

# **Watertown Daily Times | Lewis County braces for possible litigation over ATV trail system**

By JAIME COOK [JCOOK@WDT.NET](mailto:JCOOK@WDT.NET)

6-8 minutes

By JAIME COOK

[JCOOK@WDT.NET](mailto:JCOOK@WDT.NET)

PUBLISHED: WEDNESDAY, MAY 16, 2018 AT 12:30 AM

---

LOWVILLE — The statements and actions of county officials since the judgment against the village of Constableville show that they have no intention of accepting a state court's order without a battle.

"The first place I reached out to was the economic development committee to tell them what the options are," Lewis County attorney Joan McNichol said on Tuesday.

She took the committee into executive session to advise its members about "potential" litigation over its all-terrain-vehicle trail system.

Her concern stems from the May 7 decision against the village of Constableville, in which state Supreme Court Judge Peter A. Schwerzmann ordered that its ATV access to public roads violated state law and was annulled.

"We went into executive session to discuss potential litigation that the county could be involved in depending on what steps the village takes, because if they file an appeal, we could join in an amicus capacity," she said.

"As it said in the paper, commented by Mr. Krug, this is the county ATV system and this ruling could have implications on us protecting other parts of our system," county manager Ryan Piche said.

Legislators visited village and town boards to promote the passing of such local laws, so to abandon the portions of public roads that they opened would be a blow.

When Bernadette M. DeSantis, the resident who petitioned the local law, contacted Legislator Larry Dolhoff about his support of the Constableville law, his letter said, "I am sorry that you feel this road opening somehow negatively impacts you personally."

“ATV enthusiasts and the seasonal homes which they have built, in our case in the town of West Turin, have had a major positive impact on the real property tax base,” he said.

The idea of county officials protecting economic interests despite the law and despite resident opinion is mirrored in Constableville where the disputed ATV trail signs still stand in place.

Mrs. DeSantis said that she called Mayor Alan Klossner a week after the decision to see if the signs could be removed from the road in front of her house.

According to Mrs. DeSantis, Mrs. Klossner told the mayor who was calling, and the conversation ended there.

“When she told him my name, I heard him in the background say ‘I have nothing to say to her,’ and then I was hung up on,” Mrs. DeSantis said.

Mrs. DeSantis and Mr. Krug pointed to the mayor’s conflict of interest as a possible source of this tension. He owns the Blue Silos Bed and Breakfast, which the village’s now-void local law referenced as a reason the public road access was necessary.

“I have no idea when they will come down,” Mayor Klossner said Tuesday. “It will be the ATV club that does it.”

Mrs. DeSantis next reached out to the county for the signs to be taken down.

Jacqueline Mahoney, director of Lewis County Recreation, Forestry and Parks, spoke about it at the economic development committee meeting Tuesday morning.

“There is no issue until the village decides what they are doing,” she said. “They are village property, and it falls to the village to remove them. They are not county property.”

The lines between village, town, and county obligations blur as the Constableville ruling sets a precedent to implicate other swaths of the trail for which the county is ultimately liable.

Yet Mr. Piche said he thinks the county worked diligently to ensure the legality of its ATV public road segments. He said that it lacked just in filing the documentation.

“I think that we have done more to justify that it is ‘otherwise impossible’ than we can prove sometimes in court,” he said. “We have talked to the landowners. We have done all this stuff. We haven’t done as good of a job marking it down, making sure that we are clear and verbalizing it.”

Minutes from nearby municipal meetings point out holes in that good faith argument.

Minutes from the town of Leyden are some of the few available online. They show that county legislator Larry Dolhoff, Mrs. Mahoney and Mike Gille, the president of the Highmarket ATV

Club, approached the town of Leyden last year asking them to open more of its town roads to the trail system.

When town residents attended the public hearing to voice dissent, board members still voted in line with the visiting ATV club interests.

“Jackie Kent, who resides on the Zeigler Road, opposes opening the roads to ATVs. She is concerned with the noise, increased traffic, and the speed they will be traveling,” the public hearing minutes state.

“Sharon Karlen who resides on the Zeigler Road is also concerned about the increased traffic, noise, and speed that the ATVs will be traveling. She walks with her grandchildren and feels that opening the roads will become dangerous,” the public minutes state.

“Bruce Myers opposes the Town opening the roads,” the record states.

“Wasył Hrim opposes the Town opening the roads. He feels that the ATV’s will ruin the road and cost the town more money to repair them. He’s also concerned with speeding,” the record states.

However, the minutes report that a collection of non-residents countered those resident concerns.

“John Furner is not a resident of Leyden but does belong to 3 different ATV clubs in the area and feels that opening the roads will be a benefit to the town. He feels that if there is an issue with noise and speed that the residents should contact the authorities,” the record states.

“Mike Gille – President of Highmarket ATV Club believes that it would be an economic improvement for the area and that opening the roads would be a positive impact for the town,” the record states.

“Larry Dolhof Legislator feels that it would be a positive economic impact on the Town,” the record states.

“Jackie Mahoney, Trail Coordinator, advised the residents that there is funding for pay for Police Patrol, the Lewis County ATV Trail System would provide all the signage for the town if they set a speed limit, if there is any damage done to the road Lewis County ATV Trail System will assist the town in repairs, and the Lewis County ATV Trail System does provide insurance umbrellas on the trail,” the record states.

“Jerry King Legislator believes that we all need to work together to improve our local economy,” the record states.

And so the motion to enact the law in the town of Leyden was carried in a 5-0 vote.

The village of Constableville has 30 days from when it was served with Judge Schwerzmann’s decision to file a notice of appeal.