Approved: February 2, 2012

Minutes of the meeting of the
Calais Committee on Unmapped and Unmaintained Roads
Town Office, January 9, 2012

Members present: Darby Bradley, chair; John Meyer; Charlotte Hanna Bassage; Gail Graham; Reed Cherington; Warner Shedd

Others present: Tony French

Warner moved, John seconded, and the Committee approved unanimously the minutes of December 5, 2011 meeting.

Sparrow Road Extension: Charlotte and Reed walked Martin Road in the area where the Sparrow Road Extension is supposed to come out, but without any survey or documentation, it was not possible to tell. Charlotte had found some interior portions of the road "clearly observable" during a previous site visit, and there was considerable discussion about whether a road that is "clearly observable", but not documented by survey or by dedication and acceptance, meets the definition of an "unidentified corridor." Because of this uncertainty, she raised the question of whether the Committee should recommend "no action". John argued that this would be an abrogation of the Committee's responsibility. The road does have public value as a recreation path, in that it has attractive views and connects two town roads. However, if it is classified as an "unidentified corridor", it would no longer be in existence by virtue of the Town's vote for "mass discontinuance". On the other hand, formal discontinuance would be the only way to know for certain that this had happened. The Committee noted that the landowners involved have welcomed public access, but don't want the road used by motor vehicles.

The Committee reviewed four available options:

1. No action. This assumes the road has not already been mass discontinued. It means that the status of the road would not change in any way. It would continue as an ancient road, but would not be added to the town highway map.
2. Formal discontinuance.
3. Designation as a "public trail", under the AOT definition. This assumes that the road has not been mass discontinued. Additional research may be required to establish that the road exists by dedication and acceptance.
4. Establishment of a trail right-of-way. This means that the landowners would create a right-of-way for a recreation trail, which would prohibit motor vehicles, in return for formal discontinuance of the ancient road. It also means that some entity would take responsibility for monitoring and managing the trail.

After further discussion, Darby moved and Warner seconded that the Committee recommend Option #4, subject to consultation with the landowners involved. If

the landowners are not interested in exploring this option, the Committee would reconsider its decision. The motion was approved unanimously.

Perez Wheelock Road. Warner and Charlotte walked this road with Reed. It is "clearly observable", and leads from Batten Road across Carr Brook to a cellar hole. The road is about 4/10ths of a mile in length, and is located entirely on land owned by Jan and Peter Brough. Warner noted that a good survey exists and that Carr Brook contains many former beaver ponds, which makes it an interesting natural area. The Broughs have been happy to allow people to walk the road, but have asked that the road be formally discontinued..

Reed moved that the Committee recommend discontinuance; John seconded. Reed, John, Gail and Darby voted in favor of the motion. Charlotte and Warner opposed the motion, stating that they preferred a recommendation of "no action."

Dodge Road. John Meyer had prepared a GIS map showing the survey location of the ancient road, most of which is "clearly observable". The current entrance from Dugar Brook Road does not conform to the survey. However, the rest of the road does follow the line of the survey. John reported that the Town's tax maps are not accurate, and that for a portion of its length, the ancient road forms the boundary of the land owned by Smith and Bayne and then by Smith and formerly Scribner (now Cutler and Wildman). The road ends next to a cellar hole on 7-acre lot owned by Bayne. Although a trail does continue on into Woodbury, Dodge Road ends short of the Woodbury-Calais town line. John has walked the road, and shared his Field Review Sheet with the Committee. The Baynes have requested discontinuance.

The Committee decided to delay a decision on Dodge Road, so that other members could walk the road, and so that it could contact the other landowners.

Reconsideration of Newton, Sheple and Chickering Bog Roads. Because of the Committee's previous mistaken assumption that all roads, visible and otherwise, would be discontinued if not placed on the Town Highway Map by July 1, 2015, Charlotte raised the issue of whether the Committee should change its recommendations to "No Action" for these three roads. As she stated in the Sparrow Road Extension discussion, this would leave the roads "as is". **After further discussion on Charlotte's motion and Warner's second, the motion was defeated.**

Discussion of Final Report of Findings and Recommendations. Anticipating that the Committee would complete its work at its next meeting, Darby had prepared an initial draft of the report summarizing the Committee's findings, conclusions and recommendations from the past two years. The report will be finalized at the next meeting. Committee members were encouraged to send their comments and suggestions to Darby.

Next and Final Meeting: Monday, January 23 at 7:00pm at the Town Office.

Approved by e-mail: February 2012

Minutes of the Meeting of the
Calais Committee on Unmapped and Unmaintained Roads
Town Offices – February 2, 2012

Members present: Darby Bradley, chair; Reed Cherington; John Meyer; Eric Sorenson, Charlotte Hanna Bassage, recorder; Gail Graham; Warner Shedd
Others present: Bob Cutler, Joe Bayne III and Lorie Bayne, Joe Bayne IV and Jenna Bayne, Chet Briggs and Karen Lane, Andrew Nemethy, Bill Porter and Ruth Porter

Minutes. Reed moved, Warner seconded and the Committee approved the minutes of January 9, 2012 meeting.

Dodge Road. The Committee had an extended discussion of Dodge Road, which runs northward 0.7 miles from Dugar Brook Road to the old Howard Dodge cellar hole a few hundred yards south of the Woodbury-Calais town line. Four of the Committee members had walked the full length of the road. Most of the landowners whose land is crossed or is bordered by the road were present in person or through a representative. Their opinions were sought and given on the question of whether the road should be discontinued or retained in public ownership in some fashion.

At the end of the discussion, upon a motion by John, seconded by Reed, the Committee voted 4-3 to recommend that the Selectboard discontinue Dodge Road. The factual information about the road, the opinions of the landowners involved, and the majority and minority views of the Committee members are set forth in a separate memorandum appended to these Minutes.

Sparrow Road Extension. Darby reviewed the four options described in the minutes of January 9, 2012 meeting, and asked the landowners present what their preferences are. Andrew Nemethy (landowner) stated that because the road lacked a survey, it was unclear whether the road was legally in existence. He and Bill and Ruth Porter (landowners) asked how the designation of a public road as a "trail" differed from a trail easement. The principal difference is that a future Selectboad could change the designation of a town trail to allow motor vehicular use, while a trail easement can be changed only with the consent of both the landowner and the trail easement holder. At the end of the discussion, all three landowners said that although they have no objection to the public using the existing path for pedestrian and equestrian use, they wanted to see the road discontinued and were not comfortable having a trail easement on their titles. Upon the motion of Charlotte and second by Gail, the Committee agreed

unanimously to recommend that the Calais Selectboard discontinue the Sparrow Road Extension.

Reconsideration of Chickering Bog Road. Darby inquired whether the Committee wanted to review its recommendation for Chickering Bog Road, in light of the Committee's earlier misunderstanding that any "clearly observable" ancient road that is not on the town highway map by July 1, 2015 would be automatically discontinued. He reminded the Committee that, like the Newton Road, Chickering Bog Road extends into the town of East Montpelier, which apparently intends to take no action to preserve its ancient roads. After a short discussion, the Committee decided to leave its recommendation of discontinuance unchanged.

Darby asked the committee members to send him their comments on the Committee's draft final report. He also invited members to file a supplemental opinion to the extent the final report does not fully explain their views. Darby said that he would submit the final report to the Selectboard along with the files of the 42 ancient roads reviewed by the Committee. He expected to meet with the Selectboard to discuss the Committee's findings and recommendations sometime after Town Meeting, and invited other Committee members to attend once a date has been set.

Conclusion. This being the final meeting of the Calais Committee on Unmapped and Unmaintained Roads, the members thanked Darby for his service to the town, his meeting skills and his fortitude in seeing this project through. After Darby expressed his appreciation for the way in which the Committee members worked cooperatively and with good humor in the face of sometimes trying circumstances, the meeting was adjourned at 9:00 pm.

Respectfully submitted,

Charlotte Hanna Bassage

MEMO TO: **Calais Selectboard**

FROM: **Calais Committee on Unmapped and Unmaintained Roads**

SUBJECT: **Decision on Dodge Road**

DATE: **February 2, 2012**

This memorandum explains the decision reached by the Committee on February 2, 2012, to recommend that the Town discontinue the ancient road known as **Dodge Road** in the northern part of Calais. For the only time in its consideration of 42 ancient roads, the Committee was split on its recommendation by a 4-3 vote. The memorandum will explain the viewpoints on both sides of the issue.

Summary of the Committee's Process and Findings

Committee member John Meyer reviewed the documentation of this road in the CART (Calais Ancient Roads Team) file, and plotted the survey information into his GPS unit. On January 9, 2012, he walked the entire length of the road with Joe Bayne III and Joe Bayne IV, the owners of some of the lands which the road traverses. On January 14, Committee members Reed Cherington, Charlotte Hanna Bassage and Darby Bradley, along with landowner Karen Lane, also walked the road to the end.

Dodge Road is a 2-rod wide pent road, which runs from Dugar Brook Road northward to an old cellar hole a few hundred yards south of the Calais-Woodbury town line. It is 0.7 miles in length and was laid out in 1888 as a driveway and access to the dwelling owned by Howard Dodge. Although the ground was snow-covered, all parties agree that except for the first 200 feet where the road leaves Dugar Brook Road, Dodge Road is "clearly observable" and therefore was not discontinued by the Town's vote for "mass discontinuance". The road climbs steeply up a ravine along a brook, and then levels out toward the top as it approaches the cellar hole. The land is entirely forested. A large swamp is located on the west side of the upper section of the road. The road itself ends at the cellar hole, although a trail used by snowmobilers, cross-country skiers and hikers continues on into Woodbury. The landowners' principal use of the road is for access in logging operations.

Three, and possibly four, landowners border Dodge Road. John Meyer noted that the Town tax maps don't accurately correspond with the current boundaries. According to the Baynes, as a result of boundary agreements between Col. Joseph Bayne and his neighbors, parts of Dodge Road form the boundary between several ownerships. The lower section of the road lies entirely within the ownership of Joe Bayne III and Joe Bayne IV. At about 0.25 miles in, the road becomes the boundary between the Bayne land and lands to the west owned by Hannah Smith. At about 0.45 miles, the road becomes the boundary between Smith and lands now owned by Judy Cutler and Ilene Wildman. Finally, the road crosses into a 6.0 acre parcel where the cellar hole is located. The Baynes believe that they own the 6.0 acre parcel. Based upon a deed description, Chester Briggs and Karen Lane believe they may be the owners of the 6.0 acre

parcel, and that the Baynes own a landlocked 7.0-acre parcel lying immediately to the east. The Committee did not attempt to decide who are the actual owners, and the two parties agreed to work together to try to get the issue sorted out. It would be important to have the ownership question settled by the time the Selectboard takes action on the Committee's recommendation.

Turning to the landowners' preferences on whether Dodge Road should be discontinued, the Baynes have both requested that the road be discontinued with the stipulation that any landowner who borders the road will retain legal access to their land via the road. Judy Cutler was represented at the hearing by her father Bob Cutler, who said his daughter wanted to ensure that her legal access is maintained. Reed Cherington reported that in an earlier conversation, Judy had expressed the wish that the road be discontinued. As for Hannah Smith, Reed Cherington had written to Mrs. Smith at her Georgia address asking about her wishes. Although he had not received a reply by the time of the Committee's February 2 meeting, Mrs. Smith subsequently contacted Reed to say that she favored having the Town discontinue the road.

Finally, Chester Briggs and Karen Lane said that they had mixed feelings about discontinuance. They said that they had no objection to discontinuance, if it turns out that the Baynes are the owners of the 6.0-acre lot with the cellar hole. On the other hand, if they are the owners, they might prefer to have the road remain in public ownership in some form, so that it may continue to be used for recreational purposes.

The Committee's Recommendation. The Majority View: Four members of the Committee (Reed Cherington, Gail Graham, John Meyer and Eric Sorenson) voted to recommend discontinuance of Dodge Road with the stipulation that lands border the road should retain full legal rights to ingress and egress. In explaining their decision, they noted that although the road passes through a lovely section of woods, it dead-ends in the middle of the cellar hole parcel and does not connect to any other road, town or legal trail system. It also does not lead to or near any publicly-owned resource or point of interest. Parts of the road are wet and are heavily water-barred. Erosion problems could develop, if the road is used extensively. The majority members also placed great weight on the wishes of the landowners who asked for discontinuance.

One of their additional concerns is that if the Town retains Dodge Road as a public road or trail, the Town would not have a corresponding obligation to maintain the road and keep out motor vehicles which could cause severe damage to the road. There have been a number of examples both in Calais (eg, Leonard Road and Woodbury Mountain Road) and in surrounding towns, where mud trucks and other vehicles have caused such severe erosion to the road bed that the road can no longer be traversed for normal uses without extensive and expensive repairs. John and Gail pointed out that user groups have been watching the ancient roads evaluation process closely throughout the state. Once an ancient road goes on the official town highway map or if a town takes no action to discontinue an ancient road, the word will eventually get out on the internet and the road could become a magnet for both benign and destructive users.

The Committee members voting with the majority felt strongly that it would be unfair to impose such a burden on landowners if the Town is not prepared to intercede to protect the road against destructive users. They also believe that once the threat of the existence of a public road has been removed, landowners may be more receptive to a discussion about allowing traditional

public recreational access, where that access will not endanger the condition of the road. For these reasons, the majority felt that discontinuance is the most appropriate course.

The Minority View: Committee members Charlotte Hanna Bassage, Warner Shedd and Darby Bradley voted against the recommendation for discontinuance, and felt that the Town should retain some form of public ownership. Not all public roads that are unmaintained have been damaged (eg, Fifers Ride, part of which is an unmaintained Class 4 road). Through the installation of gates and limitations on use (eg, pedestrian use or snowmobiling in the winter), the potential for damage can be reduced. They also noted that if Chester Briggs and Karen Lane own the 6.0-acre lot with the cellar hole, they are receptive to keeping the road open to public recreational use in some form.

The minority also referred to the Procedures and Criteria for Evaluating Calais' Ancient Roads, which the Committee adopted in June 2011 and which have guided the manner in which private and public interests have been weighed in reaching a recommendation. They noted that the Dodge Road does not lie near any houses, and its use by the public would not significantly interfere with landowners' privacy or the use of their property for agriculture or forestry. Dodge Road was one of the longest ancient roads (0.7 miles) that the Committee had evaluated. Unlike many of the roads which are contained within a single ownership and end in the middle of the tract, Dodge Road touches three and possibly four ownerships, which offer the possibility that the road could connect to a local or regional trail system in the future. Two of the criteria stated in the Procedures and Criteria[1] used to evaluate public values, interests and concerns in public roads state:

- The road provides access to a... public point of interest that has historic, recreational, educational or scenic value.
- The road has potential for being part of a local or regional network of public trails.

The minority believes that Dodge Road meets these two criteria for public value. Although they acknowledged that the majority's concern about the potential for destructive use was legitimate, they felt that the Town should explore ways to address these concerns before it gives up an important public asset.

Summary. In conclusion, the Committee voted 4-3 to recommend that the Selectboard begin the formal process of discontinuance of the **Dodge Road**, subject to the stipulation that legal access for ingress and egress be maintained for all lands currently bordering this ancient road.

Calais Committee on Unmapped and Unmaintained Roads

Charlotte Hanna Bassage
Darby Bradley, Chair
Reed Cherington
Gail Graham
John Meyer
Warner Shedd
Eric Sorenson

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[1] See Procedures and Criteria for Evaluating Calais' Ancient Roads, adopted by the Committee on June 20, 2011.

Final Report of Findings and Recommendations by the Calais Committee on Unmapped and Unmaintained Roads March 2, 2012

History and Overview of the Committee's Process. The Calais Selectboard appointed the Calais Committee on Unmapped and Unmaintained Roads in February 2010 to investigate the ancient roads found by the Calais Ancient Roads Team (CART) following exhaustive research into town and state highway records. Led by Marge Garfield and Sandra Robinson, CART discovered a total of 42 "short spurs" and "longer anomalies" that appeared still to be in existence. The Selectboard asked this Committee to review each of the ancient roads, develop criteria to guide its consideration of public and private interests and values, review the files developed by CART, walk each road, talk with the landowners and other citizens who have an interest in the road, and develop a recommendation to the Selectboard on whether the Town should discontinue the road, place the road on the official town highway map, or take some other action.

The Committee held its initial organizing meeting on March 15, 2010. On March 20, it field tested its procedures by conducting an initial site visit of two roads: the Nathaniel Hersey Spur, which constitutes the Russell driveway off Longmeadow Hill Road, and the nearby John Bancroft Spur, which was supposedly located on the Bradley and Kaeding land in the same vicinity. Three members of the Committee had drafted different versions of the criteria to be used in weighing the relative public and private interests and values associated with each road. The Committee decided to field test all three versions in evaluating the so-called "short spurs", before adopting its final procedures and criteria.

Over the course of the summer and fall of 2010, the Committee used 2-3 person "field teams" to examine the nineteen "short spurs" and make recommendations to the full committee. Its work was partially interrupted by the Selectboard's vote on June 14 for "mass discontinuance" of all ancient roads where there is not "clearly observable" evidence of a road or trail in the field. A group of Calais citizens filed a petition to overturn the Selectboard's decision, but at a special town meeting held on September 21, Calais voters upheld the Selectboard's decision for mass discontinuance by a 3-1 margin. After that, if the Committee could not find "clearly observable" evidence in the field that a road or trail had once existed, it reported that finding and recommended no further action.

The Committee largely completed its work on the short spurs and several of the longer roads by December 1, 2010. It subsequently submitted its first set of recommendations to the Selectboard in early 2011. Beginning in April 2011, the Committee continued its review of the remaining ancient roads. On June 20, it adopted the "Procedures and Criteria for Evaluating Calais' Ancient Roads", which is attached to this report (Attachment #1). The document calls for a four-step process:

- Step 1 – Document review to determine whether the road was formally laid out, surveyed, and opened.

- Step 2 – Field review to determine whether there is "clearly observable" evidence of a road or trail in the field.
- Step 3 – Identification of Landowner and Public Values, Interests and Concerns, and other considerations pertaining to each road.
- Step 4 – Weighing the relative values, interests and concerns to reach a recommendation.

The Committee continued to use the 2-3 member field team process where an initial investigation did not indicate that there were significant public values or interests at stake. Where it appeared that potentially significant landowner and public values and interests might be at stake, the road was investigated by the Committee as a whole, following public notice of the field visit. Over the course of 2011 and into early 2012, the Committee completed its investigation of the remaining ancient roads. Some of these are "clearly observable" in the field, and will require formal Selectboard action to be discontinued or placed on the town highway map.

The Committee's Findings and Recommendations. As Calais residents can ascertain by reading the attached "Procedures and Criteria for Evaluating Calais' Ancient Roads", a key determinant in the Committee's evaluation process was whether there is any significant public value or interest in retaining an ancient road. In most cases, the landowners involved requested that the ancient road be discontinued, if this had not already occurred by virtue of the vote for "mass discontinuance". Many ancient roads were established at a time when landowners received a credit against property taxes, if they helped maintain the town road. For this reason, many of the short spurs were essentially driveways that terminate at a house or old foundation. Others were pent roads, which landowners could gate at various points to contain livestock. Most of the roads dead-end in the middle of a property with no connection to another road or public trail system. For this reason in most cases, the Committee was unable to find any significant justification for retaining a public road, especially in light of the landowner's request.

An exception is **Grist Mill I** in East Calais Village. Although this road does dead-end after a short distance, the road runs along the Kingsbury Branch of the Winooski River, where the falls and an old mill site are located. These features represent a significant part of East Calais village's history and culture. The Committee found that the public, historical, educational, and scenic benefit of continued access to the Grist Mill I road was significant. In a separate decision on both Grist Mill I and II, the Committee recommended that Grist Mill I be retained as a public road and placed into "trail" status with access for public pedestrian use only, unless the Selectboard and all adjacent landowners agree to allow some types of vehicular or equestrian use. A copy of this decision is attached to this report as Attachment #2).

There were several "clearly observable" ancient roads which appeared initially as if they might serve as a segment in a public trail system, but where the Committee found a significant defect upon further consideration. Portions of **Newton Road**, which runs south from Lightening Ridge Road to the East Montpelier line, are used by Calais residents as part of a loop trail. Newton Road itself continues on into East Montpelier. However, most of the loop trail does not follow a public road or legal right of way, and it appears that East Montpelier does not intend to retain its

ancient roads. For this reason, the Committee recommended discontinuance, although it strongly recommended that the Selectboard hold a public hearing on the road, so that both proponents and opponents of the road's retention could state their views before the Selectboard takes action.

Sheple Road is another case where an ancient road appeared initially to form a potential trail link. Sheple Road starts on Singleton Road and runs to the old Sheply foundations in the middle of the Brabant property. From there, the road appeared to connect to the **Silas Hathaway Road**, which runs south across the Brabant and Graham properties to Leonard Road. However, after two extensive field checks, including one with a GPS technician, no visible evidence of the Silas Hathaway Road was found, and therefore the road is presumed to have been "mass discontinued". This leaves Sheple Road as a dead-end, and because it runs through the very center of the Brabant farm operation, the Committee did not find sufficient justification to recommend its retention.

The **Sparrow Road Extension**, which is supposed to run from Sparrow Road southwesterly to Martin Road, was another ancient road that appeared initially to link Point A to Point B and might be retained for public trail use. Indeed, a trail does exist over parts of this road. However, the connecting points to the town roads at each end are not clear, and because no survey exists for this road, the Committee was unable to conclude that the existing trail is even located on the ancient road. A similar conclusion was reached on **Chickering Bog Road**, which runs south from Lightening Ridge Road to the East Montpelier line (east of Newton Road). Although there is evidence of a road in the field and The Nature Conservancy holds a legal right of way for access to its ownership of Chickering Bog, no survey has been found for this road, so it is unclear whether the public road exists.

Dodge Road was the only road where the Committee was almost evenly divided in its recommendation. The road runs 0.7 miles from Dugar Brook Road northward toward the Woodbury town line, and passes through or borders at least three ownerships. The road is "clearly observable". It is part of a trail that is currently being used for walking, cross-country skiing, and snowmobiling. The road itself terminates short of the Woodbury town line. After an extensive discussion, which included most of the affected landowners or their representatives, the Committee voted 4-3 to recommend discontinuance of the road. A copy of the decision is attached to this report as Attachment #3

In summary, the Committee reached the following recommendations on Calais ancient roads, and urges the Calais Selectboard to take the next steps in the retention or discontinuance process:

Recommend Retention of the Ancient Road:

- **Grist Mill I** (Wilson, Rogstad, Risse, East Calais village) – Retain as a public pedestrian trail

Recommend No Action – Not "Clearly Observable"; Mass Discontinued

- **A. King Spur** – (location uncertain) off Woodbury Mountain Road
- **Adams White Road** – (Kellington, Murray) off Max Gray Road

- **Durant Road** – (Lowry) northeast corner of Calais
- **Ezekiel Kent Spur** – (Porter) off Tobey Hill Road
- **Fitch-Willard Spur** – (Cliche) off Route 14 near Pekin Branch
- **H.J. Jacobs Road** – (location uncertain) somewhere off West County Road
- **Jason Marsh Spur** – (Davis) Gospel Hollow
- **John Bancroft Road** – (Bradley, Kaeding) off Longmeadow Hill Road
- **Mason Wheeler Road** – (Richardson, Golon, Hoskey, Turner) off Collar Hill Road
- **Nahum Templeton Spur** – (Porter) starts off Haggett Road in East Montpelier
- **Nelson Road Spur** – (Lilley, Nunn, Middleton) from A.S. Nelson Road to George Road
- **Richard Tobey Spur** – (Gendron, Lewis) off County Road
- **Silas Hathaway Road** – (Brabant, Graham) off Leonard Road
- **Shubel Shortt Spur** – (location uncertain) north of Lightening Ridge Road
- **Thayer Road** – (Meyer) off West County Road
- **Watson Pond Road** – (location uncertain) off West County Road
- **White Road** – (location uncertain) off Max Gray Road to Marshfield line

Recommend No Action – Location Uncertain; May Coincide with Public Highway

- **Daniel Parsons Spur** – (location uncertain) may coincide with #10 Pond Road; otherwise, it is not clearly observable and was mass discontinued.
- **Symonds Road** – (Dwinell, location uncertain) may coincide with relocation of Route 14; otherwise, it is not clearly observable and was mass discontinued.

Recommend No Action – Road lacks property survey or other documentation

- **Chickering Bog Road** – (Chickering, Nature Conservancy) off Lightening Ridge Road

Recommend Formal Discontinuance – Road is "Clearly Observable", but Committee found no significant public resource, value or interest sufficient to justify retention

- **A.S. Nelson Road** – (Lilley, Rogers) off Lightening Ridge Road
- **Carver Road** – (Wells) off Route 14
- **Grist Mill II** – (Bowen) East Calais village
- **Hackett Road Spur** – (Smith) off West County Road near Woodbury line
- **Herb Scribner Road** – (Altman, Roberts) discontinue only portion that diverges from Mirror Lake Road
- **J.D. Bailey Road Spur** – (Konrady) off Woodbury Mountain Road
- **Joseph Brown's Road** – (Weisbart, Buck) near West County Road across Stevenson Road
- **Nathaniel Hersey Road** – (Russell) off Longmeadow Hill Road
- **Ormsby Road, South Fork** – (Altman, Roberts) off Mirror Lake Road
- **Ormsby Road, North Fork** – (Altman) off Mirror Lake Road, where it diverges from Herb Scribner Road
- **Perez Wheelock Road** – (Brough) off Batten Road

- **Putnam Road** – (Lowell Associates) extreme northwest corner of Calais
- **Salomon Dodge Spur –** (Suchomel) near Adamant
- **Sheple Road** – (Brabant) off Singleton Road
- **Sparrow Road Extension** – (Porter, Nemethy, Blachley) between Martin and Sparrow Roads
- **Tisdale Hawkins Road** – (Weisbart) off Stevenson Road
- **West Curtis Pond Road –** (Gallagher) off West County Road

Recommend Discontinuance, but with a Public Hearing Before a Decision is Made – Split Opinion on the Committee

- **Dodge Road** – (Bayne, Smith, Culter and possibly Briggs/Lane) off Dugar Brook Road
- **Newton Road** – (French, Reed, Czaplinski, Nature Conservancy) south of Lightening Ridge Road to E. Montpelier line

No Recommendation – Landowner Declined to Participate

- **Elijah White Spur** – off Max Gray Road

As part of this final report, the Committee will deliver to the Selectboard a set of files detailing the information, findings and Committee recommendations for each of the 42 ancient roads.

Some Observations about the Committee's Process and Conclusions. In looking at this list of recommendations, it may seem that the years of effort put in first by CART and then by this Committee has resulted in very little. Yet, we believe that both committees have served a very valuable function for the town. A decade ago, ancient roads appeared to be clouding the title of a large number of properties in Calais and throughout Vermont. As the two committees discovered, ancient roads were popping up in unexpected places: in people's driveways, through the middle of their agricultural operations, even through the middle of their homes. The status quo was intolerable, because sellers and buyers had no certainty about whether a public road existed on what they owned or what they were acquiring. By the end of this process, most landowners who may have been impacted by an ancient road on their property will have a clear sense of whether the road exists and where it is located. Having that knowledge at least offers the possibility of reaching a resolution on potentially conflicting public and private interests.

Second, at various points in this process, the debate over ancient roads became very divisive within the Calais community, putting some landowners at odds with some recreational users, even when both sides understood the value of both property rights and public access.. Partly because of the vote for mass discontinuance and partly because of the respectful, low-key approach in which this Committee tried to conduct its work, the temperature of the debate was brought down below the boiling point to where differing public and private interests could be discussed without polarizing the situation. Not everybody will agree with the Committee's recommendations, but at least they can agree that the Committee approached its task in a thoughtful, respectful manner.

Finally, even when landowners requested that an ancient road be discontinued, it was clear that many welcomed continued public access for recreational purposes. Often the landowners' concerns were centered around the location of the public road in relation to the owner's house or farm operation. Sometimes, the concern was about the possibility that the Town might open up the road to ATV or vehicular traffic at some future date. In most cases, the ancient road simply came to a dead end, so that it had very little benefit for public recreation.

The ancient roads review process offers an opportunity for Calais residents to have a discussion about creating a town recreational trail system that balances public and private interests, that addresses the reality that not all types of trails are appropriate for all types of terrain, that recognizes that some trail uses conflict with others, and most importantly that in most cases the trails should connect Points A to Points B if the recreational user's experience is to be meaningful. Thanks to work of the Calais Trails Committee and private recreational groups, some of those discussions have already begun. During the course of this Committee's work, conversations occurred with landowners who may be willing to have a public trail on their land, and in some cases even to convey a permanent trail easement for that use. In the long run, the outcome of these conversations should help justify the effort made by CART and this Committee over the past four years.

And a final word from our legal sponsors. One common misperception about Vermont's Ancient Roads statute (contained in 19 V.S.A. Chapter 3 – Town Highways), which this Committee shared for a time, is that if an ancient road does not appear on the official town highway map by July 1, 2015, it will be automatically discontinued and will cease to exist. However, an attorney for the Vermont League of Cities and Towns has pointed out that this provision applies only to "unidentified corridors", which are defined in 19 V.S.A. Section 302(a)(6) as town highways that:

> *(i) have been laid out as highways by proper authority through the process provided by law at the time they were created or by dedication and acceptance; and*
> *(ii) do not, as of July , 2009, appear on the town highway map prepared pursuant to section 305 of this title; and*
> *(iii) <u>are not clearly observable by physical evidence of their use as a highway or trail</u>* (emphasis added)*; and*
> *(iv) are not legal trails.*

The League's attorney pointed out that because of a 2008 amendment to the ancient roads statute, the requirement that the road be placed on the town highway map by July 1, 2015 date applies only to "unidentified corridors. If there is "clearly observable" evidence that a road or trail existed at one time, the July 1, 2015 mapping date does not apply.

For this reason, unless the statute is amended, the Calais Selectboard must go through the formal process in order to discontinue or add an ancient road to the town highway map. If the Selectboard takes no action, the status of these visible ancient roads will continue unchanged.

The Committee has appreciated the opportunity to be of service to the Selectboard and citizens of Calais. We now turn the files over to the Selectboard to act upon our recommendations.

Calais Committee on Unmapped and Unmaintained Roads

Charlotte Hanna Bassage
Darby Bradley, Chair
Reed Cherington
Gail Graham
John Meyer
Warner Shedd
Eric Sorenson

Chair's Note: I encouraged the Committee members that, to the extent the Committee's final report did not fully express their opinions, they should submit a supplemental opinion so that the Selectboard and town residents and landowners who have a more complete picture of the many perspectives represented on the Committee.

Supplemental Opinion of Charlotte Hanna Bassage

The Committee on Unmapped and Unmaintained Roads has worked thoughtfully and thoroughly to review each ancient road in town and weigh the public and private interests relating to each. Although I concur with the final report of the Committee and with most of its recommendations, I don't think it adequately expresses my perspective on the importance of keeping certain ancient roads in public ownership.

Most of the committee's recommendations for discontinuance are uncontroversial, because most of the ancient roads are short, don't lead anywhere significant, or are altogether invisible. The number of ancient roads, including Newton Road and Dodge Road among others, which are visible and of walkable length are few, but not surprisingly, these form the source of controversy.

The committee developed many criteria for considering ancient roads from both the landowners' and the public's point of view. Unfortunately, in my view, the public interest in favor of maintaining these few ancient roads was not given sufficient weight.

I acknowledge the legitimacy of the concern that town ownership of an unmaintained road can sometimes lead to unacceptable destruction by vehicles. Two members of the committee have been personally plagued by this, and the experiences they describe are truly horrific. No one wants to create circumstances where this might happen to landowners.

But this is not always the outcome, and need not occur. An unmaintained Class 4 road passes our home and we have experienced no damage to it. This and other roads like it are part of the

heritage of our community. I believe that it is shortsighted to consider the present only, and that we as a town will regret in the future if decisions are based solely on today's concerns.

I believe we can – and should – actively mitigate the potential for negative impacts while maintaining our options for the future. We can develop management plans for our unmaintained roads, have our trails committee oversee their use, limit vehicular use (except by abutting landowners) where that is appropriate, install signs and even gates when necessary, and take legal action against people who violate the restrictions. The town can even close a road on a temporary basis.

The Committee was right to consider the wishes of landowners, many of whom favored discontinuance because they fear destruction and disturbance. However, Committee members did not sufficiently advocate for the positive outcomes that can result from the town's maintaining ownership of an ancient road.

Is there a way to resolve the tension between the present and the future in a way that will benefit the town and not penalize landowners? I believe this can be done, if we focus our energies on the positive rather than on just the negative. This is where the Selectboard should focus its attention, as it weighs the committee's recommendations. Many may view the tension as irreconcilable, but I do not believe we have yet made a sufficient effort to try to find a resolution.

Charlotte Hanna Bassage

Appendix #1

Approved: June 20, 2011

Procedures and Criteria for Evaluating Calais' Ancient Roads

The Calais Committee on Unmapped and Unmaintained Roads has completed its evaluation and recommendations on 24 of 40 ancient roads identified during the Calais Ancient Roads Team (CART) research phase. Many of the 24 roads were not "clearly observable" in the field and were legally discontinued by virtue of the Town's vote for "mass discontinuance" in September 2010. Physical evidence of their existence was observable in the other cases, but they were largely "short spurs", and the Committee found no apparent public benefit or purpose in retaining them as a town highway or trail. It therefore recommended that the Selectboard discontinue these roads through a formal legal process.

Of the 16 remaining roads which the Committee has not yet evaluated, most are longer in length and some could possibly involve a conflict between the desire of some landowners to have discontinuance and public and private interests in keeping them as a public road or trail. The Committee therefore developed a set of procedures and criteria, which it will use in reaching a recommendation to the Calais Selectboard on whether the Town should retain or discontinue an ancient road.

The Committee will follow a four-step process in assessing these remaining roads:

Step One – Document Review

Based upon the documents identified by CART and others, the Committee will determine:

1. Was the road legally laid out and opened by the selectmen according to law? Yes/No
2. Is there a bona fide survey or description of the road? Yes/No
3. Can the survey of the road be clearly mapped (ie, the road has an identifiable beginning and end)? Yes/No

The committee will end its assessment if the answer to any of these questions is "No," and recommend discontinuance to the Selectboard.

Comments These, in essence, are the legal elements required for creating a public highway, as articulated by the Vermont Supreme Court in the Middlesex opinion. The Committee acknowledges that a public road can be created by "dedication and acceptance", so that if there is evidence that the Town once maintained an ancient road, this may be relevant to its legal existence. It also appears that Calais selectboards did not routinely use "Certificates of Opening" prior to the 1850s and 1860s, a requirement that the Vermont Legislature ultimately repealed.

Step Two – Clearly Observable Evidence

Because the Town voted for "mass discontinuance", all ancient roads which "are not clearly observable by physical evidence of a road or trail" have now been legally discontinued. The Committee will therefore determine:

1. Is there clearly observable physical evidence of the existence of a road or trail in the location indicated by the survey? Yes/No

The committee will end its assessment if the answer is "No," because the road was already discontinued by virtue of the Town's vote for "mass discontinuance".

Comments. If there is no "clearly observable" physical evidence of the road's or trail's existence, the Committee's inquiry will go no further. The road or trail need not be observable along its entire length, but there must be sufficient physical evidence to enable the Committee to consider that a road did exist at one time in the past.

Step Three – Identification of Public and Private Values and Concerns

In the event the Committee finds that there appears to be sufficient legal documentation to indicate that a road has been properly surveyed and laid out, and that there is clearly observable physical evidence of the road or trail, the Committee will then consider a variety of public and private values and concerns in reaching its recommendation on whether the ancient road should be retained or discontinued. The Committee should identify all of the relevant factors and criteria that may be relevant to each ancient road. These are stated here in no particular order

and without regard to one being more or less important than another. It is also possible that other values or concerns that the Committee has not thought of will become evident during their evaluation.

Landowner Values, Interests and Concerns

- The existence of the road and its use by the public would have a significant negative or positive impact on the landowners' use and enjoyment of their land.
- The existence of the road and its use by the public would have a significant negative or positive impact on neighboring landowner's use of their land.
- The road has the potential to create barriers to using adjacent property for wastewater disposal or access to sources of drinking water.
- The road provides access to an otherwise landlocked parcel or portion of a parcel.
- The existence of the road would negatively or positively impact the use of the land for agriculture or forestry.
- The road attracts illegal or damaging use, such as mud-trucks.
- The statements made by the landowners and their reasons in favor of retention or discontinuance of the road should be noted in the Committee's report.

Public Values, Interests and Concerns

- The road provides access to a public resource or public point of interest that has historic, recreational, educational or scenic value.
- The road has the potential for allowing development in an area where the Town plan envisions more development.
- The road has the potential for encouraging development in an area where the Town plan envisions a low density of development.
- The road has potential for being part of a local or regional network of public trails.
- The existence of the road would be useful in the event an existing road is washed out or otherwise becomes impassible.
- The cost of enforcing appropriate use of the road may be greater than the public benefit of its continued existence.
- The existence of the road and existing and potential future uses of land along the road will have a negative or neutral impact on the following natural resources:
    - Wetlands
    - Floodplains
    - Streams
    - Ponds
    - Vernal pools
    - Significant wildlife habitat (eg, deer yards, mast stands, important turtle habitat)
    - Significant natural areas or natural communities
- Existing and potential future use of the road may have a negative impact on contiguous habitat (eg, core forests) or habitat connectivity (eg, wildlife corridors).

Other Considerations

- The existence of the ancient road was known or what not known to the affected landowners before the CART (Calais Ancient Roads Team) research process started.
- The public values and interests can be satisfied through use of an existing road or trail without the existence of the ancient road.
- The landowner is willing to address the public values and interests by approving a relocation of the road, or by granting a trail easement in the same or a different location, or by other means.
- The Town can balance private and public interests by designating the ancient road as a "public trail" with specific conditions to protect the landowners' interests.

Step 4 – Weighing the Relative Values and Concerns to Reach a Recommendation

The final step in the process is to assign a relative weight to each value and concern identified in Step 3, and to decide upon a recommendation to the Calais Selectboard. In any particular case, some of the relevant criteria or factors may carry little importance, and others may clearly be of paramount importance. In determining what the balance of public and private considerations should be, the Committee should weigh the relative importance of each criteria or factor. A strongly negative private impact, when weighed against a minor public interest, would seem to argue for the Committee's recommending discontinuance of the road. On the other hand, a strong public interest, when weighed against a minor private inconvenience, may suggest a recommendation that the road be retained. In each case where there is not irreconcilable conflict between public and private interests, the Committee and landowners are encouraged to find solutions that will accommodate the legitimate interests of both, recognizing that any final agreement must be approved by both the landowners and the Town.

In the final analysis, the recommendations of the Committee are merely recommendations, and the final decision must be made by the Calais Selectboard.

Appendix #2 – Decision on Grist Mill I and II (approved November 2, 2011)

This memorandum explains the decision reached by the Committee on September 26, 2011, to recommend that the Town retain public ownership of the ancient road known as **Grist Mill I** and discontinue ownership of a nearby ancient road known as **Grist Mill II**. In reaching these recommendations, the Committee followed the process set forth in its Procedures and Criteria for Evaluating Calais' Ancient Roads approved on June 20, 2011.

Summary of the Committee's Process and Findings.

Committee member Eric Sorensen reviewed the documentation of the two roads in the Town's CART files, and arranged a site visit for the full Committee on May 7, 2011. **Grist Mill I** is located on the west side of the Kingsbury Branch of the Winooski River, running south from Moscow Woods Road for a distance of 0.12 miles (630 feet+/-). The road crosses three ownerships: Helen Wilson (represented by her daughter Lisa Wilson); Syver and Mary Labate Rogstad; and John Risse. The road is visible throughout its entire length. It was originally

surveyed and laid out by the Calais Selectboard in 1865 as a 2-rod road. It was subsequently resurveyed and accepted by the Selectboard in 1878. All of the documentation appears to be in good order.

Grist Mill II also runs south for a distance of 0.07 miles (370 feet +/-) from Moscow Woods Road toward the Kingsbury Branch. It begins approximately 100 yards west of **Grist Mill I. Grist Mill II** lies entirely within the property of Katherine Bowen, who was represented by her son and daughter-in-law Gene and Peg Bowen and by her daughter and son-in-law Pat and Cy Lamberton. The road was surveyed and laid out as a 3-rod road in 1895. The documentation appears to be in good order. It is not clear whether the original road is visible. A path not more than five feet in width in places is clearly visible and appears to run in the general vicinity of the road. However, the Committee was advised that this path was bulldozed by Gene Bowen to provide access to a garden.

Because of their proximity, the Committee decided to consider **Grist Mill I** and **Grist Mill II** together. However, the Committee was not able to determine whether the ends of the two roads actually touched to form a loop with Moscow Woods Road.

The May 7 site visit was attended by fifteen Calais residents and landowners, including the owners or representatives of the four properties involved. The Committee also took the opportunity to visit the adjacent Dwinell property where the ancient road known as the Symonds Road is located. No decision has been reached on the Symonds Road.

The Committee first deliberated its finding on **Grist Mill I** and **Grist Mill II** on June 20, 2011. Several landowners were present. At the conclusion of the discussion, the Committee reached some preliminary conclusions, but decided to delay a decision because not all landowners could be present. The preliminary conclusions were included in the minutes of the June 20 meeting, and forward to all landowners. The Committee encouraged the landowners to discuss the matter among themselves and to let the Committee know if they were able to reach any agreement or joint recommendation.

The Committee met again on August 15, 2011, and decided to further delay its decision to give the landowners more time. No formal agreement had been reached by the time of the September 26 meeting, although there seemed to be a sufficient consensus about the decision that the Committee decided to move to a vote at that time.

Using its Procedures and Criteria for Evaluating Calais' Ancient Roads, the Committee made the following findings:

Grist Mill I – Public Values

- The falls and old mill site represent a significant part of East Calais village's history and culture. The public historical, educational and scenic benefit of access to the falls and old mills site is also significant. Although the falls and mill sites are on private land, they are very visible from the **Grist Mill I** road.

- The Town Plan calls for development in the villages, but the narrowness of the **Grist Mill I** road (2 rods) and of the land between the Wilson house and the river makes development of this area very limited.
- The Town Plan places protection of the Kingsbury Branch as a high priority.
- In the winter, snowmobilies use the road with the permission of the affected landowners to reach the East Calais store for gas and food.
- According to one adjacent landowner, large numbers of people are unlikely to use **Grist Mill I** because it has no outlet, so significant impacts from public use are also unlikely.

Grist Mill I – Private Values

- The old mill site and riverside are privately owned. Even if the road is retained, the public has no right of access to these sites without the landowner's permission.
- Lisa Wilson, representing her mother Helen Wilson, originally requested that the Town discontinue the road. Lisa subsequently told the Committee that she did not object to the Town retaining the road in "Trail" status, but requested that the width of the road be narrowed and that only pedestrian access be allowed, unless all of the adjacent landowners agreed otherwise.
- Adjacent landowners Syver and Mary Labate Rogstad did not object to continued public access.
- Landowner John Risse did not object to continued public access, but wanted to ensure that whether the Town continued or discontinued this ancient road, his right of access to an otherwise landlocked parcel would not be affected. It is the Committee's understanding that even if an ancient road is discontinued, adjacent landowners continue to have a private right-of-way to provide ingress and egress to the properties.

Grist Mill I – Other Considerations

- The existence of this ancient road appears to have been well known by residents of East Calais village, and is used frequently as a footpath.
- A public trail easement could replace the ancient road, but this would require the agreement of all the affected landowners. To date, no such agreement has been reached.

Grist Mill II – Public Values

- Although **Grist Mill II** terminates in the general vicinity of **Grist Mill I**, the Committee could not establish that two roads actually touch.
- Although the river can be seen from the lower end of **Grist Mill II**, the view of the falls and mill site is far superior from **Grist Mill I**.
- **Grist Mill II** is sometimes used instead of **Grist Mill I** as a path for snowmobiles heading to the East Calais store, although the distance on Moscow Woods Road is longer.
- The existing pathway is far too narrow to support additional development in the area, and the steep banks on each side of the path preclude widening the road to support vehicular access.

Grist Mill II – Private Values

- **Grist Mill II** crosses only one ownership (Bowen), and the landowner has requested discontinuance.

Conclusions and Recommendations

In weighing for public and private values and other considerations for **Grist Mill I and II**, the Committee arrived at the following conclusions and recommendations:

- The falls and old mill site represent a special part of Calais' history. Therefore, public pedestrian access should be preserved for historical, educational and scenic interest. At least one member of the Committee felt that scenic values alone are not a sufficient reason to retain an ancient road, but that the outstanding historical and educational values were sufficient in this case.
- This objective is achieved by retaining a public right-of-way on **Grist Mill I** only. **Grist Mill II** adds little, if any, public benefit and should be discontinued.
- In retaining **Grist Mill I** as a public road, the Selectboard should place it in "trail" status, and limited access to public pedestrian use only, unless the Selectboard and all adjacent landowners agree otherwise.
- The Selectboard may wish to consider narrowing the road to one rod.
- If any problems arise concerning public use of the trail, the Town should work with the affected landowners to resolve the problems, including placing a gate at the entrance of **Grist Mill I** to restrict any vehicular access except by the landowners having a key.
- If all adjacent landowners agree, the Selectboard could consider replacing the ancient road with a dedicated trail easement.
- In making these recommendations, the Committee does not intend to affect any existing rights of way for vehicular access to reach adjacent properties. This intent should be noted in the Selectboard's decision to continue **Grist Mill I**, should the Selectboard agree with the Committee's recommendations.

Based on these findings and conclusions, the Committee recommends that the Calais Selectboard place **Grist Mill I** on the Town highway map as a "Trail" limited to pedestrian access. It further recommends that the Calais Selectboard discontinue **Grist Mill II.**

Appendix #3 – Decision on Dodge Road (approved February 2, 2012)

This memorandum explains the decision reached by the Committee on February 2, 2012, to recommend that the Town discontinue the ancient road known as **Dodge Road** in the northern part of Calais. For the only time in its consideration of 42 ancient roads, the Committee was split on its recommendation by a 4-3 vote. The memorandum will explain the viewpoints on both sides of the issue.

Summary of the Committee's Process and Findings

Committee member John Meyer reviewed the documentation of this road in the CART (Calais Ancient Roads Team) file, and plotted the survey information into his GPS unit. On January 9, 2012, he walked the entire length of the road with Joe Bayne III and Joe Bayne IV, the owners of some of the lands which the road traverses. On January 14, Committee members Reed Cherington, Charlotte Hanna Bassage and Darby Bradley, along with landowner Karen Lane, also walked the road to the end.

Dodge Road is a 2-rod wide pent road, which runs from Dugar Brook Road northward to an old cellar hole a few hundred yards south of the Calais-Woodbury town line. It is 0.7 miles in length and was laid out in 1888 as a driveway and access to the dwelling owned by Howard Dodge. Although the ground was snow-covered, all parties agree that except for the first 200 feet where the road leaves Dugar Brook Road, Dodge Road is "clearly observable" and therefore was not discontinued by the Town's vote for "mass discontinuance". The road climbs steeply up a ravine along a brook, and then levels out toward the top as it approaches the cellar hole. The land is entirely forested. A large swamp is located on the west side of the upper section of the road. The road itself ends at the cellar hole, although a trail used by snowmobilers, cross-country skiers and hikers continues on into Woodbury. The landowners' principal use of the road is for access in logging operations.

Three, and possibly four, landowners border Dodge Road. John Meyer noted that the Town tax maps don't accurately correspond with the current boundaries. According to the Baynes, as a result of boundary agreements between Col. Joseph Bayne and his neighbors, parts of Dodge Road form the boundary between several ownerships. The lower section of the road lies entirely within the ownership of Joe Bayne III and Joe Bayne IV. At about 0.25 miles in, the road becomes the boundary between the Bayne land and lands to the west owned by Hannah Smith. At about 0.45 miles, the road becomes the boundary between Smith and lands now owned by Judy Cutler and Ilene Wildman. Finally, the road crosses into a 6.0 acre parcel where the cellar hole is located. The Baynes believe that they own the 6.0 acre parcel. Based upon a deed description, Chester Briggs and Karen Lane believe they may be the owners of the 6.0 acre parcel, and that the Baynes own a landlocked 7.0-acre parcel lying immediately to the east. The Committee did not attempt to decide who are the actual owners, and the two parties agreed to work together to try to get the issue sorted out. It would be important to have the ownership question settled by the time the Selectboard takes action on the Committee's recommendation.

Turning to the landowners' preferences on whether Dodge Road should be discontinued, the Baynes have both requested that the road be discontinued with the stipulation that any landowner who borders the road will retain legal access to their land via the road. Judy Cutler was represented at the hearing by her father Bob Cutler, who said his daughter wanted to ensure that her legal access is maintained. Reed Cherington reported that in an earlier conversation, Judy had expressed the wish that the road be discontinued. As for Hannah Smith, Reed Cherington had written to Mrs. Smith at her Georgia address asking about her wishes. Although he had not received a reply by the time of the Committee's February 2 meeting, Mrs. Smith subsequently contacted Reed to say that she favored having the Town discontinue the road.

Finally, Chester Briggs and Karen Lane said that they had mixed feelings about discontinuance. They said that they had no objection to discontinuance, if it turns out that the Baynes are the owners of the 6.0-acre lot with the cellar hole. On the other hand, if they are the owners, they might prefer to have the road remain in public ownership in some form, so that it may continue to be used for recreational purposes.

The Committee's Recommendation. The Majority View: Four members of the Committee (Reed Cherington, Gail Graham, John Meyer and Eric Sorenson) voted to recommend discontinuance of Dodge Road with the stipulation that lands border the road should retain full legal rights to ingress and egress. In explaining their decision, they noted that although the road passes through a lovely section of woods, it dead-ends in the middle of the cellar hole parcel and does not connect to any other road, town or legal trail system. It also does not lead to or near any publicly-owned resource or point of interest. Parts of the road are wet and are heavily water-barred. Erosion problems could develop, if the road is used extensively. The majority members also placed great weight on the wishes of the landowners who asked for discontinuance.

One of their additional concerns is that if the Town retains Dodge Road as a public road or trail, the Town would not have a corresponding obligation to maintain the road and keep out motor vehicles which could cause severe damage to the road. There have been a number of examples both in Calais (eg, Leonard Road and Woodbury Mountain Road) and in surrounding towns, where mud trucks and other vehicles have caused such severe erosion to the road bed that the road can no longer be traversed for normal uses without extensive and expensive repairs. John and Gail pointed out that user groups have been watching the ancient roads evaluation process closely throughout the state. Once an ancient road goes on the official town highway map or if a town takes no action to discontinue an ancient road, the word will eventually get out on the internet and the road could become a magnet for both benign and destructive users.

The Committee members voting with the majority felt strongly that it would be unfair to impose such a burden on landowners if the Town is not prepared to intercede to protect the road against destructive users. They also believe that once the threat of the existence of a public road has been removed, landowners may be more receptive to a discussion about allowing traditional public recreational access, where that access will not endanger the condition of the road. For these reasons, the majority felt that discontinuance is the most appropriate course.

The Minority View: Committee members Charlotte Hanna Bassage, Warner Shedd and Darby Bradley voted against the recommendation for discontinuance, and felt that the Town should retain some form of public ownership. Not all public roads that are unmaintained have been damaged (eg, Fifers Ride, part of which is an unmaintained Class 4 road). Through the installation of gates and limitations on use (eg, pedestrian use or snowmobiling in the winter), the potential for damage can be reduced. They also noted that if Chester Briggs and Karen Lane own the 6.0-acre lot with the cellar hole, they are receptive to keeping the road open to public recreational use in some form.

The minority also referred to the Procedures and Criteria for Evaluating Calais' Ancient Roads, which the Committee adopted in June 2011 and which have guided the manner in which private

and public interests have been weighed in reaching a recommendation. They noted that the Dodge Road does not lie near any houses, and its use by the public would not significantly interfere with landowners' privacy or the use of their property for agriculture or forestry. Dodge Road was one of the longest ancient roads (0.7 miles) that the Committee had evaluated. Unlike many of the roads which are contained within a single ownership and end in the middle of the tract, Dodge Road touches three and possibly four ownerships, which offer the possibility that the road could connect to a local or regional trail system in the future. Two of the criteria stated in the Procedures and Criteria[1] used to evaluate public values, interests and concerns in public roads state:

- The road provides access to a... public point of interest that has historic, recreational, educational or scenic value.
- The road has potential for being part of a local or regional network of public trails.

The minority believes that Dodge Road meets these two criteria for public value. Although they acknowledged that the majority's concern about the potential for destructive use was legitimate, they felt that the Town should explore ways to address these concerns before it gives up an important public asset.

Summary. In conclusion, the Committee voted 4-3 to recommend that the Selectboard begin the formal process of discontinuance of the **Dodge Road**, subject to the stipulation that legal access for ingress and egress be maintained for all lands currently bordering this ancient road.

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[1] See Procedures and Criteria for Evaluating Calais' Ancient Roads, adopted by the Committee on June 20, 2011.