

Hearing minutes for Patricia and Lee Meyers request
to have Old Town Rd 22 lifted from town map
October 15, 2019

Select Board Members present:

Lance Lawyer (chair), Sam Cribb, Gary Denton, Josh Goss

Select Board Members absent: David Houston

Others present: Mike Gawne (Bakersfield Town Attourney), William Newitt, Patricia Meyers, Lee Meyers, Dan Shook, Mike Tarrant (Paul Haible's attourney), Taylor Raftery, Seth Gates, Lindsey Gates, Tonia Raftery, Polly Cosgrove, Ali Elissa, Paul Haible, Mike Rainville, Katie Mantagne, Teri Gates, Nicholas Raftery

Objective: For the Bakersfield Town Select Board to consider the request of Lee and Patricia Meyers to lift Class IV Road 22 off the Bakersfield Town Map.

Procedure: The party listed above met at 5:00pm on Oct. 15 at Class IV Road 22, beginning on the property of Patricia and Lee Meyers. The Meyers led the party on foot, up what they believe to be Class IV Old Town Road 22 as marked by surveyor Mike Gervais in 2010. The road began on the Meyers land and then bore left, continuing up the hill and crossing onto the property of Paul Haible. The road had fallen branches, strewn rocks, wet moss growing. At the top of the tour, Paul Haible led the party down an alternate road, well maintained about 25 ft wide, that he said he had been told was Old Town Rd 22 and what the Meyers claim is their personal road called Wood's Trail. The Meyers have placed barbed wire across, blocking passage on this road. Following the observation of evidence, the party moved to the Bakersfield Town Clerks office to begin the official hearing.

The Hearing was officially opened at 6:15 by Bakersfield Town attorney, Mike Gawne. Mike is also a notary public qualified to take oaths from those who wish to testify. Names of those who stood to take the oath: Paul Haible, Patricia Meyers, Lee Meyers, Taylor Raftery, Seth Gates, Mike Rainville, Dan Shook

Lee and Patricia Meyers testified together that they bought the 62 acres from Patricia's mother, Evelyn Mooney, in 2008 and built their house in 2011 and that a desire for privacy, safety and security for themselves and visiting grandchildren, moved them to petition the town to have Class IV road 22 lifted from the Bakersfield map and notified Paul Haible via letter of their intentions. They had the property surveyed in 2010 by Mike Gervais and Mike researched and found the old town road, Class IV Road 22, and posted signs on existing trees to mark its path. The Meyers said they were unaware of public or industrial access across the property when they bought it. Patricia stated that the other road called Wood's Trail, located on Meyer's property and maintained by Meyers, was never used when she had lived there with her parents as a youngster until 1972 and both Meyers' stated that no vehicles that they know

of have traveled past the turn-around, located on the side of the cleared area by their house, since the time that they moved on to the property to the present. They noted that the property was left unattended from 1990 till 2008. Patricia remembered there were cattle beyond the barbed wire at the top of the hill when she lived there as a child, but no road. They stated that they believed Rd 22 to be the one marked by Mike Gervais.

Taylor Raftery requested a copy of the survey be available to reference during discussion which was produced and made available by Mike Gawne and consulted by Mike Tarrant and Paul Haible.

Seth Gates stated that he met the Meyers, a year ago, as he was crossing their property and politely gave them his name and phone number to address any concerns and they never got back to him and that he felt issues could have been avoided.

Taylor and Seth stated they were not interesting in sugaring up there this year.

Dan Shook stated that the maps weren't clear and using those to determine the road is not wise.

Lance asked the Meyers if they'd ever had heavy equipment up there and if they knew when the cut was made into the land on the side hill. The Meyers said they had not had heavy equipment up there and Patricia said the cut must have been done before her parents purchased the land, that it must have always existed. The Meyers stated that they were not trying to stop Paul Haible from using the old town road but were opposed to allowing access for the general public, including renters, leasers, or industries.

Mike Gawne read a letter, to those present, that he had written to the Select Board, regarding the law statues relevant to the Meyers request and its implications. (See letter)

Mike Rainville said he has been logging Haible's property since 1992 and has walked the land extensively and that he observed that the road posted by Mike Gervais shows no improvement or maintenance at all and that the Woods Trail Rd shows a great deal of improvement and wanted to know who has put the money and work into it.

He said he accessed the property from Haible's side on Hyde's Hill Rd since his logging equipment exceeded the weight limit of the bridge on Brown's pond road.

Mike Tarrant asked Rainville that if the bridge was sufficient would it be more convenient to access Haible's property. Rainville said it would be more convenient, productive, and profitable because it's very hard to access from the other side.

Paul Haible thanked the Meyers for bringing this issue out into the open and would have liked to have had the chance to sort it out between neighbors. Said he owned 789 acres total, existing in two separate deeds, one being a 290 acre parcel that can be accessed by no other road and produced a map showing the location of the two separate parcels. He stated for marketable purposes he would need access to both parcels to protect his interest up there for sugaring and logging and possible sale. He bought the property in 1973 with two partners from Rupert Hyde. The Hyde's moved onto the land in the 1870's and lived there until 1971 and Rupert had clearly shown Haible the road, earlier today called Wood's Trail, as his right of way, in the early 70's, up to and after the purchase, and that's the road he had always used to access his properties, the old Hyde property and the 290 acre Sloane property. He said that he had lived up there for a time and had always traveled the road they are calling Wood's Trail from the 108 side right up to his gate and stopped often to visit with Patricia's parents on his way by when they had lived there. In his opinion, the road they are calling Wood's trail is the old town Rd 22 shown on the town water map, resource map and road map. He stated that he desired to keep the road classified as a Class IV road. He also would like time to have a survey conducted at his own expense of his property and the road.

There is no argument about property boundaries, just where the old town road is. Lance noted that roads are usually identified by written description as opposed to being shown on a map and that more evidence is desired before the select board makes a decision as to where the road is. He also made it clear that Haible would always have access to his properties via road, trail or easement, whether the road is lifted from the maps or not.

The Meyers stated that they were unaware that Haible's property was two separate parcels and had believed that his property had road frontage on Hyde's Hill Rd. and was accessible by several points. They regretted that they had received no response from Haible to the letter they had sent him, as much could have been avoided.

Lance gave the options of either leaving the select board with the presented evidence, which he felt was insufficient, and they would have to produce a written decision within 60 days or opting for a continuance of the hearing at a later date. Mike Gawne urged the neighboring parties to work together toward mutually satisfactory solutions before pursuing legal means.

Evidence presented: The 2010 Survey Map by Mike Gervais; An aerial photo; Sept 3, 1974 deed to the Sloan farm; map of 2017 Bakersfield roads; map of Brown's Pond road

Mike Tarrant has the predecessor deed to the Sloane farm which describes the old road.

All agreed that before a decision can be made to lift a road from the map, a decision by the Select Board was needed to determine the exact location of the road. Lance asked Tarrant and Haible to ask Mike Gervais to send something in writing stating the sources of his evidence behind his survey. Both parties opted for a continuance. Haible will arrange for a survey and will let the board know the date and then the board will schedule a date to continue the hearing.

Tarrant reminded all present of the current situation of one road being inaccessible to Haible's property and the other road being blocked by barbed wire. The Meyers said they were unwilling to remove the wire until after the decision was made since they believed that was not the old town road. Gawne cautioned them that if their surveyor is wrong, they are doing something improper and that it might be less expensive to talk as neighbors. He added that he was not suggesting that they open it up to anyone other than Haible.

The Hearing closed at 8:06pm.

Hearing minutes submitted by Tami Brennan.