*	56.129 *	*
CLASS 4	10.330	.600	*	10.930 *	*

PART II - INFORMATION & DESCRIPTION OF CHANGES SHOWN ABOVE.

- (1) NEW HIGHWAYS: Please attach Selectmen's "Certificate of Completion".
- (2) DISCONTINUED: Please attach SIGNED copy of proceedings(minutes of meeting).
- (3) RECLASSIFIED/REMEASURED: Please attach SIGNED copy of proceedings(minutes of meetings).
 T-H# 32 .6 miles reclassified to Class 4 from Cl.3
 T-H# 39 .150 miles reclassified to Trail from Cl.3
- (4) SCENIC HIGHWAYS: Please attach copy of order designating/discontinuing Scenic Highways.

PART II - CHECK BOX IF NO CHANGES IN MILEAGES AND SIGN BELOW []

PART III - SIGNATURES - PLEASE SIGN.

SELECTMEN/ALDERMEN/TRUSTEES SIGNATURES:
 [Signature: Nelson B. Pease]
 [Signature: Frederick E. ...]
 [Signature: Bruce R. ...]

CLERK SIGNATURE: [Signature: ...] DATE FILED: Jan 22, 1993
 Please sign ORIGINAL & return for Transportation signature.

AGENCY OF TRANSPORTATION APPROVAL: Signed copy will be returned to T/C/V Clerk.

APPROVED: [Signature] DATE: 2/5/93
 Representative, Agency of Transportation

Following procedures specified in Title 19 of the Vermont Statutes for notifying interested landowners and posting a notice for a hearing, the Board of Selectmen held a site visit at 4:30 p.m., followed by a public hearing at 5:30 on February 25, 1992, for the purpose of consideration of a petition from the Highway Commissioner that a certain portion of Town Highway 32 and all of Town Highway 39 be reclassified. Testimony was taken under oath at the hearing, and the following Findings are based upon said testimony.

I. DEFINITIONS

Class III Highways

Minimum standards for maintenance are "a highway negotiable, under normal conditions, all seasons of the year by a standard manufactured pleasure car...including but not limited to sufficient surface and base, adequate drainage and sufficient width capable to provide winter maintenance." (19 VSA #302 (n) (3) (B))

Standards for maintenance

On Class 1, 2, & 3 highways, the standard for maintenance is "good and sufficient repair during all seasons of the year" (19 VSA #310(n)). Subsection (b) explains that "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,...

'Necessity'

'necessity' shall mean a reasonable need which considers the greatest public good and the least inconvenience and expense to the condemning party and to the property owner. Necessity shall not be measured merely by the expense or convenience to the condemning property...Consideration shall also be given to the effect upon home and homestead rights and the convenience of the owners of the land; to the effect of the highway upon the scenic and recreational values of the highway; and to the effect upon town grand lists and revenues." VSA 19 #501 (1).

Trails:

The law says that "the town shall not be responsible for any maintenance including culverts and bridges" on them (VSA 19 #302(n) (5))

II. PROCEEDURE

Proposed reclassification of a section of Town High 32

The Highway Commissioner submitted a request to the Selectmen (a copy of which is attached) that Town Highway #39 be reclassified from a class 3 to a trail, and that a portion of Town Highway #32 be reclassified from class 3 to class 4. The portion of Town Highway 32 to be reclassified is that "beginning at a point approximately 1.3 miles from the intersection of Town Highway #4 and Town Highway 32 and then proceeding southeasterly down McKinstry Hill approximately 6 tenths of a mile." Prior to the site visit, the Highway Commissioner had marked at beginning and end of this section of Town Highway 32.

Hearing

A hearing to hear evidence and receive testimony regarding these proposed changes in highway classification was duly warned (see copies of warning attached) and a site visit by the Selectmen was warned for (and held at) 4:30 p.m. on February 25th. Following the site visit, a hearing was held at the town offices, with Selectmen Nick Astbury and Robert Griggs Jr. in attendance.

TREASURER'S REPORT:

Treasurer's orders were presented and signed. Bruce questioned the McGee and Leonard's bills and asked if there was an account for people attending seminars and workshops. A discussion of the ADP service resulted in an agreement that Bruce and Vicky would pursue answers to their questions. It was also agreed that Nelson would meet with Norma and Vicky to discuss assistants and related issues.

TOWN HIGHWAY RECLASSIFICATION:

Based on the Proposed Findings prepared by Alan (a copy of which is attached to these minutes), Nelson Lee moved to reclassify the cited portion of Town Highway 32 from Class 3 to Class 4. Fred Merriam seconded the motion which was unanimously approved.

Alan said that while he had recommended changing Town Highway 39 from Class 3 to a Class 4, the legal procedures suggested that this could not be done as the hearing and proceedings had been for the purpose of reclassifying this road to a trail. He stated that there were three options available, to change the highway to a trail, to recommend a change to Class 4 in the future, or to do nothing at this time. Bruce Paglia moved that the road be reclassified to a trail. The motion was seconded by Nelson Lee and passed unanimously.

In highway-related business, it was decided to discuss bridge repairs and a schedule for this with the Highway Commissioner at the next meeting.

EXECUTIVE SESSION:

Nelson Lee, desirous of briefing the other Selectmen on the status of legal action involving the town and the Vermont National Bank, asked for an Executive Session to discuss this matter. Bruce Paglia moved, and Fred Merriam seconded a motion to that effect. Executive Session was entered at 9:08 p.m. and ended at 9:15 p.m. No action was taken other than an agreement that Nelson Lee would talk with counsel and perhaps meet with bank officials.

MISCELLANEOUS:

Restaurant permits were signed, for the Back Behind Saloon, Bear Mountain Grocery and the October Country Inn.

Following brief discussion it was agreed that the Highway Commissioner should attend a course on grader operation.

It was agreed that there should be a 'Budget Committee' consisting of the Selectmen and perhaps others, and that this committee should meet to work out a budget for the coming fiscal year - and that this should be postponed until the next meeting when more information should be available. It was also agreed that Nelson would talk with the Highway Commissioner about repairing the vandal's damage under the bridge in the Village.

The meeting was adjourned by consensus at 10:00 p.m.

Respectfully submitted,
Alan W. Perkins
Administrative Assistant

Findings of Fact

**Relative to
Reclassification of a portion of
Town Highway 32 and Town Highway 39**

March 24, 1992

Following procedures specified in Title 19 of the Vermont Statutes for notifying interested landowners and posting a notice for a hearing, the Board of Selectmen held a site visit at 4:30 p.m., followed by a public hearing at 5:30 on February 25, 1992, for the purpose of consideration of a petition from the Highway Commissioner that a certain portion of Town Highway 32 and all of Town Highway 39 be reclassified. Testimony was taken under oath at the hearing, and the following Findings are based upon said testimony.

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Hearing

A hearing to hear evidence and receive testimony regarding these proposed changes in highway classification was duly warned (see copies of warning attached) and a site visit by the Selectmen was warned for (and held at) 4:30 p.m. on February 25th. Following the site visit, a hearing was held at the town offices, with Selectmen Nick Astbury and Robert Griggs Jr. in attendance.

III. TESTIMONY - Town Highway 32

The Road Commissioner testified that:

His request for a change in reclassification resulted from a discussion with Paul Gilles, Deputy Secretary of State on December 9, 1991. Mr. Oldenburg (Highway Commissioner) had called Mr. Gilles to ask if the Selectmen had the authority to close the section of TH 32 in question to winter traffic as the hill there was too steep and narrow to be safe to plow in the winter. Mr. Gilles told the Commissioner that the road could not be closed legally and that it would be better to reclassify the road to a Class 4 if there was no one living on the road in the winter. Mr. Oldenburg stated that if someone using the road was hurt, that he, Mr. Oldenburg, would be liable and the Selectmen would be liable.

Mr. Perkins identified on a map the specific sections being considered. Mr. Oldenburg noted that the section in question started just downhill from a drive or road serving several lots below Broggi's home and ended just above the lower of three drives on the south side of the hill section of the road.

Mr. Oldenburg, in answering the question "What is the difference between Class 3 and Class 4 roads?", stated "You won't notice any difference in the maintenance of that road. It will be maintained in the summer just as it has. ... It is all going to stay the same." He added "Traveling on it during the winter is doing more damage to it than helping it."

Mr. Oldenburg said that to his knowledge the road in question had never been maintained (plowed) in the winter. Mr. Broggi stated that "when the Blathrows lived there, it was maintained... When your Dad (referring to Mr. Oldenburg's father) was Road Foreman, it was maintained." Mr. Oldenburg said that while the road had been 'maintained' it was not maintained as a class 3 road. Broggi stated that the Carpenter's had told him that the road used to be plowed in the winter.

A question was asked of Mr. Oldenburg - does the state's highway assistance program cover the costs of maintaining roads? Mr. Oldenburg said that the program didn't cover the costs. He also emphasized that the town could be held liable in case of an accident on the part of someone using the road in the winter and that the problem in leaving it a Class 3 road, and maintaining it as a class 3 road, was the safety issue.

Nick Astbury asked Mr. Oldenburg if the road met the requirements for Class 3. Mr. Oldenburg said it did not. Nick Astbury then asked if the state could stop providing state highway aid if the road was not maintained so as to meet the requirements for a Class 3 road. Mr. Oldenburg said that he understood that the state was already considering taking state aid away because of the condition of the the road. Mr. Broggi said that if the town had a plan to bring the road up to standard, the state would not withdraw its aid.

Someone asked what was involved in making the road meet Class 3 standards. Mr. Oldenburg explained that a lot of excavation and a lot of blasting would be required... "To do it on that road - it would be an astronomical cost to the town."

He also said that he wasn't sure everyone in town would like to see the road made to meet Class 3 standards as it was one the few hand-made roads left in town.

Mr. Broggi said that he had asked a contractor (Mr. Hurley) to estimate the cost of changing to road to meet state standards. Mr. Broggi said that Mr. Hurley's estimate was \$17,500 to widen the road, place gravel and provide several turnouts. Mr. Oldenburg said that figure was considerably lower than the two estimates he had received for this work.

Mr. Perkins interrupted the proceedings to state that people offering evidence needed to be sworn in. The Town Clerk circulated a sign-in list and asked that people offering testimony place a check by their names. This list is attached to these findings.

Mr. Oldenburg stated that an estimate from Suller Brothers Construction for a 16-foot wide road was \$150,000. He also stated that the steepness of the road required a road at least this wide to allow people to pass during the winter on the steep slope if serious accidents were to be avoided. The Road Commissioner also said that Daniels had submitted a bid for \$140,000 for this work. Mr. Broggi said that he believed this was two times more expensive than necessary.

In answering a question, Mr. Oldenburg said that the cost would have to come from the taxpayers of Bridgewater.

Mr. Oldenburg said that the section of TH32 west of the section in question is well maintained and has been considerably improved in recent years and that it is adequate for Mr. Broggi and others to use.

Mr. Broggi stated that it was in the public's interest to protect people's property rights and property values, and to live up to commitments. He stated that he had invested a lot in his property and fully expects to be able to go up and down the road. He stated that to go the other way (west on TH32) it was 7000 miles further than being able to use the section of road in question. He asked that the road be just made to be plowable and passable. He later said that his property's value was predicated on TH32 being a class 3 road.

Mr. Broggi said that there were several weeks each year when one could not use TH32 to the west and that he needed to have the section question usable at such times.

Mr. Oldenburg said that he, and his crew, do not feel that it is safe to plow or sand that road now. He said that he had tried to sand the road and nearly lost the town's truck. "It is too narrow and it is too steep" he said. He said that even if the road is widened to twenty feet, it would still be too steep to plow. He also said that the town is trying to provide access to all the people living on the road as best as the highway crew can. He said that the town had spent a lot of money and time to provide a good Class 3 road to the west of Broggi's place. He stated that he felt it was not practical to maintain the section in question for year-round use.

Mr. Oldenburg stated that it was not necessary to provide everyone with the shortest route to their property, but to provide the safest route for everyone.

Mr. Oldenburg noted that there was no place to turn around with a big truck with a plow. The little truck could turn around, if it had no sander. He said that he tries to plow out the road to the lowest camp, when needed.

Mr. Broggi stated that the property owners on this section of road had been taxed as if the road were a Class 3 road. Nick Ashbury said that he didn't think this was the case. Mr. Perkins said that he had looked at several of the Lister's cards for property on this section and that there was a notation about access which suggests that the properties are given a tax consideration in terms of the road.

Mr. Oldenburg, answering a question, stated that the town receives about \$1000 per mile from the state as highway aid, and that some of this is to be considered as being for Class 111 highways. He indicated that the loss of state aid if the section of TH32 in question was to be reclassified would be about \$500 per year.

Mr. Oldenburg said that he would like to see the section in question reclassified to a Class 4 highway, maintained for non-winter use and posted with a sign stating that travel during the winter is on an 'at your own risk' basis.

Standish Correspondence

A letter from Thomas Standish, owner of property adjacent to the section in question and user of this road was read into the record of the hearing. His letter states that in his opinion the road should be maintained as it has been in the past few years, and that he would put off making a decision on this matter. (Copy of this letter is attached)

Other Testimony

Because of the location of the recorder, I was unable to identify each speaker by voice. Since I recognize the voices of friend Rich Broggi and the Highway Commissioner, their testimony appears in greatest detail in the above findings. It should be noted that all property owners of record with property abutting the section of roadway being considered in this proceeding who were present at the hearing stated an objection to reclassifying the road. They all stated as the reason for their objection a perceived devaluation of their property's value.

IV. TESTIMONY - Town Highway 39

The Highway Commissioner's Testimony

Mr. Oldenburg testified that this road had been paved by an abutting landowner, Mr. Eggers, and that the pavement had been improperly done so that water is unable to flow from the road to the ditch(es). This makes the road dangerous to plow or sand. He also stated that the roadway is only 7.5 feet wide and this poses a problem in the use of the town's 9-foot wide plows. He also stated that on weekends in the winter there was often so many cars parked on the road that it was difficult or impossible to turn the truck around when attempting to plow or sand this road.

He stated that his major concern over the road was the matter of safety. He said that there had been an agreement that Mr. Eggers would plow the road and the town would sand it, but that the safety issue and the pavement made sanding it difficult and dangerous. Since this is a roadway serving two private homes and since it had been illegally paved by the property owners who abut the road, it was his suggestion that the road be reclassified to a trail so that the town would have no obligation to provide any maintenance on it.

Mr. Egger's Testimony

Mr. Eggers wrote a letter (attached) explaining his objections to a change in the classification of this road. His primary objection is a perceived devaluation of the value of his property in addition to his concern over the inconvenience caused by a cessation of the town's maintaining this road.

V. SUMMARY FINDINGS

Town Highway 32 is too steep and narrow to be considered safe during the winter when it might become slippery. To improve this road to make it a safe one for year-round travel would cost at least \$140,000 according to one of two bids received by the Highway Commissioner, although one resident stated that it could be made safe for much less. Because of the safety problem and related liability issues for the town, and the high cost of making this a safe road, it was the opinion of the Highway Commissioner that a portion of the road be reclassified from a Class 3 to a Class 4 road. The Highway Commissioner stated that he desired to continue maintenance of the road as it had been maintained in recent years - so that the road could be used throughout the late spring, summer and fall.

Objections to said reclassification came from property owners who stated that the reclassification would devalue their property and would provide less convenience in their getting to and from their property. No direct evidence that a devaluation would take place as a result of the reclassification was offered.

