

Route 100 - Right-of-Way (ROW) Acquisition Process

August 14, 2017

Purpose

Inform the Council of status of the project, schedule, and proposed right-of-way acquisition process, and answer any questions.

Project Status

Stantec has currently completed about 2/3rds of the final design. The current drawing set consists of 177 plan sheets.

Right-of-Way Process

A key part of the project is right-of-way acquisition. There are 94 locations in the project area where either a temporary construction easement or property needs to be obtained from property owners. In most cases this involves very little land and has minimal impact. As Route 100 is a State highway, MaineDOT has agreed to take responsibility for any right-of-way acquisition along Gray Road (approximately 63 properties with impact). The Town will take responsibility for any right-of-way impacts on Leighton Road, Mountain Road, and Falmouth Road (approximately 31 properties with impact).

MaineDOT has a formal, mandatory process to deal with the ROW aspect of the project as it occurs on most of its projects. The unusual aspect of this project is coordinating efforts with the Town, so all property owners go through a similar process, hear the same story, and are entitled to same compensation depending on the extent of property impact.

A recent coordination meeting was held between MaineDOT, Town and Stantec. This provided clarity as to the schedule for next 12 months. Unfortunately, it means that the soonest the project will not go out to bid in January 2018, but rather in July 2018. Schedule details are below.

Schedule

Proposed Schedule (This is an ideal schedule and delays may be encountered):

1. ROW Mapping Complete – July 21, 2017 – Complete
2. ROW Plans Final and Title Examinations Complete – Mid-September 2017
3. Property Appraisals – Mid-September 2017 to end of January 2018
4. Appraisal Reviews – February 1, 2018 to mid-March 2018
5. Negotiations – mid-March 2018 to May 1, 2018
6. Condemnation – May 1, 2018 through early June 2018
7. ROW Certification – mid-June 2018
8. Project Advertise – Late June / Early July 2018

Proposed Town of Falmouth ROW steps and approach

1. There are two approaches to obtaining ROW interests. One is through negotiation. The other is through eminent domain. MaineDOT uses eminent domain as provided for in Maine law as it provides a defined set of steps and schedule. Staff recommends to also use eminent domain, for consistency sake and as negotiation provides too much schedule uncertainty and may further jeopardize the schedule for the project.
2. Property owners are compensated for any takings of their property. For those properties where there will be minimal impacts, MaineDOT uses minimum payments, i.e. \$250 for an easement and \$500 for a property taking. Staff recommends adopting the same compensation to streamline the process. (On strictly Town projects, the Town often

substitutes cash payments for small in-kind improvements, such as landscaping. This sometimes speeds up the process and leaves both parties satisfied.)

3. Before any appraisals are made, MaineDOT and the Town will send a letter of intent to affected property owners outlining the need to acquire property interests and will describe the process for that as well as rights of property owners.
4. Staff recommends hiring the same appraiser as MaineDOT to further streamline the process. There are few qualified and available appraisers for this work and this step will expedite the process. The appraiser determines the level of impact on a property owner and uses a pre-determined formula to arrive at a proposed compensation amount.
5. All appraisals are reviewed by a second party before they are finalized. MaineDOT will do that in-house and the Town will hire a separate reviewer for that work.
6. The next step is to involve a negotiator who will meet in person, where possible, with each property owner to discuss the findings and review the proposed compensation. Staff recommends hiring the same negotiator as MaineDOT so the same review is made and the project is expedited.
7. The Town Council will be asked to formally approve all proposed Town settlements. The Council will be informed as to which settlements were accepted and which ones not. Once that all settlements have been approved, MaineDOT and the Town intend to formally file condemnation of all properties at the same time as that starts a formal appeal time clock.
8. In the case where property owners disagree with the proposed compensation, MaineDOT has an established committee and review process to address those cases. For properties involving the Town that are still unsettled 60 days after condemnation filing, owners have the right to appeal with Superior Court. A judge and the Town's legal counsel would be involved to resolve those cases.
9. The project can only go out to bid once there is an official certification that the ROW process is complete and that all property interests have been acquired allowing the project to be constructed as designed.