

Bennett, John F (DOT)

From: Hartman, James M (DOT)
Sent: Tuesday, July 31, 2012 8:21 AM
To: Bennett, John F (DOT)
Subject: FW: Crow Creek Road

fyi

Mike Hartman
Right of Way Chief
907-269-0711

From: Schmitt, Steve G. [<mailto:SchmittSG@ci.anchorage.ak.us>]
Sent: Monday, July 30, 2012 3:54 PM
To: Hartman, James M (DOT)
Subject: RE: Crow Creek Road

Mike –

Thanks for the phone call this morning – I think there's an elegant solution to this issue but I sure can't find it....

Based on the research and our discussions regarding this issue it appears that there more than one way to view the question of who owns/has maintenance responsibility of this section of road.

The patent and subsequent ownership of the land which encompasses the mineral survey is not in question. The platted Certificate of Ownership & Dedication on the subdivision plat identifies the road and dedicates it to the public; the Municipal Attorney working on this issue feels confident that MOA does not 'own' this; I may not have the exact citations but the basis for this claim can be made based upon the following Alaska State Statutes:

AS 29.71.020. Dedication of Municipal Property.

Dedication of streets, rights-of-way, easements or other areas for public use may not be construed to require the municipality to maintain, improve, or provide for municipal services in the area dedicated and the dedication does not impose any liability on the municipality for the condition of the area dedicated.

AS 40.15.030. Dedication of Streets, Alleys and Thoroughfares.

When an area is subdivided and a plat of the subdivision is approved, filed, and recorded, all streets, alleys, thoroughfares, parks and other public areas shown on the plat are considered to be dedicated to public use.

The section of road (through the Mineral Survey) was patented and in private ownership and the road was dedicated to the public by the subdivision plat. If it is determined that the SOA has no ownership/maintenance responsibility then ownership/maintenance would fall on the 'public'; in this case the public would appear to be the property owners within the subdivision. If so a Local Road Service Area would need to be established for maintenance of this section of road since MOA funding is not available.

Questions regarding the historical maintenance of this road and the Omnibus Act are sure to be thrown into any discussion regarding who in the future will be responsible for this road. I'm sure this will be a topic of discussion at Friday's meeting – something to look forward to.

From my perspective it appears that this section of road is dedicated to the public. Whether that means maintenance responsibility falls to SOA or MOA is the grey area which must be decided.

Steve

Steven G. Schmitt, PLS, SR/WA
Municipal Surveyor

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From: Hartman, James M (DOT) [<mailto:mike.hartman@alaska.gov>]
Sent: Monday, July 30, 2012 07:50
To: Schmitt, Steve G.
Subject: FW: Crow Creek Road

Mike Hartman
Right of Way Chief
907-269-0711

From: Morton, Kenneth M (DOT)
Sent: Friday, July 27, 2012 11:23 AM
To: Hartman, James M (DOT)
Cc: Hansen, Jerry; Rice, Kasandra K (DOT)
Subject: Crow Creek Road

Mike:

Please share the *Crow Creek Road Ownership* research developed by your section with the Municipal Surveyor and ask him:

- If the City is willing to share their research findings, and
- If there are elements of our research conclusions that they do not agree with.

It is my thought that the political appointees can be given a brief summary of the:

- right-of-way history of Crow Creek Road,
- areas in which we agree, and
- areas in which we do not have consensus.

Hopefully this will help make the meeting briefer.

Ken