

Meeting Minutes are in Draft Form until Approved by the Board

KIRBY SELECTBOARD'S MEETING

NOVEMBER 1, 2016

The Selectboard met at the Kirby Town Hall on November 1, 2016. The meeting was called to order by Chairperson Steven Baker at 7:00 p.m. He then stated that the meeting was being recorded.

Those present were: Selectpersons Rebecca Hill-Larsen, David Chase and Steven Baker
Assistant Town Clerk Marla Waring
Road Foreman John Ohina
Kirby Residents William & Julie Chatlos, Gregory & Nicole Desrochers, James & Ellen Tunny, Pierre & Sherry Blouin, Donna LaCoss, Cayle Erik Waring, Glen Packer, Carol Chase & Brian Keith
Secretary Wanda Grant

There were no additions or deletions to the agenda.

Glen Packer asked the Board for the reason why the signs were posted on the Lynhill Road and Apple Tree Lane stating that Class 4 roads would not be maintained in the winter without giving notice in advance to the residents on those roads.

Selectperson Rebecca Hill-Larsen stated the following:

- Decision to put up signs was the Selectboard's decision. Signs put up on all Class 4 roads. Decision was made at the Board's September meeting and she understood the reason for putting the signs up was that people would be aware that roads might not be maintained before heading out on these roads in the winter (Victory Road is one that is not maintained in the winter) and that people would be aware that road is a Class 4. She is not sure that this was the universal understanding for putting the signs up so has caused some confusion and reason for this meeting.
- Lynhill Road and part of Apple Tree Lane have been plowed and sanded for many years. In 2013 contractors hired by the Town were not aware of this and stopped plowing the sanding these roads. Board met with residents living on road at that time and decided to continue sanding and plowing these roads to the usual turnaround spots (located on the Class 4 section off the Class 3 section) for the safety of the road crew. It was noted that the area where Class 3 ended was not a safe place to turn around. Signs were purchased "off the rack" and what sign says is different than policy set by Board in December 2013.
- More factors than just signs – fair treatment of all Class 4 roads, condition of these roads, and water on these roads are also a concern.
- She met on Friday, October 28th with Agency of Transportation District Advisor Shauna Clifford and Road Foreman John Ohina to review Lynhill Road. Rebecca then handed out and discussed the following notes concerning this meeting :

"Lynhill Road Visit Friday October 28, 2016

Present: Shauna Clifford, AOT district 7, John O'Hina, Kirby Road Forman, Rebecca Hill-Larsen, Kirby Select board

Shauna Clifford was asked to come look at Lynhill Road for two reasons, water drainage on the road and to assess the condition of the class four roads.

For water drainage we looked at culverts starting at the start of the class IV road, noted by the sign. Shauna stated that culverts every 200-250 feet is customary. There are four culverts across the road from the class IV start to the top of the hill, including one above the Blouin's driveway that cuts away from their property. Shauna noted that the water bars on the Blouin property looked like they had been in place for a long time, but not been maintained until recently. She sent Rebecca an e-mail from the Assistant Attorney General about another case that is summarized as follows. The AAG talked about state law that an uphill property has a right to discharge water down hill and the downhill property has a duty to accept. When the town in the case of town highways diverts water to manmade conveyances, the diversion must occur within the town right of way. The right of way on a town road is three rods across, making the right of way 24'9" from the mid line of the road. There is a doctrine of "easement by prescription" where it's possible for the town to have acquired drainage easements by open, notorious and continuous use which has lasted for 15 or more years.

Changing the flow of water drainage on a town highway is against the law. Going forward, any instances will be documented for possible prosecution.

Water drainage is essential to keeping roads in good condition. This connects to the second reason for Shauna's visit, road classification. Lynhill Road is Class three for .05 miles, then class four for .3 miles. In December of 2013, it came to the attention of the select board that the class IV portion was not being plowed as it had historically been. At the time, the select board decided that turning the truck around at the class III end was not safe and continuing up the class IV road to a turnaround spot was safer for the truck and driver.

There are two concerns about plowing the road. First, the sign placed at the start of the class IV says the road will not be plowed in winter, second, the town is not treating all class IV roads the same.

Shauna reminded us that the minimum towns must do for class IV roads are maintain culverts and bridges. Kirby performs more than the state minimum. The class IV road guidelines for Kirby include grading once a year and winging back snowbanks no more than once a year. The Town also put a line item for Class IV road improvements in the 2016 budget of \$2500.00.

Shauna encourages all the towns she works with to treat all class IV roads in their town the same way. Currently, two roads that start as class III and become class IV are plowed past the class III end because of lack of turnaround points. She made one suggestion to reclassify the class IV roads as class III up to the turnaround points. This would make for fair treatment of all class IV roads in Kirby and the town would receive more state aid for the additional miles of class III road. Class III roads can also apply for more grant money than class IV. Her other suggestion was to stop plowing all class IV roads. Reclassification from class IV to class III requires a hearing to see if the reclassification is in the good of the whole town. It is not a decision the select board can make tonight. The residents of Lynhill and Tunney Mountain Roads can petition for a reclassification. Wanda will help with the details.

Reclassifying a class IV to a class III road is different than bringing up a private road or building a new road. In the case of a class IV, Town of Kirby road standards apply, where private may not be up to Town of Kirby standards. A new road would have to meet Town of Kirby standards to be classified as class III. Shauna reminded us the definition of a class III road is a road open to pleasure vehicles all seasons of the year."

- Rebecca stated that the Town has 7 miles of Class 4 roads. The minimum State requirement for maintaining Class 4 roads is bridges and culverts but Town has adopted own standards as follows:
 “The following guidelines have been established for equal and uniform treatment of Class IV roads within the Town of Kirby. Class IV town roads are those so designated on the Town Highway map for the Town of Kirby.
- 1) The Town will grade Class IV roads annually upon request and at the convenience of the Town.
 - 2) The Town will maintain existing culverts under Class IV Town roads as necessary.
 - 3) The Town will provide minimal road materials for repair to Class IV roads as determined by the Road Foreman, with prior approval from the Selectboard. The Town will establish an annual budget for this material.
 - 4) The Town will not plow nor provide any winter maintenance on Class IV roads except to wing back snow banks. Winging back snow banks will be done upon request, and at the convenience of the Town. Roads must be plowed or otherwise accessible to Town equipment for this service to be provided.
 - 5) The Town will provide sand to fully maintained Class IV roads only when conditions of severe icing have occurred. It is the responsibility of the property owner to provide a turnaround area for the Town Truck and to contact the Town Clerk, Road Commissioner or Road Foreman to initiate this service.”
- Rebecca pointed out that the section concerning establishing an annual budget of materials for Class 4 roads is new and this is the first year the Town has done that. The 2016 budget for Class 4 roads is \$2,500.
 - Shauna stated that all class 4 roads should be treated the same which is not what is happening now because the Town is plowing and sanding Lynhill Road and Apple Tree Lane. Shauna suggested that the portion of these roads that are being plowed and sanded should be reclassified as Class 3. The Town would then be able to get State Aid for these roads (present rate is \$1400 per mile) and would be eligible for grant money (Local Road or Better Roads grants). The Town does not receive State Aid for Class 4 roads. She stated that the Town should be getting the funds for these roads since they are already maintaining them.
 - Rebecca stated that reclassifying these roads cannot be done tonight as there is a legal procedure on how to do this. Residents or land owners must petition the Town to do this and then a hearing needs to be held after the proper notice is given. It was pointed out that the Board could reclassify the road on their own but the Board feels it would be best if the residents did the petition so that the whole Town can hear their concerns. One of the criteria for the Board to consider when reclassifying a road is how this will affect the whole Town.
 - It was noted that Lynhill Road already meets the standard for a Class 3 road as the only standard is that the road be passable by a pleasure car year round. However, it was also noted that there are some issues with the Lynhill Road – such as drainage, culverts and steepness (percentage of grade).
 - Rebecca pointed out that the Town has road and bridges standards but that does not mean that all roads meet that standard at present – just means if any construction is done on roads then would have to be brought up to those standards. Road standards apply to Class 4 roads too.

Selectperson Steven Baker stated that the Town has a plan (or about to) that should help control the water coming down the hill on Lynhill Road. This would included putting in 6 water bars; shoulders 2 feet wide with erosion stones; putting in “v” shaped stone-lined ditches; and little dams to in the shoulder area to help slow down the water. Hopefully this can be done soon. The Town would not do much else to the road for now as do not want to disturb the road too much being so close to winter.

Sherry Blouin stated that John Ohina has done a great job in keeping the roads in the winter. She also stated that years ago they had offered to the Town some of their land in order to straighten out the bad corner on Lynhill Road. The Town might still want to consider this.

Brian Keith stated that he would be willing to offer the Town some of his land for the road if the Town could use it. He is also is willing to put forth some money for construction or maintenance along with helping out physically (cutting trees, digging ditches, etc.) in order to make the road safe for his family and others.

Pierre Blouin stated that the water bars on his property were not as wide in the past but seems to have grown recently.

Rebecca Hill-Larsen stated that Shauna Clifford felt that the water bars were probably wider in the past but because of neglect had filled in and shrunk so now that they have been cleaned out they are wider.

Julie Chatlos asked if this means that the Town is going to plow and sand Lynhill Road.

Rebecca Hill-Larsen stated that the Town will plow and sand Lynhill Road and part of Apple Tree Lane for now but because of the problem of not treating all class 4 roads the same she feels it would be the best if the residents petition the Town to reclassify it to a Class 3.

Julie Chatlos asked if the cost to reclassify the road from a Class 4 to a Class 3 would fall on the residents/landowners of the road.

Rebecca Hill-Larsen pointed out that this is a reclassification not taking over a new road so there might not be any work that needs to be done for now. However, she pointed out again that the Town has road and bridges standards and even if no work is done now, in the future if construction is done on the roads they would then have to meet those standards.

Glen Packer stated the reasons he feels the Town should continue to plow and sand the portion to the turnaround spot on Apple Tree Lane – costs residents more for plowing if Town does not; would be hard to sell if Town did not maintain this section so might have to lower price; and might be hard to get other landowners on road to help pay for maintenance.

Steven Baker stated that the Town tried to help the residents in the past but as the costs of maintaining roads is getting higher this is a problem. However, there is also another problem, and that is the safety of the road foreman and road equipment. So he

feels it is safer for the Town to continue to plow and sand the road to the turnaround areas as in the past.

William Chatlos suggested that the Town should have standards or guidelines for turnaround areas.

It was noted that it would probably cost a lot to put in new turnaround areas.

Glen Packer asked what would happen if landowner would not allow Town to continue to use turnaround area.

Rebecca Hill-Larsen stated that there must be a provision for the Town to continue using it if it had been used for a long period of time.

Glen Packer stated that the turnaround area on Apple Tree Lane has been used for 30 years.

It was noted that part of Lynhill Road that is being plowed and sanded in order to reach the turnaround area is actually a private road (from Tunny Mountain Road up to the Chatlos – owned by Joseph Ostrout and William Chatlos). William Chatlos stated that he has maintained that section and will continue to do so as to provide a safe turnaround area for the Town truck. He is willing to put this in writing if the Town needs that.

The residents already had a petition for Lynhill Road and presented it to the Board. They will have a petition for the Board for Apple Tree Lane by the Selectboard Meeting to be held on Monday, November 7.

Pierre Blouin asked that it be stated for the record that all this is not his fault concerning Lynhill Road. And that this is made clear to some of his neighbors that this is not his fault as pointed out to him that it was his fault.

Julie Chatlos stated that there had been a lot of talk among neighbors about concerns such as emergency management (fire, ambulance, etc) and homeowners insurance. Among the talk there has been some comments made by different people pointing fingers at certain people. It would be helpful if it was made clear that this was not a result of another dispute.

It was noted that this is not Mr. Blouin's (nor anyone else's) fault. It was stated that it helps to work together.

Rebecca Hill-Larsen summarized that the reclassification procedure will go forward to reclassify Lynhill Road and a portion of Apple Tree Lane from a Class 4 to a Class 3; after reclassification going forward will treat all Class 4 roads the same; after reclassification will move signs to where they need to be; and signs will make it clear to future potential property owners that these are Class 4 roads and what policy is. For now nothing will change as far as plowing Lynhill Road and a portion of Apple Tree Lane.

Steven Baker made the motion to adjourn. Seconded by Rebecca Hill-Larsen. So voted.

The meeting was adjourned at 8:11 pm.

Respectfully submitted,

Wanda L. Grant, Secretary