Dixie, we are preparing a resolution for the Carter County Fiscal Court which will effectively allow us to create trail easements on about five miles of CSX ROW which is now owned by Carter County. Most of the county-owned ROW is currently being used as county roads, but because of the width of the ROW and the light use of these roads, we believe that the ROW is sufficiently wide enough for us to create trail easements which will conform to Ky. Rails-to-Trails Council standards. Both our Judge Executive and our Fiscal Court Magistrates have stated that they will endorse such a resolution when it is submitted. I have attached a first draft of the resolution to this email.

In drafting the resolution, I have encountered a couple of issues on which I need advice:

When we have discussed trail easement ownership in the past, the guidance that we received was that ultimately, the county would effectively hold sole ownership of the easements. This would seem to be a fairly straight forward contractual arrangement when we are dealing with private property owners. However, in the situation that we are dealing with here, some county agency will in effect be holding a trail easement interest in county-owned property. That doesn’t seem viable to me. Hypothetically, obligations that the county takes on unilaterally, the county can later rescind unilaterally! This would be an intolerable situation from the standpoint of trail permanence.

To your knowledge, has this issue been dealt with in the past? When the KY R2T Council assigns its easement interest to a local entity, is there contract wording to the effect that the local holder of the easement (e.g. the county) cannot unilaterally expunge the easement?

Second question:

Pati Porter has raised the issue of trail maintenance. When trail easements are assigned to local entities (e.g. a county department of parks and recreation) by the Ky. R2T Council, is there contract wording which specifically addresses the county’s maintenance obligations ( brush and trash removal, surface repair, etc.)? Carter County is very rural, has a limited county maintenance budget and has many miles of former railroad ROW that can be feasibly converted to trails. This issue needs to be addressed in some detail. Can you give us any guidance?

Dixie, I have been contacting the owners of substantial lengths of railroad right-of-way here in Carter County. I don’t yet have signed contracts from any of them, but they have all indicated that they are strongly inclined to give us the easements. We have widespread community support for the rails-to-trails concept, and we have expectations that we will have usable trail segments in the not too distant future.

Thanks again for your generous assistance in our trail development efforts.

Best regards,

John W. Grace

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