

CERTIFICATE OF HIGHWAY MILEAGE

YEAR ENDING FEBRUARY 10, 2005

Fill out form, make and file copy with the Town Clerk, and mail ORIGINAL, before February 20, 2005 to: VT Agency of Transportation, Program Development Division, Drawer 33, Montpelier, VT 05633.

We, the Selectmen or Aldermen or Trustees of WEATHERSFIELD in 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.

Table with 6 columns: Town Highways, Previous Mileage, Added Mileage, Subtracted Mileage, Total, Scenic Highways. Rows include Class 1, Class 1 Lane, Class 2, Class 3, State Highway, Class 4, and Total. Handwritten values are present in the Total column for Class 4 (4.43) and the final Total (100.166).

* Class 1 Lane Mileage and Class 4 is NOT included in total. Total by S. Moulton 3/31/05

PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE.

- 1. NEW HIGHWAYS: Please attach Selectmen's "Certificate of Completion and Opening". Re: Report of Commissioners dated April 20, 1976, portion of TH-79 is Class 4, not discontinued (S. Moulton 3/31/05)
2. DISCONTINUED: Please attach SIGNED copy of proceedings (minutes of meeting).
3. RECLASSIFIED/REMEASURED: Please attach SIGNED copy of proceedings (minutes of meeting).
4. SCENIC HIGHWAYS: Please attach a copy of order designating/discontinuing Scenic Highways.

IF THERE ARE NO CHANGES IN MILEAGE: Check box and sign below. []

PART III - SIGNATURES - PLEASE SIGN.

Selectmen/ Aldermen/ Trustees Signatures:

Handwritten signatures: J. Pitts Cole, John H. Housie, Patricia W. Daniels

Clerk Signature: Flo. Ann Dango Date Filed: 2/4/05

Please sign ORIGINAL and return it for Transportation signature.

AGENCY OF TRANSPORTATION APPROVAL:

Signed copy will be returned to T/C/V Clerk.

APPROVED:

Handwritten signature: Michael Dubois, Representative, Agency of Transportation

DATE: May 20, 2005

CHARTERED BY
NEW HAMPSHIRE
AUGUST 20, 1761

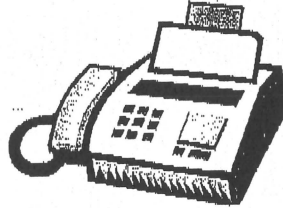
Town of Weathersfield

CHARTERED BY
NEW YORK
APRIL 8, 1772

POST OFFICE BOX 550
ASCUTNEY, VERMONT 05030-0550

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Facsimile
Transmission

NUMBER OF PAGES [EXCLUDING COVER SHEET]: 4

DATE: 10 January 2005

TO: V Trans

ATTENTION: Sara Moulton

FACSIMILE No.: (802) 828-2334

FROM: Larry J Melew

SUBJECT: Class IV section of

Town Highway 79 [South Mountain

Road to Upper Falls Road]

STATE OF VERMONT
WINDSOR COUNTY, SS.

RECEIVED JUN 24 2004

RAYMOND PHELAN, JEAN A. MacKIMMIE
and JAMES P. MacKIMMIE

WINDSOR SUPERIOR COURT
DOCKET NO. 55-72-WnC

vs.

TOWN OF WEATHERSFIELD

REPORT OF COMMISSIONERS

This action originated by a petition brought by Raymond Phelan, Jean A. MacKimmie and James P. MacKimmie as free holders of the Town of Weathersfield, Vermont, for discontinuance of a certain public highway pursuant to 19 VSA 461. The petition was dated March 24, 1972, but no commission was appointed until September 8, 1975.

At that time, Natt L. Divoll, Jr., of Rockingham, Richard Whitcomb of Springfield, and Olin Gay of Springfield, were appointed. Mr. Gay was unable to serve, and on March 15, 1976, Harold Bush of Springfield was appointed as a third commissioner.

The Petitioner Raymond Phelan was represented by Julia Waggener of the office of Frank G. Mahady in White River Junction. The Petitioners Jean A. MacKimmie and James P. MacKimmie were not represented by counsel. The Town of Weathersfield was represented by Douglas A. Richards, Esq. of Springfield.

The Commissioners met on April 7, 1976 at the office of the Town Clerk in Weathersfield, and qualified and took a view of the highways mentioned in the petition. Mr. Richards was present, but Miss Waggener was ill and waived the requirement of her presence.

It was brought to the attention of the Commissioners that at the time of the appointment of Richard Whitcomb he was a resident of the Town of Springfield, but since said appointment he had become a resident of the Town of Weathersfield.

*Inform
Copies
Mailed to
Counsel
& Plaintiff*

FILED

APR 29 1976

WINDSOR COUNTY CLERK

pointment of a new commissioner was waived by Mr. Richards, attorney for the Town of Weathersfield, and Mr. Richards indicated that Miss Waggener had advised him that she would also waive it, and that he should so advise the Commission, since she was unable to be present.

The parties and their counsel agreed that the Commission would hear the matter on its merits on April 19, 1976 at 9:30 a.m. at the office of the Town Clerk in Weathersfield, Vermont.

On Wednesday, April 14, 1976, the chairman of the Commission was advised by Miss Waggener that she had been discharged by Mr. Phelan as his counsel, and that Mr. Phelan requested a continuance to secure other counsel. At her request, Miss Waggener was allowed by the Court to withdraw as counsel, upon the condition that she notify Mr. Phelan that the hearing would proceed as scheduled.

The matter came on for hearing on its merits before the Commission as scheduled on April 19, 1976 at 9:30 a.m. at the office of the Town Clerk in Weathersfield, Vermont. Mr. Bush not having appeared at the time scheduled, an attempt was made to reach him by telephone, and it was learned that he had entered the hospital the previous evening and could not attend. Therefore the hearing was held with two commissioners present.

Raymond Phelan was not present and was not represented by counsel. Petitioners Jean A. MacKimmie and James P. MacKimmie were present but were not represented by counsel. The Town of Weathersfield was represented by Douglas A. Richards, Esq.

Based upon the evidence and exhibits, the following report is made to the Court by the Commissioners:

1. The public highway sought to be discontinued is described in the petition as being in the Town of Weathersfield, Vermont, and "being that portion of town highway 28 and 79 commencing at a point in the southerly edge of said highway which point is also located in the easterly boundary of property of Weathersfield Farms Inc., and extending in a northerly direction perpendicular to the center line of the said highways, to the northerly edge of said highways, and including all of said high-

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JANE W. BROWN
WINDSOR COUNTY CLERK

ways to the west of the line just described, to the westerly boundary line of property owned by the Petitioners MacKimmie".

2. The Petitioner Raymond Phelan is president and major stockholder of Weathersfield Farms, Inc., which is the owner of a portion of the premises through which town highway 28 runs.

3. There was no evidence that Raymond Phelan is a free holder in the Town of Weathersfield, since the property that he was concerned with is under corporate ownership, and the Commission is of the opinion that the case was not properly in Court. However, since the question was not raised by the pleadings, and all the preliminary work of getting the matter heard on its merits had been accomplished, this defect, if any, was treated as waived.

4. Town Highways 28 and 79 are two short sections of town road running northerly from Route 131, and parts of both highways 28 and 79 are class 3 highways and class 4 highways. Town highway 28, which is the more easterly highway, is a class 3 highway from its junction with Route 131 to the residence of Petitioner Phelan. Town highway 79 is a class 3 highway from its junction with Route 131 to a point approximately between an old house and barn owned by Petitioners MacKimmie. The right of way constituting the connection between the end of the class 3 section of highway 79 and the end of the class 3 section of highway 28 is a class 4 highway, and as such is not maintained by the Town and has not been maintained for many years.

5. As proposed by the petition, that portion of town highway 28 ^{between} where it enters the Weathersfield Farms Inc. property and the house owned by said corporation, presently a class 3 highway, was to be discontinued, as was also the entire class 4 section of town highway 28 where it passed through the Weathersfield Farm Inc. premises.

6. Petitioner Raymond Phelan was not present and presented no evidence. Although the petition was signed by the three petitioners, the individual Phelan was interested only in highway 28, as only it affected his property, and the individuals MacKimmie were interested only in highway 79.

7. There being no evidence presented on the Phelan portion, the petition in respect to highway 28 should be ~~discontinued~~ ^{discontinued} ~~class~~ ^{class}

8. Before the evidence was presented, the petitioners

MacKimmie did not realize that the petition that they had signed included a section of town highway 79 that was a class 3 highway leading to their residence, and as such was presently being maintained by the Town. As the evidence was presented, they realized, and so expressed to the Commission, that if the petition in respect to town highway 79 as it was written were granted, it would deprive them of a class 3 highway which they were presently using and which was presently being maintained by the Town, as an access to their homestead premises located some 100 yards beyond the end of the class 3 portion of highway 79.

9. It was the intent of the Petitioners MacKimmie that only that portion of town highway 79 where it crossed their premises, as a class 4 highway, should be discontinued, and therefore they did not want the highway as described in the petition discontinued.

10. The Commission further finds that the area encompassed by the two highways is a development area of small homes on two or three acres, and that while it might not be developed during the ownership of the petitioners Phelan and MacKimmie, that after ownership passed to other people, it is not only possible but very probable that at some time in the future this area would be developed.

11. The Town of Weathersfield now owns the right of way and if it were discontinued, at some future time the Town could be faced with a request to lay out a highway in that area, which would involve purchase of rights of way relinquished by this action, which would be a burden upon the Town.

12. The continuance of the sections of both highways that are now classified class 4 is not creating any hardship for the petitioners or for the Town of Weathersfield.

13. The Commission can find no public convenience or good requiring the discontinuance of that portion of town highway 79 described in the petition.

Dated this 20th day of April, 1976.

FILED

APR 23 1976

CLERK

Richard Whitcomb
Richard Whitcomb

Natt C. Divoll, Jr.
Natt C. Divoll, Jr.

Moulton, Sara

From: Moulton, Sara
Sent: Monday, January 10, 2005 2:14 PM
To: 'townmgr@weathersfield.org'
Subject: TH-79 Correction

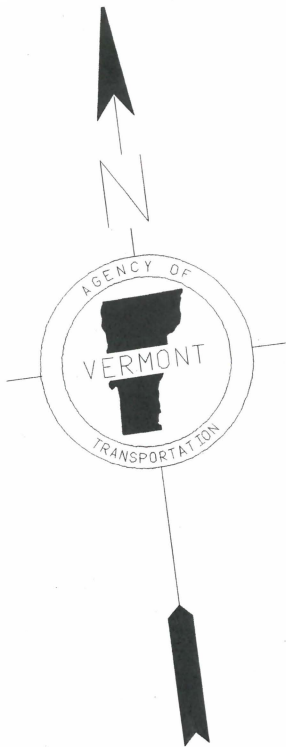
I've reviewed the fax you sent and would like you to make the following changes to the Mileage Certificate you received this month.

Under Part I – Class 4 – Added Mileage: write in the figure 0.37

Under Part II – 1. New Highways: write in something which references the Report of Commissioners dated 20 April 1976 and faxed to the VAOT Mapping Unit 10 January 2005. (I received the faxed report and will include it in our files. You don't need to resend it.) If there is any other documentation, go ahead and include it.

Please let me know if you have any questions.

*Sara Moulton
Mapping & GIS Specialist
Mapping Unit
Program Development Services
Agency of Transportation
Tel: 802-828-2109*



T

Cascade Falls Rd

T WINDSOR

WINDSOR

