

# Sherwood Forest Road Maintenance District Meeting Minutes

Saturday, August 15, 2015

Committee Members Present: Elise Fitzsimmons; Chairman, Howard Lerner; Vice Chairman, Vee Cowell, Joe Gagnon, Denielle Morin; Clerk-Treasurer

Committee members absent: Patty Clemons

Public present- Gilles Beaudoin, Craig Willis, Julia Kay Grace, Eva Bonney, Robert Grace, Robert Ronzio

The meeting is opened at: 9:04 am, General Laws Chapter 30A Section 20.

Howard Lerner moves to suspend reading of the open meeting laws. Vee Cowell seconds it. The vote is unanimous.

Prudential Committee Announcements- Mrs. Fitzsimmons informs that Mr. Andrews has pneumonia but she is unsure if he will be attending the meeting as she has not heard from him. Elise decides to change the order of the agenda to give Mr. Andrews more time to arrive.

Mr. Ronzio informs the room he is recording. Mrs. Fitzsimmons asks that he request to put his recorders on the table. Mr. Ronzio requests permission and it is granted.

Clerk/Treasurers Report- Ms. Morin draws everyone's attention to the excel spreadsheet showing the spending for the month of July. Mrs. Fitzsimmons informs the room that the bills for White Wolf are not on the warrant because Mr. Andrews did not provide Ms. Morin with the bills until 7 pm the previous evening and there are questions regarding the bills and work orders. Ms. Morin explains that the work orders allow work from this road to that road but she is unsure if the bills match that as the work order directions are unclear. Additionally, the work orders are not completed and need to be completed by Mr. Andrews. Additionally, Ms. Morin explains that she has been trying to get ahold of Gateway to submit year end stuff to the Department of Revenue but has had trouble getting ahold of them yet will keep trying. Mrs. Fitzsimmons asks Ms. Morin for the total the District has collected in taxes this month. Ms. Morin informs her we have collected \$58,044.28 in taxes for July 2015.

Expansion of Voting Rights- Mr. Cortez-Greig met with Elizabeth Goodman about the expansion of voting rights with the recommendation from the annual meeting. Additionally, he wrote her an email regarding the steps he believed needs to happen and asked her on what steps needed to be taken. Mr. Cortez-Greig informs that we need to draft some language on how to incorporate recommendation 3 (no one who has a current vote in the Road District will lose that vote) in a way that is explicit. Also, he explained to Elizabeth that there is a minor language changes needed in recommendation 6, such as the annual meeting date and meeting place. It was recommended that we give her language to work with and it is determined in recommendation 2 that we will hire a lawyer to draft the legislation. Mr. Cortez-Greig told Ms. Goodman he would get her additional information on recommendation 4, however, the party who was supposed to get them to Mr. Cortez-Greig has backed out so he is unsure if he will be able to get her additional language to work with. Therefore, we will have to rewrite recommendation 4 ourselves with Beth's help. Mr. Cortez-Greig and Ms. Goodman then talked about

procedure in which Ms. Goodman expressed their being a good chance that a home rule petition would need to come from the town of Becket after passing by a majority at either a special meeting by the Town of Becket or the annual meeting by the Town of Becket. Ms. Goodman believes the legislator would take it more seriously if it came from the Town of Becket as a home rule petition. It would then be sent back to the Town of Becket as a law, however, Ms. Goodman could not estimate how long it would take in the legislature. After speaking with Ms. Goodman, Mr Cortez-Greig spoke with Mr. Roberts, the town clerk to find out how to go about getting a home rule petition. Mr. Roberts was unsure as to how it was done so he contacted Mr. Ronzio about whether the selectman could or should do it. Also, he discussed with Mr. Ronzio how it would get from the board to the town and whether the Prudential Committee could ok the final language that comes out the drafting process with Beth Goodman or whether that had to be done by a special meeting of the Road District. Mr. Roberts believed it would be best to be sent to the Town of Becket through a special meeting or annual meeting of the Road District and then passed by a special or annual meeting by the Town of Becket. However, it is noted that that route would take another year. Ms. Goodman is on vacation the coming week so Mr. Cortez-Greig will keep working and report again next month. Mr. Cortez-Greig states that he needs to send a copy of the annual meeting minutes to Beth Goodman. Ms. Morin informs Sandy that if he emails her she can send him a copy of the minutes for Beth.

Website Updates and Announcements- Mrs. Fitzsimmons informs that Mike McEnerney has resigned as webmaster. She states that Denielle Morin has offered to take over the website and would like a recommendation that Ms. Morin also picks up the salary Mike collected while he did the website. Also, after reviewing the GoDaddy.com website we presently have we are considering moving the website to Weebly.com. Sandy Cortez-Greig makes a motion. Stan seconds the motion. Mrs. Fitzsimmons asks for discussion from the floor. Mr. Ronzio states that there is an ethics issue involved in this motion as there is ethics policy about someone receiving a salary for two positions from the same board. Mr. Ronzio asks if everyone has taken the state ethics exam and he is informed that in fact everyone has. Mr. Lerner moves to table the discussion until more research can be done. Ms. Fitzsimmons asks if it is possible to increase the salary for the clerk/treasurer position and include the website responsibilities in the job description. Mr. Lerner states that he does not believe that can be done without an annual meeting. Ms. Fitzsimmons agrees to table the discussion until more research can be done and it can be presented at an annual meeting. Mr. Ronzio states that shifting the money to include it in the position of the clerk/treasurer is also an ethics violation. Mrs. Fitzsimmons states that if Denielle is being asked to take on additional hours she should be compensated for that. Mrs. Fitzsimmons is unsure about the appropriate way to go about doing that but we will find out how to accomplish that. There is a request for someone to second Mr. Lerner's motion. Ms. Morin asks if someone else might be interested in taking over the website. Mrs. Fitzsimmons makes a suggestion that if Ms. Morin will not be compensated that we look for a new webmaster. Stan Taylor makes a suggestion that we postpone this discussion until next meeting when everyone has had time to think about it. Mrs. Fitzsimmons asks for a second to Mr. Lerner's motion. Stan Taylor seconds the motion.

Road Superintendent Report- Mrs. Fitzsimmons makes note that Mr. Andrews still has not arrived more called to say he will not be there. Mr. Ronzio mentions that he just called Chuck and Mr. Andrews will not be coming to the meeting. Mrs. Fitzsimmons apologizes to Mr. Willis for wasting his time asking him to come to the meeting and asks if he has anything he would like to say. Mr. Willis states that working with Chuck has been going well and he has just been doing what Chuck asks him to do. Mrs. Fitzsimmons informs Mr. Willis that as we got the bills so late and Mr. Andrews is not present to discuss them with we are unprepared to pay them at the present time. Mr. Willis tells the board paying them at next month's meeting would be fine. Mrs. Fitzsimmons asked if Mr. Andrews talked to Mr. Willis about mowing. Mr. Willis states that Mr. Andrews said he will talk to the board about mowing and the Maid Marion road repair. Mr. Cortez-Greig thanks Mr. Willis for his hard work. Mr. Lerner asks how the washboard effect on Will Scarlett will be rectified. Mr. Willis states that he spoke to Mr. Andrews about how a couple years ago he put millings on it. Mr. Andrews is going to create work order to put millings on Will Scarlett again. Mr. Lerner also asks about the damage to the guardrail on Will Scarlett and Sherwood Drive as well as street sign damage that was done during the winter while plowing. Mr. Willis informs Mr. Lerner that the guardrail was hit by a car. Mr. Willis personally saw the guardrail hit and states a

police report would have to be obtained from the police. The street signs Mr. Willis informs are pushed back just by the weight of the snow because they are not in very deep and fixing them has not been on the work orders so far. Mrs. Fitzsimmons makes mention that she asked Mr. Andrews for a list of work that needs to be done and that if Mr. Willis sees anything that needs to be fixed please speak up.

Public Input- Mr. Ronzio asks about the Wells Rd residents and what is being done about the opt-out petition. He states that as they have been determined to be part of the district they need to start paying taxes. The tax bills have been sent out and Wells Rd residents have not opted out. Mr. Ronzio spoke to the tax collector for the town who informed him that the Road District needs to give the town direction. Mrs. Kay-Grace states that she understands a legal opinion was sought for clarification on section 21 of the Act. It is Mrs. Kay-Grace's opinion that a legal opinion stating Wells Rd residents are part of the district should not be enough to give the Town of Becket the power to collect taxes from Wells Rd residents. She believes another step needs to be taken to bridge the gap between the legal decision and collection of taxes. Mr. Lerner states that last year when a Wells Rd resident was appointed clerk it was a request of the then board to get a legal opinion as to whether said person was part of the district. The response from the lawyer was that they did not believe Wells Rd residents were part of the district but that further research was needed to determine for certain. After the said resident was dismissed, the Town of Becket sought legal counsel on whether Wells Rd residents are part of the district. With this further research, it was determined that while Wells Rd does not fall within the district, the properties alongside Wells Rd do fall within the district. Due to this legal opinion, Mr. Lerner suggests that the board authorize the town to start collecting taxes from the residents of Wells Rd. Mr. Lerner moves that the prudential committee authorizes the town to take whatever steps necessary to include the homes that face Wells Rd to be part of the tax paying district. Mr. Taylor seconds the motion. Mrs. Fitzsimmons asks for discussion. Mr. Taylor asks if two legal opinions came from the same firm. Mr. Lerner informs him that they were. Mr. Cortez-Greig states that in his discussion with Beth Goodman the topic of section 21 came up. According to Mrs. Goodman section 21 gives the option to opt out by requesting it be put on the warrant of an annual meeting on an individual basis to be granted or not granted. Additionally, the individual residents would need to justify the reasoning for their request to opt-out. Mrs. Goodman Mr. Cortez-Greig suggests that the Road District give the residents of Wells Rd the chance to opt-out at the next annual meeting and hold off taxing them until they are given the chance the opt-out. Mr. Lerner points out that anyone who came to this year's annual meeting and voted should be paying taxes. Additionally, he questions if opting out of the Road District also means the residents are opting out of the Lake District as well. Mrs. Cowell asks if Mr. Lerner is saying that opting out of the road district means they can no longer use the roads. Mr. Lerner states that yes that is exactly what he means. If someone wants to get to the lake they have to cross the roads maintained by the lake so not only can they not use the road maintained by the district they also can't use the lakes. Mrs. Kay-Grace believes that the decision needs to be put before a judge. She mentions a possible solution would be to annex Wells Rd. Mr. Grace states that he has a problem with forcing Wells Rd residents to have to come up with money for a lawyer. Mr. Ronzio states that the argument are all getting very off track and are really quite specious. Mr. Cortez-Greig states that he believes Mr. Ronzio is out of line for such name calling. Mr. Ronzio retracts the word specious, however, requests Mr. Cortez-Greig stop interrupting him. Mrs. Fitzsimmons asks for order in the room and asks Mr. Ronzio to make his point. Mr. Ronzio states that his point is that the Road District allowed people on Wells Rd the right to vote which ended with one person from Wells Rd being on the board, who did not have the right to vote and were not included in the district should not be here today. Additionally, Mr. Ronzio states that we are all affected as everyone not on Wells Rd has been paying taxes since 1982. He states that his taxes are higher because Wells Rd residents are not paying taxes. He continues to say if they do not want to pay taxes let them opt out and that it is not difficult to opt-out. Mr. Ronzio again states that the tax assessor's office is waiting on the board to make a decision as to whether Wells Rd residents are in or out of the road district. Mr. Ronzio states that the town clerk received the legal opinion and used that legal opinion to generate a list of voters for the annual meeting including the residents from Wells Rd. By allowing the Wells Rd residents the right to vote at the meeting it was determined that they were part of the district Mr. Ronzio states. Mr. Ronzio asks if people paying taxes is included in the discussion that was supposed to take place between Sandy and the lawyer. Mr. Ronzio inquires as to if Sandy was charged with looking at the opt-out procedure when speaking to the lawyer. Mrs. Fitzsimmons informs him that Sandy was charged with that task. Mr. Ronzio asks if he were to look at the

past minutes would he read that Sandy was charged with that task. Sandy states that that is not exactly what happened. Mr. Cortez-Greig states that he was charged with talking with the lawyer about redrafting the special act of 1982 in order to expand the voting rights. He continues to say that expanding the voting rights and opting in or opting out involves who is in the district. Sandy and the lawyer looked at section 21 and it is authorized in recommendation 4 that we will look at the act and make it a consistent act with one purpose. In order to do that Sandy and the lawyer needed to look at all parts of it. Section 21 came up as being problematic because it is badly written and unclear. Sandy continues to say that the district wants to preserve votes and have everyone who has a vote keep their vote. Mr. Cortez-Greig told Mrs. Goodman that one part of the act says Wells Rd residents are part of the district, while another part of the act says they are not and asked that they clarify that. Mrs. Goodman stated that there is an opt-out procedure. Mr. Cortez-Greig informed her of the petition presented to the board at the annual meeting at which point it was stated that they need to apply to opt out individually and that it should be clarified to state that when they opt out of the Road District that they lose the right to vote as well. Mr. Lerner points out that there are two problems with the petition. The first problem is that they did not go about it in the correct way and the second problem is that it includes two residents that are not even on Wells Rd. Mr. Lerner calls the question. Mrs. Fitzsimmons explains the motion called to question is to authorize the prudential committee to authorize the town to take necessary steps to include Wells Rd residents in the tax bills to be mailed out January 1<sup>st</sup>. Mr. Beaudoin inquires as to whether that is asking for taxes midyear for those residents. Mrs. Fitzsimmons explains that she has a motion on the table and would like to take a vote. One year, three years is the vote. Sandy makes a motion that for the purposes of the next year assume that the people on Wells Rd are part of the road district but that we waive the collection of taxes until such time that the people on Wells Rd have the opportunity to opt out according to the procedures specified in section 21. Vee Cowell seconds the motion. Stan asks if Sandy's motion can be amended to be effective as of the next fiscal year. Stan states that while we cannot tax people retroactively that amendment would at least put people on notice that they have until the next annual meeting to either pay taxes or opt out. Mr. Cortez-Greig amends his motion to say that we notify the people on Wells Rd who have sent us a petition that we consider them part of the road district and they will be assessed taxes starting from the 2017 tax year. Additionally they will have the right to opt out at the next annual meeting. Vee accepts the amendment to the motion. Mr. Lerner points out that they were given legal opinion at some point stating that they can retroactively tax people up to a certain number of years. Mr. Beaudoin acknowledges that it is possible to tax retroactively but states that they would not want to do that. Mr. Lerner responds in saying for all intensive purposes road district members have been paying more taxes for the past 23 years. Mr. Beaudoin states that whether they have the right to do so or not it would be just wrong to do so. Ms. Morin points out that they have also had the right to vote for the past 23 years too so does that mean you will go back and allow them to vote all those times too if you tax them? Mr. Beaudoin states his favor of Sandy's motion because it gives the residents a year to decide if they want to opt out or not. Mr. Ronzio addresses the drastic change in the motion he made. He states that the first motion is to tell the tax assessor what to do and the second motion is notifying the residents of Wells Rd. Mr. Ronzio asks which motion he wants to put forth. Mr. Cortez-Greig replies that he wants to vote on the amended motion. Mr. Ronzio argues that he needs to withdraw his original motion before making a new motion. Mrs. Fitzsimmons asks if the board can let Sandy's motion and amendment die and start again. Mr. Cortez-Greig accepts and states he wishes to make two motions. The first motion is that we notify the people on Wells Rd who submitted the petition that we are going to consider them members of the road district and accessible for taxes starting 2017 tax year and we will include information on how to opt out. The second motion is that we notify the assessor of this and specify that we will be assessing taxes with the next fiscal year 2017. Stan seconds the motion. Howard asks how we intend to notify them. Ms. Morin states that they should send notification to all Wells Rd residents as some of them are unaware they are part of the district. Mr. Lerner inquires as to if our tax dollars are going to pay for all that. Stan Taylor says yes because someone twenty years ago messed up. Ms. Morin says and 28 people asked for an answer. Mrs. Fitzsimmons states that once the 28 get an answer the rest will ask the question so it is best to send it to all Wells Rd residents at once. Mrs. Kay-Grace points out that the people are checked in at the annual meeting based on the street they live on and her guess is that the only person who knew they had the right to vote was Ms. Morin who is now on the board. So to say they had the right to vote and should now pay their taxes would be unfair. Her suggestion is to speak with the select board and see if they will join with us to get a declaratory judgement from the courts. She thinks it would help to resolve the controversy if the board could take on some

of the legal cost to get a judgement once and for all. Howard Lerner voices his objection to involving the town in Road District matters. Mr. Ronzio makes note that there are people on Wells Rd who are not residents of Sherwood Forest as they do not have a residence and just own vacant property so he advises notices be sent out using the annual meeting sign in list to find registers voters that need notifying. Mr. Lerner calls the questions. The vote is 4 yeas, 0 nays and 1 abstain. Stan Taylor amends the second motion to say that we notify the assessors to institute tax collections with the fiscal year of 2017. The vote is unanimous.

Meeting Minutes- Mrs. Fitzsimmons asks that as the minutes are quite lengthy she suggests we table the approval of the minutes until next month when people have had a chance to review them.

Additional Public Input- Mr. Ronzio wants to know if Mr. Andrews has submitted the open meeting law forms and taken the state ethics exam. Mrs. Fitzsimmons informs him that we do not know as he has not attended this meeting. Mr. Ronzio also wants to know if we have appointed a chief procurement officer. Mrs. Fitzsimmons informs him it has not be done. Mr. Ronzio asks if the road signs are going to be repaired by the contractor as the damage is done as a result of their plowing. Mrs. Fitzsimmons states that she will need to defer that to the road superintendent who is not present today. Mr. Ronzio asks if we have new estimates for the Maid Marion repair and how that is going out to bid. Mrs. Fitzsimmons states that she has asked the same questions of Chuck and he has not responded yet. Mr. Ronzio asks if that is the responsibility of the road superintendent or the chief procurement officer who has not been appointed yet. Mr. Grace states that he spoke with Mr. Andrews about the Maid Marion repair and that it was Chuck's opinion that there was no need to go out to bid because we have a contract with White Wolf. Mr. Lerner makes mention that it has to be under \$10,000 if they do not go out to bid. Mr. Ronzio states that it will need a contractor who can adhere to all the conservation commission requirements and other environmental factors. He states that we can't just send someone down there to just throw some rocks in the ground. Mrs. Fitzsimmons tells Mr. Ronzio that we aware of this. Mr. Ronzio tells Mrs. Fitzsimmons that he is not sure she does. Mr. Ronzio also states that he spoke to Chuck Andrews and that Mr. Andrews does not believe that putting things out to bid is part of his job responsibilities. Mrs. Fitzsimmons states that she has tried to get in contact with Mr. Andrews but he has not responded yet. Mr. Taylor feels as though asking White Wolf to do something as part of their contract that was not originally part of their contract is fair. Mr. Taylor makes a motion to put it out to bid. Howard Lerner seconds the motion. Mrs. Fitzsimmons asks for discussion. Mrs. Kay-Grace asks if White Wolf will be able to bid if the board puts the job out to bid. Mr. Lerner calls the question. Mrs. Fitzsimmons asks for a vote. The vote is unanimous. Mr. Ronzio asks about the road superintendent's phone. He states that he has spoken with a number of people who say Chuck is unreachable. Mrs. Fitzsimmons states that she intended to ask Mr. Andrews about that at this meeting. From a previous conversation with Mr. Andrews, Mrs. Fitzsimmons learned that Mr. Andrews tried to upgrade the phone and that he was informed by Verizon that the only person who can upgrade the phone is Marty Feit. Mr. Ronzio also asks if the Road District is going to help in any way to pay for the liability insurance that is being taken over by the Lake District from the dissolution of the SFNA. Mrs. Fitzsimmons states that we have \$2000 dollars available to contribute to the liability policy, however, she would like to see the policy before any payment is made. Mr. Lerner makes a motion to contribute \$2000 to the liability policy. Mr. Taylor seconds the motion. Mr. Cortez-Greig asks if we can amend the motion to say up to \$2000. Mr. Ronzio states that we have free cash we could use to pay for the policy and that if the Lake District and the Road District were sharing responsibility equally it would be \$5000 each. Mrs. Fitzsimmons again states that she has a motion to pay \$2000 dollars on the liability policy. Mr. Lerner tells Mr. Ronzio next year they will get more. Mrs. Fitzsimmons calls for a vote. The vote is unanimous. Mrs. Fitzsimmons again states that once the Road District sees the policy the contribution of \$2000 will be made.

Warrant- Ms. Morin asks the board to cross off her name on the warrant for the website work performed during the month. Due to the controversy and threats of ethics violations, Ms. Morin states that she will just not take payment for her time on the website. Mrs. Fitzsimmons asks everyone to initial next to that and sign in their appropriate spots. Mr. Lerner makes a motion to accept the warrant. Mr. Taylor seconds the motion. The vote is unanimous.

Adjournment- Vee Cowell makes a motion to adjourn. Stan Taylor seconds it. The vote is unanimous. Meeting is adjourned at 10:47 am.

Scheduled next meeting is for September 12<sup>th</sup> at 9:00 am.

Respectfully Submitted,

Denielle Morin  
Clerk-Treasurer