

Meeting Minutes are in Draft Form until Approved by the Board

KIRBY ROAD RECLASSIFICATION HEARING - APPLETREE LANE & LYNHILL
ROAD DECEMBER 19, 2016

The Selectboard met at the Kirby Town Hall on December 19, 2016. The hearing was called to order by Chairman Steven Baker at 7:00 p.m.

Those present were: Selectpersons Rebecca Hill-Larsen, David Chase and Steven Baker
Kirby Residents Robert Van Vliet, John Morse, Steve Houghton, Susan Lumbra, Peter & Sherry Blouin, David & Nola Forbes, Julie Urnek-Chatlos, William Chatlos, Joseph Ostrout, Bob Whittaker, & Erik Waring
Assistant Town Clerk Marla Waring
Secretary Wanda Grant

Chair Steven Baker explained that the purpose of this hearing was to take testimony on reclassifying a portion of Lynhill Road and Apple Tree Lane from a Class 4 to a Class 3.

Selectperson Rebecca Hill-Larsen stated that sites visits were held on December 18, 2016. Sign-in sheets indicated that David Forbes, Nola Forbes and Rebecca Hill Larsen were present at the Apple Tree Lane site visit and William Chatlos, Joseph Ostrout, Robert Whittaker and Rebecca Hill-Larsen were present at the Lynhill Road site visit.

The hearing was then opened to those present for comments and concerns. Main comments and concerns were:

- Some stated that unfair to treat some Class 4 roads differently than others as is now being done. Some did not realize Town was plowing and sanding Class 4 portions of Lynhill Road and Apple Tree Lane.
- Some felt that landowners should cover all costs associated with bringing these roads up to Class 3 or Town standards.
- There were concerns about added expense to Town to maintain these roads; safety of Road help; and wear and tear on Town truck. Figures for what it costs the Town to plow and sand these roads now where not available but it was noted that the cost is not only plowing and sanding but maintaining road to make it possible to plow and sand. It was also noted that some landowners on Lynhill Road have been helping with some maintenance of road (grading, ditching, etc).
- Big concerns of landowners on these roads were safety and emergency vehicles being able to assess properties if needed. There are 6 homes on Lynhill Road.
- Some landowners on these roads did not know portion of roads were Class 4 when purchased properties. Were told by previous landowners or real estate agents that Town maintained road. Town has maintained roads for around 20 years – felt set precedent. David Forbes stated that Town started maintaining road when Bob Wood was Road Commissioner. He started plowing and sanding these roads to be good to residents. Was not done before that.

- Landowners on Lynhill Road stated that they pay taxes which have increased over last couple of years but services have decreased. If Town discontinues plowing and sanding of roads houses could become camps that would not generate as much in taxes as now.
- Landowners on these roads were under the impression from what was said at last special meeting concerning these roads that Town might be able to get grant money to help improve road and highway state aid on for these roads if reclassified to Class 3. It was noted that Town receives state aid of \$1,400 per mile for Class 3 roads. Bob Whittaker offered to help with grant writing if needed.
- Nola Forbes read the following letter:

19 December 21016

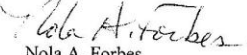
Re: Apple Tree Lane reclassification
Position: against changing the classification

Apple Tree Lane road divides our property. When we purchased the land and built our house there, we were solely responsible for contracting and paying for the work necessary to bring the class IV road up to class III standards. For many years thereafter, during the winter plowing, the Kirby Town truck turned around at the intersection with our driveway, where the upgraded section ended. At some point afterward, the Robert Short family created two year-round home sites (one had been a seasonal camp), the town plowing extended to the present turnaround spot. This has probably been going on for over 25 years. Both of the Short properties were sold to new owners. The current site-lines along Apple Tree Lane are suitable for the limited traffic there. They allow drivers from either direction enough time for either to pull over and allow the other to pass safely.

A plugged culvert at the top of Apple Tree Lane caused great damage during the Memorial Day storm in 2011. Since the problem with the culvert has been remedied, the major water run-off is now properly diverted. Other regular maintenance needs for the class IV section during non-winter months is minimal, and has been part of the Kirby highway expenditures for over 25 years. The amount of state-aid that might be received by the town would hardly reimburse the time for employees to prepare & submit the required paperwork. As in the past, we plan to continue with our assistance in keeping the Apple Tree Lane road open.

The least expensive avenue to address the Apple Tree Lane concern is to add a clause in the road policy that specifies the portion that would continue to be plowed and maintained, as has historically been done. As we are the affected landowners, there would be no direct benefit to us to spend significant personal resources to bring the next section of Apple Tree Lane (approx. 100 yards to the present turn-around) up to class III standards. Those property owners above our property bear no such costs but enjoy the total benefits. The notification sign should be repositioned into the correct spot if it is kept, and reworded if necessary.

We welcome continued involvement and future notifications in this matter.


Nola A. Forbes


David Forbes

183 Chesterfield Hollow Road tel. (802) 748-6594
Lyndonville, VT 05851

- Landowners on these roads asked why Class 4 signs were erected this year. Selectman Steven Baker explained that Class 4 signs were erected this year due to approval of a new Class 4 policy adopted earlier in 2016 and was enacted due to other issues concerning Class 4 roads that surfaced last year. He then read the Class 4 policy:

**TOWN OF KIRBY
CLASS IV ROAD GUIDELINES**

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. Wingback 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.
- Guidelines to take effect January 1, 2016.

- Bob Whittaker asked the Selectboard to add a clause to the Class 4 policy to reflect continued plowing of roads that are part Class 3 and Class 4. This is different than roads that are all Class 4. It was noted that there are 3 roads in Town that are part Class 3 and part Class 4. The Selectboard stated that the other Class 3/Class 4 road is located in South Kirby and the Town stopped plowing the Class 4 portion of that road this year.
- David and Nola Forbes asked who would be responsible for costs to upgrade Class 4 portion to Class 3 standards. They had concerns that they would be solely responsible for upgrading Apple Tree Lane to the turnaround area if the Selectboard votes to reclassify this portion of road. They stated that their land surrounds this portion of the road, however, it does not benefit them to reclassify the road just the people who own property above this section.

The Selectboard stated the following:

- Landowners would be responsible for costs to upgrade Class 4 sections to Class 3 or Town standards. Although the definition of a Class 3 road is that the road is passable by a pleasure car all year the Town does have road and bridge standards that would apply. Town Clerk Wanda Grant also read Title 19, Section 302B of Vermont Statutes as follows:

“The minimum standards for class 3 highways are a highway negotiable under normal conditions all seasons of the year by a standard manufactured pleasure car. This would include but not be limited to sufficient surface and base, adequate drainage, and sufficient width capable to provide winter maintenance, except that based on safety considerations for the traveling public and municipal employees, the selectboard shall, by rule adopted under 24 V.S.A. chapter 59, and after following the process for providing notice and hearing in section 709 of this title, have authority to determine whether class 3 highway, or section of highway, should be plowed and made negotiable during the winter. However, a property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title.”

The Selectboard understands that this will probably be very expensive (estimates discussed at hearing ranged from \$20,000 to \$70,000) but the Town cannot afford to do this with its limited highway budget and an increase in the highway budget would increase taxes. At the present it is difficult for the Town to provide the needed gravel for the Town’s present Class 2 and Class 3 roads.

- Steven Baker noted that when Bob Wood started plowing and sanding these roads around 20 years ago the Town was financially better able to stand the costs. At the present there is little room for added expenses as more of the Town’s tax dollars are going to cover educational costs.
- The Selectboard have to treat all Class 4 roads equitably. Town Clerk Wanda Grant read a section of an email received from the State’s Assistant Attorney General:
“It’s up to the selectboard to decide what, if any, maintenance to provide on a class 4 town highways. I don’t believe the selectboard is required to continue to provide maintenance at past levels. However, the selectboard does have to be careful to treat all class 4s within the town equitably.”
The Board stated that the Town cannot afford to plow and sand all Class 4 roads as improvements would have to be made to some of them in order to do that. Residents on other Class 4 roads can petition Board to reclassify roads to Class 3 but they too would have to cover the costs to bring up to Class 3 or Town standards.
The Board was not sure if the State views a road that is part Class 3 and part Class 4 any different than a road that is all Class 4. There is no noted difference in references or laws.
- It was noted that at their last meeting they voted to continue to plow and sand these roads for the rest of this winter.

The Board decided that they would like the following information before making a decision whether to reclassify portions of Lynhill Road and Apple Tree Lane from a Class 4 to a Class 3:

- An answer to the Forbes concern about paying the full costs for upgrading the Class 4 portion of Apple Tree Lane. They stated that Selectperson Rebecca Hill-Larsen will check with the State on this. However, they stated that even if they vote to reclassify that section of the road it would probably be with the condition that it would not be reclassified until upgraded so the Forbes could just not

upgrade it. If the other property owners on that road wanted it reclassified they could pay for having it upgraded.

- Receive estimates from plow companies to plow and sand these roads. Mr. Chatlos will get the estimates and forward them to the Selectboard.
- Get estimates on what needs to be done to upgrade these roads to Class 3 or Town standards. Selectperson Rebecca Hill-Larsen will look into this.
- Get an estimate on current Town costs to plow and sand these roads.

All information gathered will be forwarded by email or regular mail to those present.

It was noted that the Selectboard have 60 days to make a decision. They will plan on making their decision at their January 2nd or February 6th Selectboard Meeting depending on how soon they can get the above information.

Rebecca Hill-Larsen made the motion to adjourn the meeting. Seconded by David Chase. So voted.

The hearing was adjourned at 9:02 pm.

Respectfully submitted,

Wanda L. Grant, Secretary