

Minutes

Joint Road Committee/ATV-UTV Task Force Meeting

December 4, 2019 – 5:30pm.

Task Force Members In Attendance: Jan Way – Task Force Vice Chairperson, Mary Olson, Brett Boehnlein, Larry Barikmo, Victor Cejka, Jon Wroblewski, Bill Glodowski, Jim Kalpinski, Dan Dieterich, John Koshnick, Pete Kaminski – Hull Road Foreman, Barb Brilowski – Deputy Clerk.

1. **Call to order.** Meeting called to order by John Holdridge at 5:30 p.m. on Wed. Dec. 4, 2019
2. **Minutes approval.** Minutes of the 11/13/19 ATV meeting were approved.
3. **Comments.**

JH mentioned Madelin Petz resigned and suggested Dan Dieterich be appointed to the Task Force. Dan was willing to do that. The Board will officially approve that at an upcoming Board meeting.

Calendar was reviewed for future meeting dates.

Comments about asking the public about their input. A lot of public discussion at the last meeting.

4. **Questions for DNR Bryan Lockman.** He is the warden that covers the northern half of Portage County. The DNR is not for or against ATV's, he is just here to answer questions.

Once the Town develops an ordinance, the Town would like to run it by the DNR to make sure it is legally correct. State law regulates certain issues that pertain to ATV use. The DNR cannot take action on an ordinance violation but if it is speeding, they could enforce that. The Town wants to be clear on who would be enforcing different aspects of a Town ordinance.

ATVs need to be on a hard surface, if the ordinance requires it. However, if the ordinance was written to allow ATVs to ride on the shoulder, that would then be acceptable. But it is up to the Town to determine that.

Questions about if they need to slow down to 10 mph near homes. Bryan said that is a State law. It tends to be enforced when there are complaints issued. Does not pertain to snowmobiles on designated trails.

Bryan said the **Town can make it more restrictive than State law, but not less restrictive.**

Locally, Bryan does not get many complaints, but what he gets tend to be about speeding. So far, locally, there have not been complaints about barhopping, but then locally, they are not allowed in some townships.

Arlene Busa shared statistics on fatalities for 2019; Twenty-one (21) up to October on ATVs. Twelve (12) were alcohol related.

How many were on public roads vs. public trails?

Thirteen (13) on routes and roads.

If an ordinance is passed in the Town of Hull, ATV's will be on a hard surface.

Arlene Busa: When people ride on trails, they get injured. When they ride on roads, they get killed. If an ATV is riding on the road with cars, trucks, blind curves and close to homes, the chance of fatalities is so great. They have no protection on ATV's.

Holdridge: Are there any trails in Portage County at all for ATV's?

Not aware of any.

Gene Goode: A "ROUTE" is an authorized paved road. A "TRAIL" is off road trail. If you are looking at fatalities, you should look at a ROUTE. There is a legal distinction. For a sport that is open twelve months a year, the fatalities are generally lower than snowmobiles in the state of Wisconsin, which is only open 3-4 months/year.

Phil Janowski: Arlene, where are the accidents you spoke of occurring?

Arlene B. – In 2019, there was one accident in Portage County.

Enforcement – We need to know who to call if they see someone trespassing or doing something wrong. Is it correct to say we call the DNR first, law enforcement next?

Lockman: I can enforce state statute but not any changes the Town would make to increase the restrictions.

Holdridge: That is a distinction we need to have in the ordinance.

Lockman: I could stop someone for a violation (not a state violation) and could refer the violation to the constable if there is one.

Holdridge: There are seventeen (17) towns in Portage County, how many have constables?

Lockman: None that I am aware of. The Portage County Sheriff's Department has the same stipulations. Unless Portage County would enact a policy to enforce an ordinance, they would fall under the same umbrella as the DNR.

If the Town adopts an ordinance to allow ATV's, will there be more of a DNR presence in the Town of Hull?

Lockman: We would not go out of our way for enforcement. If there are state violations, I would address this.

How much time are you on the road in June in the Town of Hull?

Lockman: Maybe 2 hours per week.

So enforcement will be through Portage County Sheriff or somewhere else. Our citizens need to know whom they can call.

Is it mandatory for people to have insurance on their ATV's?

Lockman: No.

Is there a way to incorporate an insurance requirement in an ordinance?

Lockman: That is the unique part of an ordinance. You can put all the restrictions you want in it, but from the DNR standpoint, we will not be able to enforce it because it is not part of the state law.

Barikmo: Who patrols the Town of Hull for speeding, etc?

Holdridge: Portage County Sheriff's Department.

Barikmo: How often do they drive through the Town of Hull?

Holdridge: That is difficult to say as they are all over the county. They are understaffed for what they have to do.

Randy Kruzicki: The question came up about distance from a residence when operating an ATV. There is an exception in 23.33 if you are on an ATV road route that is not 10mph. It is whatever the posted speed limit is. A person traveling on an ATV road route in the Town of Hull will not happen unless that person just wants to travel at 10mph.

Way: What about in a subdivision?

They can travel the speed limit posted.

Way: What if there are pedestrians?

They have to travel no faster than 10mph.

5. Question for Gene Goode, Member of Northeast & Central WI ATV/UTV Association

- President of the Northeast/Central WI ATV/UTV Association.
- Represent Waupaca, Winnebago, and Waushara, Portage and Shawano Counties and the greater Fox Valley area.
- Committed to bringing recreational commerce opportunities to this area and Northeast/Central Wisconsin.
- Not a lawyer and many laws in the State of Wisconsin are up for interpretation.
- Currently whether you do anything or not, people can operate ATV's/UTV's on the road. If you are a farmer, you can use it for farming under Implements of Husbandry (IOH). You can operate on any county or state highway for that purpose in Wisconsin. You cannot operate on an Interstate Highway (ex: I-39). Anywhere where a tractor can go, you can drive an ATV/UTV if operating under IOH.

If you obtain a Class A or B disabled hunting permit from the DNR, you can operate from your residence to your hunting land using any road to accomplish that. From October to April of each year, you can travel a highway posted at 45mph or less as long as you have the lighting requirement, (rotating amber light) you can use it for plowing snow.

If you adopt an ordinance allowing snowplowing, you can do it on a 45mph or greater road (state road).

The State of Wisconsin gives you the authority as a municipality to open any or all of your roads as routes. The difference between a route and a **trail is – a trail is dirt, out in the woods; route – legal distinction is on the paved portion.** There are different rules for trails. Example, the 10mph speed limit. That does not pertain to an ATV route, it is trails. If you are on frozen waters, there are certain regulations that apply there as well.

You as a Town, have the authority on any state or county road within your Town that has a speed limit of 35mph or less to open that as a route. That was changed in April, 2018. They took away the authority from the county and the state DOT on those roadways and left it up to you. Same with a bridge that is 1,000 feet or less on any state or county roadway, you have a right to adopt an ordinance. However, the county would also have to adopt an ordinance if it is a county or state road.

What we recommend is approaching it as “all town roads” as routes. That makes signing easier. You just need to post the entrances to your community ***All Town of Hull Roads are ATV Routes unless Posted.*** If you do not want a certain route then shut down that town road. It is up to the Town. Our association recommends adopting State Law with a maximum speed limit on any road. However, the state does not cover speed limits on our route. If you create a speed limit that would fall under a local town ordinance. You would have to have an agreement with your sheriff for enforcement and most towns have their town attorney prosecute the citations. If you adopt just 23.33, which covers all the state rules and regulations, then any law enforcement officer in the state can enforce it. When you start becoming more restrictive than the state law, it is a local ordinance, then you have to have the agreement with your sheriff to enforce it. 23.33(11) says you have to be in strict conformity with state laws. Where the State of Wisconsin spoke on a topic – example: who can and cannot operate? You cannot require a driver’s license to operate an ATV. That is not in strict compliance with the state law. Be aware of it. Some communities include it in the ordinance. It is not legal. Generally you can be more restrictive as a community but not when it says you cannot be and that is 23.33(11). Therefore, we do have lawyers that agree with that assessment so you have to be careful on some of these things. As far as insurance, one town attorney said she believes it is up to the State of Wisconsin to regulate who has to have insurance. As far as Hours of Operation, that is a local ordinance. You can include that in your ordinance. Again, you will need an agreement with your sheriff to enforce and prosecute those citations. What we found in Waupaca County, the County Board gave all county roads local authority. If “this” municipality wants to use a county road, go ahead. They still have some control over it to some degree. Town of Farmington in Waupaca County, our association asks are you experiencing any problems? Are there concerns in the community? To date, we have not had any issues for those that have opened up everything. We are for the safe operations of ATV’s and UTV’s. Our association is trying to accomplish

with memberships from different counties, to attend the quarterly highway traffic safety meetings. If there are issues, we can be proactive and address them. We do not want to see fatalities and crashes.

P. Janowski: The Town of Farmington has about 4,000 people, slightly smaller than Hull.

Goode: But we have 10,000 people that visit that area in the summer. Everything around the Waupaca Chain of Lakes is open. 90% of all Waupaca County communities open up all town roads as routes, also county roads. In Waupaca County, the sheriff has started an ATV patrol that is funded by the DNR to enforce any of the issues they may have. We go back and ask are you having problems in your community. The answer has been No. Most people who own these machines are responsible individuals.

J. Kalpinski: Do you have any statistics on ATV/UTV usage on hard surface roads versus trails as far as safety because of the equipment used? At a higher rate of speed on a hard surface road with the type of tires you would buy from the showroom, I would guess they would not be as safe as a car tire.

Goode: When they put the disclosures on the machines, they are doing that so if someone is hurt or killed, just like on my truck it says with excessive speeds, I could tip, they do that because of the trial lawyers. If they do not put that out there and something does happen, you will have trial lawyers sue the industry.

J. Kalpinski: My concern is of the high residential area our town is in, I am concerned about walker, runners, bicyclists, etc. that may not be aware of the higher speed the ATV's can travel on the road.

Goode: That is why our association recommends a maximum 35mph speed limit.

J. Kalpinski: Some would say any speed over 35mph would have a greater chance of losing control.

M. Johnson: Do you then recommend to the towns that they also post the same type of disclaimer that ATV/UTV companies are putting out there about not using these on hard surfaces?

Goode: I believe one can safely operate on paved surfaces. Anyone who takes the safety course knows that. The warning labels are for litigation in my opinion. You can put anything you want on the signs.

M. Johnson: I feel there is a good reason they are putting the disclaimer in their owner manuals.

Goode: They do this because if something happens they are going to be sued.

M. Johnson: So what should the Town think? We are opening up these roads that are not recommended for these vehicles.

Goode: I believe you can safely operate an ATV/UTV on a paved surface.

M. Johnson: You disagree with the manufacturer.

Goode: They do that to protect themselves from litigation.

Arlene Busa: I do not know anything about ATV's but I do not think they are safe to operate on roads. But I did find this on wisconsinwatch.org. It states off road vehicles can reach highway speeds but with their low-pressure tires and high center gravity they are prone to tip over or go out of control on roads.

Goode: That is why we recommend 35mph speed limit.

M. Olson: Matt was talking about the liability to our town. One of the things we have discussed is we fall under the safety umbrella, as long as the signs and roads are maintained we do not have liability.

Goode: A town attorney said you would not have any more liability then you would have for a car or bicycle on the road.

If there is an issue with paying for signs, our association through fundraisers or by membership, we will pay for them. Bu, we will not install them.

Holdridge: Pete, do you know how much the signs will cost?

P. Kaminski: 24" x 24" – which would be at the starting point of a route, would be \$26.27. A regular small route sign would be \$17.95. A small post is \$6.75 and the larger post is \$13.90.

B. Boehnlein: If we designate certain routes through the town, every one of them has to be signed from town end to town end. Or we go to a different system which would be to open up all the roads and spend several hundred dollars on \$26.00 signs and say this Town is open and then the Board would decide if we are going to narrow down the ordinance, where the enforcement is going to come from and who we are going to get to help us. That would be the Board's choice.

6. Safety in the Town of Hull confronting road usage that must be considered.

Way: We have talked about safety at each of the meetings. If anyone has any specific safety issues they have thought of, they have the opportunity to bring it up.

None at this time.

7. Using maps, identification of appropriate routes and potentially banned areas if we choose to adapt usage.

V. Cejka: This is something we need to discuss again as a Task Force.

Holdridge: To be discussed at a future meeting.

8. Ordinance recommendations including speed, hours of use, etc. if we adapt usage.

Holdridge: I think we are a bit premature on an ordinance. I am going to suggest we create a five (5)-member group to include Mary Olson, Victor Cejka, Jan Way, myself and one other member. We get together and iron out the whole question and come up with a proposal for this group. Then we will talk timeline, which is why we have the calendar.

V. Cejka: *I would like to make a motion that we (Task Force) all be involved in creating the ordinance. We have been working on this since we started. We are stronger as a group together.*

Holdridge: I feel we need to condense the information, and then bring back to this group.

M. Olson: My feeling is after reviewing many many ordinances, that this Task Force is stronger as a full group versus a small group.

M. Johnson: I feel we have the cart before the horse. I feel we are getting the pros and cons from our group and the citizens. I have not heard anything compelling yet as to why we are delving into this. This is obviously a can of worms for the town. If we are in agreement that we need to move forward on this, then there is work to be done but if the town is not interested or there is not a compelling reason to move forward at this time, that should be the recommendation to the Town Board and we should not be outlining these things unless we are sure they want to move forward.

Why should we be doing this now? Economic development is not a compelling argument to me with the small number of businesses. It is a fun family activity, but are we looking at a recreational trail? Maybe that belongs in the county department in developing a recreational trail.

V. Cejka: We are not doing a trail. This is specifically for riding on town roads that are routes. We need to as a Task Force create an ordinance that is safe for the entire town.

B. Boehnlein: The recommendation several meetings ago was to open up the roads in the town. That is what should have gone to the Town Board so we know what their decision is - Yes, we are going to do it or No, we are not.

We are going to do all this work but we do not know if the Town Board is going to say Yes.

Holdridge: When was the vote taken to open up the roads?

First meeting. It was unanimous.

J. Kalpinski: *I want to make a motion that we take a full committee vote on this whether we should "CONSIDER" ATV/UTV use on Town of Hull roads, send it to the Board and if they agree, it comes back to us with their recommendation that we then go into detail creating an ordinance. Then the ordinance would go back to the Board for their approval.*

M. Olson: Second.

Vote: 8 – yes, 2 – No

Holdridge: This will be on the next Board Meeting agenda, Dec. 9th. – 5:30pm.

9. Signage cost responsibility.

M. Olson: We can address this once we have the Boards decision.

Holdridge: Pete has given us an idea of the cost.

10. Where do we go from here?

Holdridge: The next step is going to the Board for their decision whether to proceed or not.

Way: Do we need to set up a potential next meeting date?

Holdridge: January 8, 2020 at 5:30pm.

M. Olson: If the Board approves to proceed, we can e-mail back and forth and should have the ordinance pretty well mapped out. By the end of the meeting on the 8th, we should have a draft. We want to get this done and not be sitting on it for another three months.

Holdridge: There will be a document provided to us on the 8th and you will be one of the authors?

M. Olson: Yes.

Holdridge: What about a public hearing?

J. Wroblewski: This would be informational informing citizens what we are suggesting. Good idea.

Holdridge: We would have the draft of an ordinance. Can we have the public hearing on the 22nd? Then the ordinance will go to the Board on February 10th.

M. Olson: *I make a motion regarding the dates discussed (Jan. 8, Jan. 22 & Feb. 10) will be potential future meetings.*

L. Barikmo: Second

Holdridge: Jan. 8 – Task Force meets at 5:30pm
Jan. 22 – Task Force has a public hearing on what they are proposing.
Feb. 10 - Goes to the Board.

Motion Carried.

Way: We should take the suggestion of a referendum to the Board.

J. Kalpinski: Motion to let the Board decide whether to put this on the spring ballot as a referendum.

M. Olson: Second

Motion Carried.

D. Wilz: I am not sure I would suggest a referendum but consider sending out a post card to each residence about a public informational meeting where you will talk about the process you went through, what you have come up with. That is how I would do the public input. They need to know, even though it indicated in the newsletter we were going to have an ATV meeting, they do not know how this has developed.

John Busa: Once we have the public hearing, how are we going to know what the total opinion of everyone is?

B. Brilowski: That is why I suggested we put a couple of questions on the post card to get a feel for their opinion.

11. Next meeting date.

Potentially – January 8, 2020 – 5:30pm

12. Adjournment.

M. Olson: Motion to adjourn.

J. Wroblewski: Second

Motion Carried.

Respectfully submitted:

Barbara Brilowski/Deputy Clerk