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Some of these situations were initially addressed with the formation of homeowners associations which were to maintain the community infrastructure. In almost all cases these homeowners associations were undercapitalized and rarely, if ever, fully funded replacement reserves for the aging infrastructure. As time went on, the roads began to deteriorate and, in recent years, have reached a crisis point where resident's health and safety are becoming threatened.

Orphan roads, a problem in search of a solution

by Brooks McCabe
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Orphan roads have been a problem in West Virginia for years given the somewhat unique structure of West Virginia's funding of highways which was first put in place during the years of the Great Depression. In an effort to alleviate the financial burdens on the counties and the need to improve the state's highway infrastructure, the Legislature, in the 1930's, put in place a statewide highway system and assumed the burden of the county road system. Thereafter, public funding of roads and bridges remained in the domain of the state with the only additional support coming from the municipalities which retained responsibility for their infrastructure. Fast forward to the 21st Century and the West Virginia Division of Highways is responsible for 34,691 miles of state owned highways verses 3,244 miles of municipally owned roads. There are now no county owned or funded public roads. Given the relatively small population in the state along with the rural and mountainous terrain, West Virginia is a leader in the nation in miles of highway per capita. Given its size, not only does West Virginia have more miles to maintain, the cost of that maintenance exceeds many other states that are not as challenged by terrain and sparse population. With West Virginia being a relatively poor state, it is not surprising that the state's highway infrastructure has funding and maintenance challenges.

The governor's "Roads to Prosperity" project has been a game changer. It has provided a funding source for much needed new construction and with the associated employment it is jump starting the state's economic turnaround. With this program comes approximately 200 million dollars for improvements to secondary roads in the state system. Unfortunately, there is not enough money, even with the billions of dollars in new highway bonds, to address all of the current needs. Add to this stark reality the orphan road problem, which is very real and in search of a solution. However, it is in these times of distress that creative solutions can rise to the forefront.

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Many of these orphan roads are next to municipalities. The roads and the contiguous property owners could be annexed into the municipality. This would require the property owner's approval and the concurrence by the town or city. The problem with annexation in the past is that the property owners did not want to pay the higher property taxes within the incorporated area and the municipalities did not want to become responsible for roads in need of immediate repair. Legislators have been discussing the possibility of the state or counties coming to the aid of the residents adversely affected by orphan roads. This could be opening Pandora's box in that this problem self-created, and those affected are asking for a bail-out without significantly participating in the cost of remediation. Even if repaired, it still remains an orphan road, just one in better condition. What if the state and/or county had a program where they would fund the repair of the orphan road and bring it up to code under the condition that the residents and the municipality both agree to the annexation? This solution repairs the road while transferring future maintenance responsibility to the municipality which will have the tax revenue to support the effort. This is an opportunity where municipalities could find a way to grow in spite of a stagnant economy. Everyone benefits. If the residents on the orphan road do not want to become part of the municipality, they must find another way to fix their roads. The dollars available for that orphan road could be spent on other orphan roads where the residents are so inclined to move within the corporate boundaries.

Another possible solution is to actually form a new municipality to assume the future cost of providing public services. One example is in Cross Lanes, a fast-growing community in western Kanawha County. It has traditionally prided itself on being independent and outside of any taxing area. It relies on the state police to provide essentially a municipal police service and the Division of Highways to maintain its road system. However, in recent years, its orphan road problem is beginning to reach crisis proportion. Perhaps the state and county would consider coming to Cross Lanes aid and repair the orphan roads if the community would incorporate and agree to assume future maintenance.

A third possible solution is for the state or county to agree to repair a dangerous orphan road and put a no interest lien on the property owned by those benefiting from the investment. The lien could be apportioned by the prorated share based on appraised property values as found in the county tax records. When the property is sold, the lien would be repaid to the state or county and put into a fund to address other orphan roads. Again, if the property owners are not willing to agree to a no interest loan to fix their problem, other property owners needing help to repair their roads can easily be found.

All of these suggestions leverage public dollars in a manner where the property owners so affected are part of the solution.

ABOUT THE AUTHOR

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