

Pine Gap Hearing

Monday, December 4, 2017

5:00 pm

Site visit: The site walk took place at 10:00 am. Those walking were Joe Schenkman, Linda Leehy, Walt Wells, Mary McGrath, Keefer Irwin, Chuck & Keiko Rowan, Doon Hinderyckx, Greg Ryan, Bruce Flewelling, Tom Paquette, Tom Schnabel, Dan Gendron, Smokey Bowen, Jim Bowen, Will Brokhof, Kristen Casella, Marty Maher, Henry Garzia, Joe Cahill.

Hearing for petition to close Pine Gap Rd at 5:00 pm.

Present: Doon Hinderyckx, Jim Bowen, Tom Schnabel

Guests/Petitioners: Rob & Char Gardner, Marty Maher & Kristen Casella, Smokey Bowen, Bill & Keefer Irwin, Walt Wells, Jeannette Bari, Java Hubbard, Tim Bowen, Linda Leehy, Marifrances McIntosh, Toni Deslaurier, Larry Straus, Eric & Ginny Bowman, Jeff Steinkamp, William Brokhof, Tim Wildey, Terry Severy, Nancy Woolley, Bruce Flewelling, Chris Keating, Dan Gendron, Chuck Rowan, Greg Ryan, Chris Matrick, Janice Brown, Judy Jensen, Harland Mckirryher, Mary & Mark McGrath, Mason Wade, Kevin & Ruth McLoughlin, Dan McKinley, Amy Braun, Susan Morse, Joe Cahill, Pat Harvey

Doon opened the hearing regarding the petition to discontinue Pine Gap Rd (TH #29) to order at 5:04pm. He explained the ground rules which allows each person 3 minutes to speak. He noted this is a gathering of information, hopefully facts as well as emotions. There will be 10 minutes allowed to the presenter, Walt Wells. Question asked by Marty Maher about whether people should address the camera if town sponsored. Doon noted that they can address the camera if they want, recording is not town sponsored and he did not know anything about it. He noted that this is not a town recording. Marty asked if each person has to give consent to appear on video, and Tom noted that as a public forum it can be recorded. Mason noted that he is now with Orca Media who covers Rochester and he will be videoing all meetings. Apparently no board permission is needed.

Walt gave his presentation which will be attached to these minutes. Public comment began.

Marty Maher: As one of the landowners, Marty stated that the facts as they see it is that Pine Gap Road is a class 4 road, which is a fact. Four people would want to use that road, and they don't claim that it touches their property or that they live on the road. Those people are Brad Mckirryher, Mason Wade, Marty and Kristen, and Ron Lamell. This petition is not about recreating, it's about closing access to two of the four people who use that road. He asks that those who have signed and are going to speak try to put themselves in the side of being the one who uses a town road to access property be willing to give that access up. They do not support the discontinuance.

Bruce Flewelling: We cannot predict the future, what is ok with one landowner may not be with the next. Technology moving in leaps and bounds. Electric bikes, utility vehicles and snow machines are all available now. However, if the town gives up the right of way, they will never get it back. Also, everyone speaks of how special Bingo is, and he is out there a lot. Every acre of National Forest is special. He pointed out that this is part of the Robinson Planning area which holds 5456 acres of congressionally

designated wilderness. No motorized equipment allowed at all. Also, 1045 acres are designated remote back country to get away to are already in the greater Bingo area. There are other places to recreate and find special qualities.

Eric Bowman: He would rather the road stay a class 4 road and not discontinue it. According to Walt's information, Marty has no standing as a non-resident. The other areas that Bruce mentioned are not easily accessed.

Harland McKirryher: At the last meeting it was said by someone that the people opposed were not being neighborly. When someone moves into neighborhood and knocks on your door and tells you how things are going to be from now on because they are there with total disregard for what's been going on for 40-50 years. He doesn't feel this is very neighborly either.

Keefer Irwin: It is apparent that a lot of people care about this area and she has been recreating there for 20 years. Letters to the editor and over 100 signatures show that people support this. The USFS understands this which is why they denied access to 62 and 62A for wildlife habitats, and also that it goes through the middle of an established Pine Gap Loop trail. She considers this a sanctuary and one snowmobile is one too many. This is a three season camp which they knew when they bought it, and should snowshoe in. Keep it quiet in Bingo, and consider VSA 19 section 710 in representing public good and inhabitants of the community.

Judy Jensen: If this stays a class 4 road, what would change for maintenance? The town has to maintain water erosion. Doon explained that anyone has a right to travel that road on anything except ATV's. Some trees would be moved, but a class 4 road is opened to the public, but the town is only responsible for maintaining water. Judy asked because the road does not go completely to their property, what happens to the road from where it ends to their property? What is the distance from the last person on road to their property? Approximately ½ mile.

Smokey Bowen: The road is a class 4 road all the way from Mason's house to the bridge, get rid of the bridge. IT was noted that the petition begins at Brad McKirryher property, not at the junction of Bingo Rd.

Bill Irwin: Bill questioned if snowmobiles can automatically be operated on a class 4 road in a community. Under VSA 23, section 206, it says a snowmobile should not be operated on a public highway unless the highway has been opened to travel by Selectboard, trustees or locally governing body and is posted by the municipality. Doon noted that statutes are available that state town highways not actively being plowed by the town are accessible to snowmobiles unless the town specifically designates otherwise.

Kevin McLoughlin: Kevin feels that running a tractor up through there to clear the road and once that happens it will be used by anybody.

Larry Straus: Restated his idea that he road be designated a legal trail. This doesn't change public ownership or use as a right of way, but clarifies maintenance requirements of the town.

Greg Ryan: He noted that after waling today, as far as he could tell there has been no maintenance on the road for a long time, (since 1975). There were places that were washed out, does the town pay for the maintenance? Possibly. Greg noted that it looks like it will have to have work done.

Ginny Bowman; Ginny explained that she loves to ski in Bingo on lunch break because it's in the middle of nowhere. She won't have that if motorized use in the winter.

Toni Deslaurier: Tony noted that the State town highway map is incorrect. The road does not go through the Maher property but does not touch the Maher or Lamell property. Ron Lamell has a right of way through Thresher Hill with the USFS. The right of common access is not an absolute right unless the land abuts public highway. Reasonable access is not necessarily motorized access. They have reasonable access with motorized access for three seasons. They can walk, ski, snowshoe in the winter.

Tim Bowen: Tim asked why the town should want to throw up any road they have. No one cared when the USFS went in and created the government road. He thinks it should be looked at more down to earth, and should be used by everyone. Possibly stipulations should be placed, and we need to think of both sides. 30 years ago, that road was how all the materials to build the camp were brought in.

Rob Gardner: Rob explained that he fishes in Bingo, and supports that it is special, beautiful and unique which is why he signed the petition. This is his opinion. Someone else's feelings about noise is their opinion. He feels that this is unreasonable and do we need to point a gun at people who want to spend time at camp? He does not agree the road should be discontinued.

Chris Mattrick: Chris clarified that Pine Brook Trail and Pine Gap Rd are two different entities. They intersect at 90 degree angles so if you are skiing on the trail, what happens on Pine Gap Rd is a very small impact on the trail. The USFS denied winter access on a different access than this, and based it on internal and external feedback. . It used to go all the way down to the 4 corners and up Thresher Hill. He explained access to the wilderness acreage that Bruce had mentioned.

Dan McKinley: Dan noted that he is not in favor of giving up any public right of way. He is concerned that if the class 4 road was opened, snowmobiling would be minor impact. He would be more concerned about jeep or other 4 wheel drive access that would ruin the road. If this is a town trail, can the board designate only snowmobile use in winter and not other 4 wheel drive access?

Dan Gendron: The town spent a little over \$400,000 on that road for four landowners, which is quite expensive. It's still a class 4 road, but that money could have been spent on a class 2 road, and as a taxpayer, he's not sure that was the best use of his money.

Kristen Casella: Prior to today, only Linda has voiced concerns to her and Marty. She urged everyone to come and talk to them as they enjoy the peace and quiet as well.

Susan Morse: Susan noted her thoughts that Marty and Kristen should have come to the existing homeowners. Kristen responded that they went to Mason and talked to him as the person who would be directly impacted. They were not aware that this would impact so many people.

Will Brokhof: Of all the acreage walked, what keeps it from being subdivided and built up in future. The lot size is a minimum 3 acres and there is 45 acres in the parcel, so potentially that could happen, but who knows what will happen in the future?

Judy Jensen: If this is reclassified as a legal trail, can there be conditions that only Maher's can use snowmobiles? Per Doon, conditions would apply to everyone.

Tim Bowen: Tim asked how to transport someone out if there is a medical emergency without the road. It could be a long time before someone received aid.

Eric Bowman: Eric asked which has legal priority-the road or property boundary. Will it have to be resurveyed? Not sure at this point, a lot of the road is pretty clear, and the USFS does a good job keeping their boundaries clear. Walt noted that any change in use requires a survey.

Mark McGrath: Mark McGrath noted that they have been up in Bingo twice and is struck by the extraordinary beauty. He believes the town should do whatever they can to preserve this asset for citizens and visitors. Those who want to snowmobile can't appreciate peace and quiet-they just don't go together. He signed the petition so there would be no snowmobiles.

Mary McGrath: Mary noted her concern is future use. Where they resided in the Northeast kingdom, there were continued problems with snowmobiles.

Greg Ryan: again he said there is no sign of town maintenance today but now the town will have to maintain the road, and that will have an impact up there as well as impacting taxpayers.

Amy Braun: Amy noted that when a property changes hands, the boundaries are understood when closing. Doon explained that they did research and Marty noted that it was very clear, they knew there was 3 ways to access. Plow Bingo the whole length, Plow to where it ends and get a permit to go part way, or to use Pine Gap Rd.

Dan Gendron: The fixing of the road would be done by the owners to the specifications of the Selectboard. The town has to maintain the water, but the taxpayers would not be paying for the road upgrade.

Bill Irwin: If a trail, it does not have to be maintained by the town and the board can restrict use of the road. However, the key thing is that the road does not abut the Maher property. Can they work on it if it does not give access to the property?

Susan Morse: Does this become the norm that a private citizen becomes responsible to bring a class 4 road up to standard? What about liability? There are rules now in Rochester about ATV's, this would be no different.

Keefer Irwin: Keefer asked the board to consider parking. What about other visitors with other skidoos that visit. This is a slippery slope. She has worked in other National Forests, and once it is allowed, it never comes back. A trail is advantageous to the town but still the water erosion control is still going to cost taxpayers money and one taxpayer up there will not cover the town expense. She offered to help Marty and Kristen get their gear to camp.

Dan McKinley: Dan noted that the USFS is required to provide reasonable access. In Ripton, one camp became a year round residence and the USFS had to allow year round access. Could that happen here if the right of way is not used?

Eric Bowman: Eric asked if the lower portion is restructured or rebuilt if it would be possible that it could be seasonal use only. Can it be gated? Doon believes it is possible.

Pat Harvey: She knows the old and the new party in this situation. Smokey Bowen expected full use of the camp with year round access, but he chose not to use it in the winter. That right was sold with the

property. Patty noted that there are many rights of way in town, and suppose you have access to your water through a right of way. Being neither for nor against, is she supposed to explain to potential buyers that they have access to their water across a neighbors land unless they decide they don't want to grant it? She doesn't believe anyone should be chastised for who we are, and we all came from somewhere else. Her concern is the community getting up in arms over an issue that she will have to make clear to any potential buyer she wants to sell to.

Kevin McLoughlin: He noted that Marty and Tim Bowen used to go up in the winter with a 4 wheel drive on the government road. Chris noted there was no deeded right for existing public right of way to the camp, it was always special use permit.

Marty Maher: Marty commented that a lot of people express their wish for peace and quiet wilderness in Bingo, yet it's ironic that convenience of driving there in a motor vehicle, and the wilderness-that it takes work to get there. It's convenient to drive to the area, but not convenience for Marty and Kristen to drive to or closer to their property.

Kevin McLoughlin: Kevin stated that no one drives to the wilderness, they drive into Bingo to sue the facilities.

Keefer Irwin: Keefer asked Chris when the USFS gate is closed, which is December 15th, based on conditions.

Tim Bowen: Tim asked how much parking is there now, and Doon responded on a nice day people park on the road. Harland noted that 10-20 cars could be parked along the road side for several hours at a time on weekends. If there is a truck and trailer, there is no parking for anyone.

Bruce Flewelling: Bruce noted that the fear he has heard tonight is that people think if one snowmobile is allowed, hoards will come. He explained that in the 1960's and 70's, Pine Gap trail all the way up to Boyden brook was an official snowmobile trail. This petered out because people did not want to snow machine up, ride for a mile and turn around and leave again. He doesn't see it being popular when there are hundreds of miles of trails available.

Dan Gendron: Dan noted that the town could plow the road out to the four corners as we receive state aid for this. It could help the parking issue.

Harland McKirryher: Harland asked when this comes down to the common good. There are two people who want this and 100 that don't.

Eric Bowman: Eric noted that he skis form the parking lot to the four corners and if they plow it he would be upset to lose the flat ski area. If the truck and trailer park at the bridge, there is no other parking available. If the town plows all the way out to the four corners, parking is pushed out further toward the corners.

Mason Wade: Mason noted there will be noise factor that he will experience.

Doon ended the hearing at 6:15pm and thanked everyone for coming.

Respectfully submitted,

Joanne McDonnell

