

**Decision and Order of the East Montpelier Selectboard
With Regard to the
Discontinuance of Town Highway #9 – Barstow Driveway**

On February 15, 2014, the Selectboard held a site inspection at the class 4 Town Highway #9 – the Barstow driveway located at 980 Sodom Pond Road. A public hearing was held on February 17, 2014 at the East Montpelier Town Office Building. Both a second site inspection and a second public hearing were held July 21, 2014. The purpose the site visits and the hearings was to take testimony from adjoining landowners and to hear from interested citizens in order to aid the Selectboard in determining whether the public good, necessity, and convenience of the inhabitants of the Town of East Montpelier would be served by discontinuing Town Highway #9.

The class 4 TH #9 is 0.2 miles with a presumed three-rod right-of-way, running northeast from the intersection with Sodom Pond Road to its terminus at the Barstow residence. The road under consideration for discontinuance is described on the “Vermont General Highway Map – Town of East Montpelier,” prepared by the Vermont Agency of Transportation, last updated in 2012.

Notice of the site visits and public hearings was provided in accordance with state law.

Minutes of the hearings as well as audio recordings of the proceedings are available in the Town Office.

After the hearings and considering the various aspects of this circumstance, the Selectboard makes the following findings of fact:

1. TH #9 is a class 4 road that serves as the driveway for an old farm on Sodom Pond Road, currently owned by Richard & Linda Elizabeth Barstow. The roadbed of TH #9 is entirely on the Barstow property (Parcel #04-072.000). The road right-of-way may be partially on the neighboring property owned by C. Bruce & Malinda Johnson (Parcel #04-073.000).
2. The road is not regularly maintained by the Town. Occasionally the Town will do storm cleanup, drainage work, or provide gravel for the road. Also, at the Road Foreman’s discretion, the town may sand the road to alleviate dangerous ice conditions.
3. The Town has no plans to use the road for any purpose. The road is not used for any regular purpose beyond the normal, private residential use by the Barstow family. The road terminates at the farmstead and does not provide direct access to any other property, severely limiting its value as a possible legal trail. The road currently serves no public purpose and has never been anything other than a driveway to a farm.
4. Sodom Pond Road is a fully-maintained class 3 public highway. There will be no reduction in the provision of fire protection and emergency services to East Montpelier residents or the Barstow property in particular.

5. Discontinuance of TH #9 has no property tax implications for the residents of the road.
6. The commissioner of the Vermont Department of Forests, Parks & Recreation was properly notified of discontinuance proceedings. No response was received from the commissioner.

Based on these findings, the East Montpelier Selectboard hereby orders that the class 4 TH #9 be discontinued as a public highway of the Town of East Montpelier. It is the intent of the Selectboard that ownership of the right-of-way be returned to the lot(s) to which it originally belonged.

The Selectboard further finds that there are no persons entitled to damages because said road, although an existing class 4 Town highway with a presumed three rod right-of-way, is located entirely on the Barstow property and serves solely as the Barstow driveway.

The decision and order of the Selectboard for the **Discontinuance of Town Highway #9** is ratified and dated at East Montpelier, Vermont, this **21st day of July, 2014**.

By: East Montpelier Selectboard

Seth Gardner, Chairperson

Casey Northrup

Carl Etnier

Steve Sparrow

Kim Swasey