

Grand Traverse County Road Commission
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TO: Margaret Underwood, Chair - Physical Resources Committee

FROM: Mary N. Gillis, Manager

DATE: September 3, 2008

**SUBJECT: MONTHLY REPORT FOR THE SEPTEMBER 10, 2008 MEETING
AT 7:30 A.M. IN THE COMMITTEE ROOM, GOVERNMENTAL CENTER
400 BOARDMAN AVENUE, TRAVERSE CITY**

cc: County Planning Commission Board of County Road Commissioners
Grand Traverse County Townships

Commissioner Maitland and Manager Gillis are available to answer questions and provide current information on the following items:

- 1. Signalization of the Silver Lake/Franke Road Intersection** – This project is now complete and the signal is in operation.
- 2. Sale of MTF Bonds** –The bond sale was held on Tuesday, September 2, 2008. There were 13 bidders (very high number) and we received a great bid from Hutchinson, Shockey, Erley & Co. for a true interest rate of 2.517773% over the five year life of the bond.
- 3. Current Projects with the County** – Projects completed since the last report are East Long Lake Road, North Long Lake Road, Three Mile Road and Hammond Road.
- 4. Update on Hammond-Keystone Project** – Right-of-way acquisition and appraisals are underway. Additional soil borings are required in several areas due to concerns with rail stability.
- 5. Update on Cedar Run Road** – One of the property owners has exercised his option to purchase a third appraisal for his property. Once that document has been submitted to the Road Commission, we will be in a position to negotiate with him in order to obtain control over the needed right-of-way.
- 6. Update on Three Mile Road Project** –Final design plans are expected to be received from the consultant in the next week. There is no funding identified for building this future project at this time.

7. **Kay Ray Road** – The Board received input from property owners who are opposed to a proposed abandonment of a portion of Kay Ray Road. Legal counsel advice is being sought on this issue.
8. **MDOT Maintenance Contract** – MDOT was seeking a six-month extension to their five-year contract which expires on September 30, 2008. CRAM has asked its membership to not approve the six-month extension as a three-month extension was originally proposed. Our Board will review this extension request prior to the contract's expiration date. It is anticipated that MDOT will be sending a one year extension to Road Commissions in the next few weeks.
9. **Sale/Distribution of 2008 County Road Map** – The purchase price of the 2008 map is \$1 each to cover the preparation and publication cost. Staff is preparing a list of agencies which will be eligible to receive maps at no cost.
10. **Maintenance Items** – The second application of brine has been placed in all townships except Grant who wanted only one. Until an equipment issue arose, our crack sealing operations had been proceeding very well.

11. ORV's on County Roads -

The following is CRAM's informational input on the subject law:

As you know, HB 4323, sponsored by Rep. Sheltroun (D-Ogemaw), was signed into law (P.A. Act 240 of 2008) and took effect July 17, 2008. This new law authorizes the county board of commissions (board), townships (trustees) and municipalities to approve ordinances allowing ORV's on public roads and streets within their jurisdiction. What does this mean?

- Sec. 81131 (2) and (3) specifically states: ". . . an eligible county (or township) may adopt an ordinance authorizing the operation of ORVs on the maintained portion of one or more roads located within the county (or township)." And Sec. 81131 (6) states: ". . . the far right of the maintained portion . . ." Because there is no definition of maintained portion in the legislation, case law defines the "maintained portion as the improved portion" and does not include shoulders or anything outside the shoulders. Shoulders are for emergency purposes.

- All ORV ordinances (county and township) approved prior to July 17, 2008 allowing ORVs access to county roads are no longer valid. The earliest a new county ordinance can be adopted (if proper notification has been sent out) is August 31, 2008 or 45 days from the effective date.

- Sec. 81131 (3), allows a township to consider approving an ORV ordinance one year after the effective date or after July 17, 2009, if the board refuses to take-up the issue or the county ordinance is not approved.

- Sec. 81131 (2) and (3), requires a county board to give notice, not less than 45 days (townships - 28 days), to the county road commission (CRC) and the Department of Natural Resources (DNR - if state forest land exists in their county) of their intent to discuss and/or approve an ORV ordinance.

CRAM recommended to the Michigan Association of Counties (MAC) that their members also give notice to; all townships, since they have the authority to reject opening roads in their jurisdiction to ORVs; the County Sheriff and the local State Police Post, so they can provide input regarding the enforcement and any proceeding court action; the local Department of Environmental Quality (DEQ) office, to provide input regarding environmentally sensitive areas and the U.S. National Forest agency, if federal forest land exists. If these groups are not notified, the CRC may want to share the public notice with them.

- Sec. 81131 (4), allows CRCs to close up to 30% of their road system for ORV use to protect the environment or if the operation poses a particular and demonstrable threat to public safety.

In the best interest of a CRC, the CRC may want to work with your local DEQ office to identify environmentally sensitive areas and identify those safety areas of concern. All areas of concern should be highlighted (even if it's more than 30%) on a map and presented to the board or trustees before a final decision is made on the local ordinance. For future purposes, your CRC representative may want to preface the map delivery by saying and/or writing "In no way does the CRC consider it safe for ORV's to share the highlighted or non-highlighted improved portion of the road in _____ county with passenger or commercial vehicles. That decision is being made solely by the county board of commissioners and not the county road commission." Or something to that effect.

- The legislation is silent regarding the initial fabrication and installation of ORV signs.

Attached are a sample ordinance and ORV law FAQ sheet provided by MAC. CRAM recommends the following change to the sample ordinance. The definition of maintained portion should be added to Section 1.

Sec. 1 l) "maintained portion" means the improved portion of the road and does not include the shoulder, slopes, ditch or anywhere right of the ditch for ORV use.

It is important that the road commission and the above-mentioned state and federal agencies have a presence at these ORV ordinance hearings to remind the county board of commissioners and the public of the intent of this legislation.

To provide ORV users legal access to state and local ORV trails.

The new law does not mandate counties or townships to open their entire local road system to ORVs. Even the ORV manufacturers' claim, ORVs are not intended for hard surface use. That's why they are limited to 25 mph in this law. If they could travel safely at higher speeds with the flow of traffic, the Michigan Vehicle Code would have been amended.

The board/trustees need to ask themselves, is there a trail in our county? How much of the local road system should be opened to allow access to the trails? What is a reasonable distance for an ORV to travel to get to a trail without jeopardizing the safety of themselves and the motoring public? A reasonable option that has not been widely discussed is allowing a property owner or business within one or two miles paralleling a trail access to the road(s), unless there is an environmental or safety issue that would prohibit access. Contrary to what some believe, this law is not an all or nothing option.

12. The MiDeal bids for bulk salt delivery have been received and represent an 18% increase from last years cost. We expect salt to cost over \$600,000 this year which is nearing 10% of our total MTF revenues. The level of service that we currently provide cannot be maintained with these types of cost increases.