

Meeting with Rich Curtis

June 4, 2018

12:01 p.m.

Present: Commissioner Fund, Commissioner Jackson, Commissioner Stamper, Erik Martin, Ross Petersen, Rich Curtis, David Fine, Mikal Aust, Raymond “Bill” Carlson, Sheri Buehler, Gary Buehler, Harrison Fisher, Larry Bilyeu and Gerry Bilyeu

Recorder: Rieva Lester

Attendees introduced themselves.

Erik Martin, Director of Public Works, recapped the history of Rich Curtis’ concerns about Koontz and Prairie Roads. He said Larry Unzelman discovered that the width of Prairie Road was silent in its Order of Establishment so the county determined the width would be 60 feet. Erik said Glenn Carter wrote a legal opinion that indicates that it’s a 60-foot-wide right of way because the width was silent in its Order of Establishment.

TO-DO LIST / RECAP

Talk to Assessor regarding taxes.

Find certified copy of road standard from May 7, 1885.

Commissioner Fund asked if anything had changed since the legal opinion was given. Rich Curtis said he has conducted further research since then. He then recapped the history of Koontz Road.

Larry Bilyeu said he was told he had a 40-foot setback when he asked the county in 2004. He said his property is for sale and he doesn’t want to have to move his fences.

Mikal Aust said he was told the offsets were 20 and 20 when he built his home in 1978 and when he asked again in 2004.

Sheri Buehler said her concern is that she feels that she has been paying taxes on the property and now the county says it’s theirs.

Erik Martin noted that road standards call for public roads to be 60 feet, whereas private roads are 40 feet.

Erik asked Rich for the differences between the presentation last fall and the one today. Rich said he has added deeds and drawings.

Commissioner Jackson asked for clarification about what was being asked.

Ross Petersen explained that in the 1800s (at the time of the road’s establishment), all county roads were deemed to be 60 feet wide unless the county affirmatively said a number in its Order of Establishment. He noted that there is no mention of a width in the Order of Establishment, so by default it’s 60 feet wide. Ross said the county never rescinded its rights to the road.

Rich said there is a perception that the county did not properly document the Order of Establishment. He said the county never bought the additional right of way to make it add up to 60 feet.

Ross said the original prayer wouldn't carry through because the commissioners did not set a width in writing.

Erik Martin explained that the only way to change the 60-foot easement would be through a vacation process. He noted that the county never went through the vacation process.

David Fine left at 1:02 p.m.

Commissioner Stamper discussed the possibility of having independent counsel review it.

Commissioner Jackson said it appears to him that the right of way should be 40 feet because that appears to be what the commissioners at the time intended.

Erik said it would be a legal question: Where does intent play in?

Ross said the Washington Supreme Court addressed the question in 1907 and determined that it would be 60 feet unless commissioners at the time of the Order of Establishment determined otherwise in writing.

Commissioner Jackson left at 1:17 p.m. and returned at 1:20 p.m.

Meeting ended at 1:24 p.m.