

I. CALL TO ORDER at 6:32 pm at the Fremont Public Library, 7 Jackie Bernier Drive in Fremont. All rose for the Pledge of Allegiance.

Present: Selectmen Gene Cordes, Neal Janvrin, and Roger Barham; Town Administrator Heidi Carlson, Road Agent Leon Holmes Jr, Police Chief Jon Twiss and abutters/neighbors Lars & Britt Ekendahl, Steve Harms, Bob Meade, Rob Kennedy, Rob Janvrin, Renee King, Marty Stollar, Terry Eustis, Mark Pitkin, and FCTV Representatives Bruce White and Felicia Augevich

Introduction of Board of Selectmen members and Town Officials in the room.

II. ANNOUNCEMENTS

1. This meeting is live broadcast on Channel 22 and will be rebroadcast throughout the week ahead.
2. A sign in sheet is being passed around. Please print your name and contact information clearly.

III. SCHEDULED AGENDA ITEM8

At 6:36 pm the Public Hearing was opened and Gene Cordes read the Notice of Public Hearing:

Public Hearing ~ Town of Fremont

The Fremont Board of Selectmen will hold a Public Hearing pursuant to NH RSA 231:59-a to consider designating the following Class IV roads in Fremont NH as Emergency Lanes: Shirkin Road (dirt portion West of Beede Hill Road), Loon Way, Squire Road, and Paradise Drive.

The hearing will take place at the Fremont Public Library, 7 Jackie Bernier Drive, Fremont NH at 6:30 pm on June 22, 2016.

Gene Cordes gave an overview of the April 28th Selectmen's meeting during which several abutters and neighbors attended to express concern about safety issues around shooting, noise, destruction of property, trespass and general misuse of the area. The Town then set about doing some research and information gathering, and on a highly increased Police presence in the area. (These minutes and detailed testimony of problems and concerns are posted on the Town's website).

Next Selectman Roger Barham offered a detailed presentation of his earlier report of road layouts and Class VI road facts. He referred to a map which was projected up on the wall throughout the Hearing. The map depicts the road network throughout Tax Map 5 of Shirkin Road, Loon Way, Paradise Drive and Squire Road.

SHIRKIN CLASS IV ROAD AREA

1. GEOGRAPHY

1.1. Class VI Road Networks:

In 1935 the Town of Fremont voted to reclassify the following roads to Class VI subject to Gates and Bars:

#	Location	Linear Feet
1	Shirkin Road	7,830

2	Squire Road	3,950
3	Loon Way	2,570
4	Paradise Drive	<u>3,250</u>
	Total	17,600

Based on information available to date the extent of the class VI is detailed on the attached plan "Class VI Network".

1.2. Access Points:

The Shirkin Road Area has (4) entry points; two in Fremont (F) and two in Raymond (R):

1.2.1. Shirkin Road (F)

This is the primary access point off Beede Hill Road where Seacoast Farms is located.

1.2.2. Squire Road (F)

This is a secondary access point further south off Beede Hill Road. The abutting properties are residential.

1.2.3. Loon Way (R)

Based on the Raymond Assessing data, the Class VI road is named Old Shirkin Road commencing at Prescott Road immediately north of the Transfer Station parcel (see Old Shirkin Road plan) and extending approximately 1,500' to the town line. Along the Raymond segment there are two additional access points at Joyce Drive and Cammett Drive.

The property owner (parcel 22, Prescott Road) has blocked off the Raymond side entrance.

1.2.4. Paradise Drive (R)

Paradise Drive in Raymond is a Class V road and terminates at the town line where it transitions to Class VI and continues as Paradise Drive in Fremont.

This is an active access point and abutters (Fremont residents) have clearly posted their property.

2. LAND OWNER ISSUES

There are a number of issues facing the Town and abutting landowners which are summarized below:

2.1. ROW Access

The Class VI network of roads which totals 3.3 miles are not maintained by the Town (by Statute) but are accessible by the public. The area is a recreational spot for 4x4 enthusiasts and ATV users and over the years the road network has deteriorated and become more increasingly impassable.

The deterioration of the roads make it more difficult for land owners access their parcels and impedes emergency service access.

2.2. Trespassing

There are approaching 50 abutting and land locked parcels in this area and many of the land owners have experienced trespassing to some degree. Access to land owners parcels is a combination of the Class VI road network and from other parcels located in Raymond and Epping.

The acts of trespassing are having serious consequences to abutting land owners:

2.2.1. Damage to Terrain

Damage is being created primarily by two main types of vehicles:

- *Highway Rated 4x4 Vehicles such as Trucks & SUVs*
- *Off Highway Recreational Vehicles (OHRVs) such as ROVs, ATVs and Dirt Bikes*

Highway vehicles are entering the area via Class VI road and then deviating onto private land.

OHVs are either being transported in truck beds or trailers into the area via Class VI road, unloaded and then travelling throughout the illegal network of trails, or entering the illegal trail network from abutting towns.

2.2.2. Dumping

Dumping in the area is a serious issue. The Class VI roads give access to people to purposely dump large items on the side of the roads, or on adjacent abutter parcels. Also, there is the dumping of trash associated with trespassing activities.

2.2.3. Shooting

Abutting parcels, in particular parcels 35 & 9 are being used for recreational pistol, rifle and shotgun shooting activities. In addition to destroying TVs, toilets and propane tanks, some participants have little regard for public safety and have sent rounds close to neighboring land owners. Noise is an ongoing issue.

2.2.4. Camp Fires

Illegal camp fires are prevalent throughout the area indicating that trespassing is a 24 hour problem.

2.2.5. Alcohol & Drug Abuse

The area is strewn with empty beer bottles and hypodermic needles, particularly at camp fire sites.

3. ENFORCEMENT

Local law enforcement, including Fremont PD and Fish & Game, are aware of the land owner issues and respond to calls from abutting land owners.

Law enforcement response to where trespassing activities is mixed and dependent on a number of factors including accessibility (terrain and vehicle), location and season. On occasions access has been slow or impossible.

4. RECOMMENDATIONS

The following recommendations are proposed for both the Town and abutting land owners to work together to implement.

4.1. Maintain Class VI Road Status

The 3.3 mile network of Class VI roads are currently defined as public ROWs not maintained by the Town; specifically, the Town cannot prohibit public ROW nor can it maintain the road at tax payer expense.

It was suggested that the Town convert the Class IV road to either Class A or Class B trails as permitted by RSA 231-A:1. Although this allows the Town to restrict the type of access to the trail network, it also poses the same restrictions on abutting land owners and they lose the Public ROW status which is important for future development rights and access. For these reasons this course of action is not recommended.

In the best interest of the Town and abutting land owners it is recommended the Class VI status is maintained.

4.2. Emergency Status

It was suggested that the Town designate part or the whole of the Class VI road network as an "Emergency Access" as defined in RSA 231.59-a Emergency Lanes. Specifically the RSA states "A town may raise and appropriate, and the selectmen may expend, money for the repair of any class VI highway or private way which has been declared an emergency lane under paragraph II. Such repair may include removal of brush, repair of washouts or culverts, or any other work deemed necessary to render such way passable by firefighting equipment and rescue or other emergency vehicles."

Designating the 3.3 mile network of Class VI roads as "Emergency Access" will enable the Town to make segments passable and accessible as necessary to perform emergency duties including firefighting (forest fires) and law enforcement (combatting illegal trespassing activities). Road improvements need not be extensive but initially sufficient to enable access beyond Seacoast Farms to the Galloway/Hard Rock Development parcels where the majority of illegal activities are taking place. Future improvements may be considered if required.

In the best interest of the Town and abutting land owners it is recommended the BOS implement this RSA.

4.3. Posting

Although the RSAs state that OHV users are required to obtain land owner written permission to access property and law enforcement can act without posting, there are a wide range of undesirable activities that are taking place which it is understood that law enforcement are better equipped to act if land owners post their property.

Under state law (RSA 635:4), the legal manner of posting calls for posting durable signs with any words describing the physical activity prohibited, such as "No Hunting or Trespassing," in letters at least 2 inches high, and with the owner's name and address. The signs may be no further than 100 yards apart on all sides of the property and shall also be posted at gates, bars and all commonly used entrances.

It is understood that many land owners are reluctant to post or have seen posted signs removed, nevertheless, it is believed that the current extent of trespassing and destruction of land requires a uniform and consistent approach to posting.

4.4. Enforcement

Fremont PD and NH Fish & Game are the primary enforcing authorities. Discussions need to take place as to what enforcement tools they have at their disposal, in particular, the impact of a uniform posting policy by abutters.

4.5. Other Measures

The following additional measures are recommended:

4.5.1. Speed Limit

Limit speed to 25 MPH and post at (4) Access Points. This emphasizes these roads are enforceable Public ROWs.

4.5.2. Gates

Install lockable gates at the (4) access points. Gates will normally be closed/unlocked. The Town should initiate a Mud Season ban on public access MAR – MAY.

The gates should include major signs detailing the Class VI road network and restrictions on use and trespassing warning.

4.5.3. No Parking

The Town should implement a NO PARKING policy along the Class VI road network and allow through traffic only. This will limit the ability of users to use vehicles to transport OHVs for use on land owner parcels. If users go off road to park that act will be trespassing.

It was highlighted that we cannot stop all access because it is a public right-of-way. Gates could be installed but cannot be locked.

Barham said there are two additional things we are doing:

1. Designate the four identified roadways as Emergency Lanes so to allow the Town to make any necessary improvements for safety/emergency access only; and
2. To have as many landowners as possible post their property and sign a trespass letter and give Police authority to have trespassers removed.

In response to a question, Chief Twiss said that with landowner permission and proper signage, police have more authority. They still have some authority even without the posting, but he urged that uniform posting would make it even better.

Chief Jon Twiss then provided some statistics about Police Department activity in the area:

January: Police in the area 13 times, one (1) summons for an ATV violation

February and March: Same levels of activity as January

April: Six (6) shooting complaints, three (3) suspicious vehicles, three (3) arrests (one (1) driving under suspension and two (2) juveniles drinking)

At the end of April he noted that the roadway had been fixed and the Department is now able to get out there to respond.

Twiss said that with the road previously in disrepair, that officers could only drive in so far and then had to walk, which is time-consuming and not safe. Now that the road has been fixed, they are able to travel in further.

May: Patrols stepped up to 62 through patrols, with some type of enforcement action including 20 summonses for OHRV violations, including operating without landowner permission, 10 shooting complaints that they could get to, where warnings were issued after identifying and logging the participants before sending them on their way with directive not to return; and six (6) calls of suspicious vehicles.

By the end of May there were far fewer calls for shooting complaints.

Patrols are still going out on a regular basis but there is not as much contact with people, so the increase enforcement has certainly had an effect. He indicated that many people they talk to out there say "I didn't know" and "everyone says you can come out there." Police Officers explain that is not so and document contacts.

The Chief reported that during the May timeframe, he created a Trespass Letter of Consent that Carlson mailed out with a letter of explanation to all of the abutters on the roads/area in question. He has received about 10 of these letters back, some for multiple parcels. Some owners refuse to sign that letter by have given the Police Department verbal permission to remove anyone there who does not have written permission.

Renee King asked if abutters needed to be contacted again to get more of these letters back, and it was noted that many are on file, and that several are also multiple-parcel owners, so the response has been good.

The Chief also indicated that Fremont receives some OHRV grant funding to allow for patrols on the State Recreation Trail, and after those shifts while officers are working on OHRV's they are often also going over to Shirkin Road for proactive patrol.

He believes they have had some good success in notifying people that they should not be out there on private property, and that the increased enforcement works. He also reported speaking to Fish and Game Officer Chris McKee who lives in the area, but was unable to be here tonight. McKee advised that he stops through there at least once or twice a week using a dirt bike, which gives him more access to areas and any potential perpetrators who may flee. McKee has also reported coming into contact with less people since May.

McKee also advised Twiss that a quarry road in Epping has now been gated, which has kept some people out as well.

Road Agent Leon Holmes Jr asked about putting money in to this and where it would come from. He stated he is supportive of emergency egress issues, but the Town has too much to do already in just trying to keep up with Class V road maintenance. Carlson explained that the Emergency Lane status would allow the Town to do emergent repairs as needed to ensure public safety access only. The Town does not have any intention of upgrading any of these roads. Cordes added that any such decision would be made in consultation with the Road Agent, and solely at the Town's discretion. The Town has no obligation to do anything, and has no liability for lack of maintenance. He referred everyone to the last page of the agenda and the verbiage in the enabling Statute:

**TITLE XX
TRANSPORTATION
CHAPTER 231
CITIES, TOWNS AND VILLAGE DISTRICT HIGHWAYS
Repair of Highways by Towns
Section 231:59-a**

231:59-a Emergency Lanes. –

I. Notwithstanding RSA 231:59 or any other provision of law, a town may raise and appropriate, and the selectmen may expend, money for the repair of any class VI highway or private way which has been declared an emergency lane under paragraph II. Such repair may include removal of brush, repair of washouts or culverts, or any other work deemed necessary to render such way passable by firefighting equipment and rescue or other emergency vehicles. A capital reserve fund under RSA 35 or a trust fund under RSA 31:19-a may be established for this purpose.

II. No expenditures shall be made under paragraph I unless the selectmen, following a public hearing, declare the relevant class VI highway, private way, or portion thereof, as an emergency lane, and make written findings, recorded in the minutes of the meeting, that the public need for keeping such lane passable by emergency vehicles is supported by an identified public welfare or safety interest which surpasses or differs from any private benefits to landowners abutting such lane.

III. In the case of a private way, notice shall be mailed to all persons known to have a legal interest in the way, 10 days prior to the hearing, and the emergency lane shall not be declared if permission is denied by any person with a legal right to deny such permission. Neither the appearance nor non-appearance of such persons at the hearing shall prevent such permission from later being denied or withdrawn.

IV. A declaration under this section may be rescinded or disregarded at any time without notice. This section shall not be construed to create any duty or liability on the part of any municipality toward any person or property. Utilization of this section shall be at the sole and unfettered discretion of a town and its officials, and no landowner or any other person shall be entitled to damages by virtue of the creation of emergency lanes, or the failure to create them, or the maintenance of them, or the failure to maintain them, and no person shall be deemed to have any right to rely on such maintenance. This section shall not be deemed to alter the classification or legal status of any highway or private way, or to limit or restrict the authority of towns to regulate the use of class VI highways pursuant to such statutes as RSA 41:11, RSA 236:9--13, and RSA 674:41, or to authorize any person to pass over any private way when permission has been denied. This section shall not be deemed to alter the duties or powers of any party under RSA 227-L concerning forest fires.

Source. 1994, 80:1. 1995, 299:12, eff. Jan. 1, 1996.

Holmes also stated his concern over the shooting matters and the safety of everyone in the area. He discussed gates, stating that there are two old gates at the Highway Shed which may be usable for this purpose. This is also a possibility for the Town to consider.

Barham added that the immediate need right now is to get to the Galloway/Hard Rock area where the shooting and other illegal activity is occurring, and that has been accomplished due to the efforts and donations of abutter Mark Pitkin.

Neal Janvrin added that the Emergency Lane designation merely gives the Town another tool in the toolbox. He further explained that as Class VI roads we cannot legally expend money on maintenance of them.

Rob Kennedy mentioned the trail network such as was established with Birch Road in Epping, which was a workable solution there, and gave the Town or clubs access to grant monies. Kennedy also referred to a road document from the Town's website with a lot of historical information contained. (It was later determined this was a 2009 chapter of the Fremont Master Plan)

Barham explained that was ruled out here as a viable option because it would take away any abutter rights to develop and have frontage on a Town Road.

Carlson further stated that the Town needs to complete some signage as well as potentially consider changes to the Parking Ordinance as well.

There was concern expressed about repairing the roads to a state where traffic might increase. The Town does not have intention to do this for financial reasons, and that the goal is just to allow emergency access as needed.

Cordes again stated that the Selectmen can exercise their best judgement in fixing things, after consultation with the Road Agent and Public Safety Officials.

There was further discussion that OHRV's are not allowed on a public way, and some of those statutes (RSA 215-A were referenced). Chief Twiss further stated that it is a Violation to be on private property without landowner permission.

Mark Pitkin questioned if it was acceptable to upgrade a roadway to access your property to log it. Carlson explained this is OK, with Town permission, and is not considered improvement (that is contraindicated in the Statute).

Pitkin also questioned that anyone who might want to do work on a Class VI roadway needs to discuss with the Selectmen and get the Town's permission. King followed up by questioning if someone wants to do work on the road but is not an abutter, would that be allowed? Carlson indicated that it is the Town who gives permission to do any work in a public road, and that it would like be done in consult with the immediate abutter, but that if anyone came forward to make such a donation of time or materials, it would likely be looked favorably upon.

Selectmen asked if there was any other public comment or question relative to the Emergency Lane designation. With none, Janvrin moved to close the Public Hearing at 7:33 pm. Barham seconded and the vote was approved 3-0.

Barham then moved to approve the designation of 17,600 feet of roadways including Shirkin Road west of Beede Hill Road, Loon Way, Paradise Drive and Squire Road as Emergency Lanes pursuant to NH RSA 231:59-a. Janvrin seconded and the vote was approved 3-0.

Cordes reiterated that the four roads as discussed are now considered Emergency Lanes, and that this status can be rescinded at any time without notice and creates no obligation to maintain them to any

particular standard, and is for the purposes of creating emergency access only, not to increase property values or other abutter benefit. He stated this will continue to allow the Town to do enforcement, get emergency services out there as needed, and to create a better overall situation.

He further stated this is a resource issue for the Highway Department and Police Department, and that all of these things would be considered by the town. He reiterated that there is all around demand on the Town's limited budgets and resources; and that this pulls those limited staff and money from other tasks,

Cordes thanked everyone for their time and energy in this process, and thought that working together to build a consensus and get things done was empowering and that together we can accomplish a great deal. The majority of meeting attendees left at approximately 7:40 pm.

Cordes asked if there was any other business the Board needed to take up tonight. Carlson indicated that Chief Twiss had a matter to discuss.

Chief Twiss met with the Board briefly to discuss the replacement of the ACO vehicle, which is aging. He said he has been working with Kingston Chief Briggs on federal surplus equipment and wanted to get the Board's approval ahead of time, to pursue a replacement vehicle IF one should become available

The Board said they do not want to take on anything that is a maintenance problem, Twiss said he was not going to accept something like that. Twiss also stated that this is a proactive effort, and there is no way to know if something will become available to fit our needs.

Janvrin said he used to do this as well, and had found a couple of practical vehicles over the years.

With little further discussion, Janvrin moved to authorize Chief Jon Twiss to accept a suitable pickup or van style vehicle for a replacement ACO vehicle if it may become available. Barham seconded and the vote was approved 3-0.

IV. ADJOURNMENT

The next meeting will be a work session, to be held at 6:30 pm at the Fremont Town Hall, basement meeting room on Thursday June 23, 2016.

With no further business to come before the Board tonight, motion was made to adjourn the meeting at 7:50 pm by Janvrin and seconded by Barham. The vote was approved 3-0.

Respectfully submitted,

Heidi Carlson
Town Administrator