

## PUBLIC HEARING NOTICE

Please take notice that the Foster County Board of County Commissioners will hold a Public hearing on the following petition:

**To close the section line between the SE1/4 of 13-146-67 and NE1/4 of 24-146-67 from 66<sup>th</sup> Ave NE for approximately 2500 ft to where the section line intersects with Highway 200**

When: April 23, 2024

Time: 9am

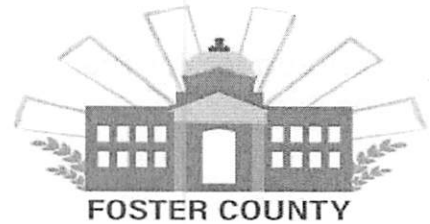
Where: Courtroom of the Foster County Courthouse

Publish in Foster County Independent April 1<sup>st</sup>, 2024.

Posted on the Foster County Website, in the Foster County Auditor's Office and with the City of Carrington.

**Foster County State's Attorney**

P.O. Box 513  
832 Main Street  
Carrington, ND 58421  
(701) 652-1270



**Kara E. Brinster (#06419)**

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**Amanda Lee, Paralegal**

alee@nd.gov

MEMO

RE: Closing Section Lines, extraterritorial jurisdiction, procedure

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Section Lines are public roads open for public travel to the width of 33 feet on either side of the section line, unless they are part of an incorporated city.

NDCC 24-07-03

Pursuant to 24-07-03, the board of county commissioners, if petitioned by a person having an interest in adjoining land, may close section lines or a portion thereof.\*\*

The commission will need to hold a public hearing and make a finding of public benefit to close the section line, so long as one of the following apply:

- 1) Not used for 10 years<sup>1</sup>
- 2) Not traveled due to natural obstacle or difficult terrain
- 3) Not required due to readily accessible alternate routes of travel
- 4) Intersected by public highways that cause the section line to be a dead end

After the section line is closed, it may be used for the benefit of the landowner for **agricultural or related purposes**; survey or property reference markers may not be disturbed, removed or destroyed.<sup>1</sup>

Pursuant to NDCC 24-06-28, a person may not permanently obstruct the section line without FIRST receiving written permission from the county commission or township board.

HOWEVER, the landowner should be aware that the counties easement on the section line is permanent.<sup>2</sup> Should it become necessary to construct a road on

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<sup>1</sup> NDCC 24-07-03; Attorney General Opinion 2000-F-08 (Noack)

<sup>2</sup> Attorney General Opinion 2000-F-08 (Noack)

a closed section line, the county would have the ability to reopen said section line.<sup>3</sup>

#### ACTION TO BE TAKEN


Lee Wahlen has petitioned the FCBC to close the section line between the SE1/4 of 13-146-67 and NE1/4 of 24-146-67 from 66<sup>th</sup> Ave NE for approximately 2500 ft to where the section line intersects with Highway 200. A Public hearing will need to be held on Mr. Wahlen's petition.

- 1) The petitioners for the discontinuance of any road shall cause copies of their petition to be posted in three of the most public places in the county twenty days before any action is had (NDCC 24-07-09)
- 2) After receiving the petition, the board should set the hearing time at least 30 days out and have notice personally served or posted at their home of all occupants of the land affected and post the Notice in three public places in the county at least 10 days prior to the hearing; the notice must list the land affected (NDCC 24-07-10)
- 3) Hold hearing
- 4) After the hearing, the FCBC will need to make a Finding of Public Benefit and issue a Resolution to Close the Section Line that should be recorded against the properties affected.

\*\* This applies to unimproved section lines; if the section line has been improved, we would need to close the road before closing the section

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<sup>3</sup> Attorney General Opinion 2000-F-08 (Noack)



PROCEEDINGS OF THE FOSTER COUNTY BOARD OF COMMISSIONERS

March 19<sup>th</sup>, 2024

At 1:00pm, Chairman Utke called the Foster County Commission meeting to order. Roll call included Commissioner Becky Hagel, Commissioner David Utke, Commissioner Pat Copenhaver, and Commissioner Alan Scanson. Also present was Auditor/Treasurer Ellen Roundy, Foster County State's Attorney Kara Brinster, and Foster County Independent reporter Leasa Lura.

The meeting began with approval of the minutes for the March 5<sup>th</sup>, 2024, regular meeting and March 15<sup>th</sup>, 2024, special meeting. Commissioner Scanson motioned to approve the minutes, seconded by Commissioner Hagel. All voted aye and the motion passed.

Commissioner Hagel motioned to approve the bills, seconded by Commissioner Scanson. All voted aye and the motion passed.

36860	ARROWWOOD PRAIRIE CO-OP	421.01
36861	BARNES COUNTY CORRECTIONS	2,506.97
36862	BESSETTE MOTORS, INC.	1,582.56
36863	CENTRAL CITY LUMBER INC.	75.00
36864	CENTRAL DAKOTA SIX-COUNTY ORGANIZATION	180.00
36865	COMPUTER EXPRESS	1,331.98
36866	COREAN SWART	25.00
36867	DACOTAH PAPER COMPANY	54.97
36868	DEPARTMENT OF TRANSPORTATION	6,748.03
36869	DIANNE STRALEY	124.50
36870	ELLEN ROUNDY	158.40
36871	EVERBRIDGE, INC DBA NIXLE	3,000.00
36872	HAILEY BACHMEIER	238.36
36873	INFORMATION TECHNOLOGY DEPT.	923.15
36874	JOHNSON CONTROLS FIRE PROTECTION LP	531.69
36875	JUSTIN JOHNSON	53.54
36876	NAPA AUTO PARTS	147.13
36877	ND SHERIFF'S & DEPUTIES ASSOCIATION	400.00
36878	NORMONT EQUIPMENT CO.	504.70
36879	NORTH DAKOTA STATE UNIVERSITY	120.00
36880	OFFICE OF ATTORNEY GENERAL- 1250	145.00
36881	OK TIRE STORE	2,901.31
36882	QUADIENT FINANCE	1,003.00
36883	QUADIENT LEASING USA, INC.	417.00
36884	RANDY'S ELECTRIC	220.00
36885	RESIDENCE INN	214.00
36886	RUNNING'S SUPPLY, INC.	400.59
36887	STUTSMAN CO. CORRECTION CENTER	2,900.00
36888	STUTSMAN CO. CORRECTION CENTER	22.95

Commissioner Copenhaver asked to add ARPA funds under Commissioner Discussion. Commissioner Scanson motioned to approve the agenda with the addition, seconded by Commissioner Hagel. All voted aye and the motion passed.

Old Business

No old business to report.

### New Business

Ellen Roundy, Auditor/Treasurer, provided the BOCC with an update on behalf of the Road Department. Load restrictions are still on. The department has been crack sealing and durapatching roads. The application submitted for Flex-Funding is still in the running to be funded, however, there are no guarantees.

Roundy requested to set the pay for election workers. Commissioner Hagel motioned to pay election workers at grade 3, step 7, seconded by Commissioner Scanson. Roll call vote included:

- Commissioner Hagel – aye
- Commissioner Utke – aye
- Commissioner Scanson – aye

motion passed. Stutsman County requested changes to the JPA for Emergency Manager services. Roundy presented the changes and Commissioner Hagel motioned to approve the JPA with the changes, seconded by Commissioner Scanson. All voted aye and the motion passed. NDDOT sent an invoice with a verification of local match form to be approved. Roundy had spoken with Micheal Rivinius, Wold Engineering, and he noted that the state hires someone to complete the bridge inspections. Commissioner Scanson motioned to approve signing the form seconded by Commissioner Hagel. All voted aye and the motion passed.

Foster County State's Attorney, Kara Brinster, provided an update on closing a section line in the county. There are four items that could be met when looking to close a section line, all four requirements are met with this particular section line. Brinster wanted to make it clear that although the section line can be closed, the county will maintain the easement. Building a permanent structure in the easement requires written permission from the county. Commissioner Scanson motioned to set a public hearing for Tuesday, April 23<sup>rd</sup>, 2024, at 9:00 AM in the Foster County Courtroom, seconded by Commissioner Hagel. Roundy will compile information that will need to be delivered by the Foster County Sheriff to personally serve on the residents affected. All voted aye and the motion passed.

Karen Evans, Tax Director, presented an abatement and four credits for approval to the BOCC. The abatement was for Karen Goheen, and Homestead Credits for Dale and Janice Munson, Tim and Valerie Rogers, Daryl and Iola Rask, and Joe & LeAnn Voglewede. Commissioner Scanson motioned to approve the abatement and credits, seconded by Commissioner Hagel. All voted aye and the motion passed.

Chris Thomas, EAPC, joined the meeting via phone. The electrical and plumbing portion of the project is on schedule. Cutting in the vault wall has been completed and cleaned up and sheetrock is about ninety percent completed. Discussion included utilizing doors from the Sheriff house to replace doors that were cut short in previous work. Commissioner Hagel noted that the Historical Society has expressed interest in taking over the Sheriff house. The consensus from the BOCC is to look at the doors in the Sheriff house and any that are in the attic not being used and see if they can be salvaged for the basement. The BOCC will look at shelving options for storage in the vaults.

Commissioner Coperthaver discussed options for ARPA funds. The BOCC noted that the funds have been committed to air quality and HVAC repairs in the courthouse. Commissioner Utke had a call with LoadPass. He noted that Road Superintendent Monson and Sheriff Johnson thought it would be doable and would like to pursue the training portion to see if it will work. Discussion was had on the lots by Juanita Lake. Brinster will review and the BOCC can look at a decision during the next regular meeting. The ambulance building amended lease has been signed by both parties, no further action is required at this time. Commissioner Utke noted that Garrison would like to visit with the BOCC after meeting with the crew hauling for Garrison. It will more than likely be during a meeting in April.

With no further business, Chairman Utke adjourned the meeting at 2:28 pm.

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Ellen Roundy  
Foster County Auditor/Treasurer

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David Utke, Chairman  
Board of County Commissioners