

ROAD COMMISSIONER

Roles and Responsibilities

The road commissioner plays an important but limited role in many Vermont towns as the individual charged by the selectboard to maintain the town's highways. The road commissioner has no independent authority to act, and can only carry out the orders of the selectboard. This is true whether the road commissioner is elected by the voters or is appointed by the selectboard.

History. The office of the road commissioner has had a long and interesting history. Beginning in 1799, the General Assembly gave the selectboard in each town the responsibility "to lay out and alter highways." These first highway laws provided for a kind of draft of all male inhabitants from the ages of 16 to 60 (with the exception of ministers) to work on the roads of their own towns under the direction of a town surveyor (the precursor to the modern road commissioner), for a four-day period each year. The individuals on the road crews were credited with 18 shillings a day, to be paid at the end of the four-day period. To keep absenteeism to a minimum, each worker was fined 30 shillings for each lost work day. In the event that the fine amounted to more than the work credit, the town was empowered to collect the difference by selling off enough personal property of the "draft dodger" to pay the debt! This same work crew could also be summoned by the surveyor to repair highways damaged during a natural disaster.

In 1827, the General Assembly appointed commissioners from each county to supervise the roads. The practice was abolished in 1830, but reinstated many years later, with the county commissioners having much less power than their predecessors. Today, county commissioners may still be appointed annually by county judges to serve as an appeal body from decisions of the selectboard in case the board fails to act on complaints to repair a highway or bridge in the county, or in decisions with respect to the laying out, reclassifying and discontinuing of roads. 19 V.S.A. §§ 970, 971.

By 1850, changes in highway law enabled selectboards to present candidates for the post of town surveyor of the several local highway districts established in the town. The town could elect either surveyors or road commissioners; a choice that remained with the electorate until 1892, when the post of surveyor was abolished and the office of road commissioner permanently substituted. In that year, responding to shrill criticism, the General Assembly put the roads under the supervision of a state highway commission to oversee local roads, and provided for the election of a local road commissioner in each town with specific statutory duties and the financial wherewithal from local taxes to do the job. In fact, the Vermont Supreme Court recognized the independent authority of the road commissioner and held that the selectboard could not interfere with the road commissioner or dictate how he did his job (they were all men back then). *Couture v. Selectmen of Berkshire*, 121 Vt. 359 (1960).

In 1973, the General Assembly removed the independent authority of the road commissioner and gave the selectboard responsibility for maintaining local roads and for

supervising and guiding the work of the road commissioner. In addition, shortly after this change in law, the General Assembly abolished the position of road commissioner as an elective office and gave to the selectboard the power of appointment of a road commissioner, with all its attendant powers, duties and responsibilities, including the power of removal for just cause after a legally-warned hearing. However, this change was not popular, so in 1976 the General Assembly returned to voters the option of electing a road commissioner if they so chose. **Nevertheless, the selectboard continues to oversee the work of the road commissioner, whether he or she is appointed by the board or elected by the people.**

Election/Appointment. Road commissioners can either be elected or appointed to office. They serve for a one-year term. 17 V.S.A. § 2646(16).

According to statute, one or two road commissioners are to be appointed by the selectboard unless the town has voted to have the commissioner elected. 17 V.S.A. §§ 2646, 2651. If voters wish to have the road commissioner elected, they must petition the selectboard at least 40 days prior to the annual town meeting to insert an article in the warning on the question of whether or not the town shall elect a road commissioner or commissioners. 17 V.S.A. § 2652. If the voters choose not to elect a road commissioner, then the selectpersons will continue to appoint someone to that office. If the town votes to return to the election process to choose a road commissioner, the election of a specific individual to fill that position will be held at the following annual meeting. If the town has voted to elect its road commissioner, in order to go back to appointing the commissioner there must be a vote at an annual meeting to reauthorize the selectboard to appoint the commissioner.

- Note that an elected commissioner must be a legally qualified voter of the town. However, there is no requirement that an appointed road commissioner be a resident of the town. 17 V.S.A. § 2646, 2651.
- If it chooses, the selectboard may appoint one or two members of the board to serve as road commissioner. 17 V.S.A. § 2651.

Town Managers. In communities that have adopted the town manager form of government, the town manager acts as the local road commissioner so no other road commissioner may be elected or appointed. 24 V.S.A. § 1236(5).

Removal. An appointed road commissioner may be removed by the selectboard for “just cause” and after “due notice” and a hearing. This means that if the selectboard has good reason, it may remove the road commissioner, but only after informing him or her of the reasons and providing a hearing before the board. 17 V.S.A. § 2651.

Duties. The road commissioner must work closely with the selectboard to maintain the town highways, and to keep the bridges, culverts and roads in good and sufficient repair. 19 V.S.A. § 303. The road commissioner generally supervises the road crew and makes suggestions to the selectboard with respect to personnel matters. In addition, in many

towns the road commissioner regularly reports to the selectboard on the status of the town roads and requests specific expenditures, suggests when roads should be reclassified, and sees that roads are properly graded, surfaced, graveled, and maintained for winter use.