

McLean County Commission Proceedings

Tuesday, September 5, 2023

The first regular September meeting of the Board of Commissioners was called to order at 8:30 a.m. by Chairperson Steve Cottingham. Present were Commissioners Cottingham, Steve Lee, and Barry Suydam. Also present were Auditor Beth A. Knutson, Deputy Auditor Diane L. Blumhagen, and Dan Johannes.

Moved by Lee, seconded by Suydam, to approve the minutes of the previous meeting held on August 22, 2023, as submitted. Roll Call Vote: Aye: Lee, Suydam, and Cottingham. Nay: None. Motion carried.

Knutson updated the commission regarding the status of the Energy Conservation Grant.

Road Superintendent James Grey and Director of Emergency Services Noelle Kroll joined the meeting.

Johannes was invited to discuss his concerns regarding the road conditions on County Road 15. Discussion followed.

Brad Sheldon, of Washburn, joined the meeting.

Grey presented an update on department operations stating graveling and mowing continues.

Grey presented a boring request from WRT Cooperative requesting to bore 9V Street SW in Section 19, Township 144 North, Range 81 West, placing fiber cable telecommunications facility to serve Patrick Beehler.

Moved by Lee, seconded by Suydam, to approve the boring permit request from WRT Cooperative as presented. Roll Call Vote: Aye: Lee, Suydam, and Cottingham. Nay: None. Motion carried.

Kroll presented information on a full-scale exercise being held at the Max School.

Knutson presented the Pledge of Securities received from TruCommunity Bank. The total public deposits were \$22,966,636.51 and the total pledged securities were \$24,017,393.37 on August 31, 2023.

Moved by Lee, seconded by Suydam, to accept the Pledge of Securities from TruCommunity Bank. Roll Call Vote: Aye: Suydam, Lee, and Cottingham. Nay: None. Motion carried.

Building Maintenance Supervisor Curt Malo joined the meeting to request approval to accept the bid from Electric Systems Inc., in the amount of \$4,290.00, to replace the parking lot lighting.

Moved by Suydam, seconded by Lee, to approve the bid from Electric Systems Inc., in the amount of \$4,290.00 as presented. Discussion followed. Roll Call Vote: Aye: Suydam, Lee, and Cottingham. Nay: None. Motion carried.

Adam Ourada, Falkirk Mining Company (Falkirk), joined the meeting.

Steve Krumwiede and James Coutts, of Underwood, joined the meeting.

Knutson requested permission to enter into the Joint Powers Agreement (JPA) with the North Dakota Association of Counties (NDACo) regarding E-911 collections. Discussion followed.

Moved by Lee, seconded by Suydam, to approve entering into the JPA as presented. Roll Call Vote: Aye: Lee, Suydam, and Cottingham. Nay: None. Motion carried.

Chief Deputy Sheriff Richard Johnson joined the meeting to inform the commission that Jordon Schumacher has been hired to fill the open Jailer/Dispatcher Lieutenant position. Johnson requested approval to adjust Schumacher's annual salary from \$42,744.00 to \$48,776.00.

Moved by Lee, seconded by Suydam, to approve the salary adjustment as presented. Discussion followed. Roll Call Vote: Aye: Lee, Suydam, and Cottingham. Nay: None. Motion carried.

Johnson informed the commission that Nicholas Sundby has been hired to fill one of the open Jailer/Dispatcher positions. Johnson requested approval to hire two more Jailer/Dispatchers from the active hiring list.

Moved by Suydam, seconded by Lee, to approve hiring two Jailer/Dispatchers. Roll Call Vote: Aye: Suydam, Lee, and Cottingham. Nay: None. Motion carried.

Moved by Lee, seconded by Suydam, to approve the 100 feet of right of way variance as requested by Falkirk. Discussion followed. Roll Call Vote: Aye: Lee, Suydam, and Cottingham. Nay: None. Motion carried.

Resolution Of
McLean County Commission

Whereas, pursuant to the provisions of Chapter 38-14.1-07 of the North Dakota Century Code and Chapter 69-05.2-04 of the North Dakota Administrative Code, The Falkirk Mining Company ("Falkirk") petitioned the Board of County Commissioners of McLean County, North Dakota ("Commission") for permission to conduct surface coal mining operations within 100 feet of the outside right-of-way line of the following public roads:

- a. The section line road between the NE¼ of Section 2 and the NW¼ of Section 1, Township 146 North, Range 82 West
- b. The section line road between the NE¼ of Section 1, Township 146 North, Range 82 West and the NW¼ of Section 6, Township 146 North, Range 81 West
- c. The section line road between Section 1, Township 146 North, Range 82 West and Section 36, Township 147 North, Range 82 West

Whereas, a public hearing was held upon the Petition of Falkirk before the Commission on the 5th day of September, 2023, at 9:00 a.m., CDT, in the Courthouse in the City of Washburn, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented;

Whereas, the Commission has jurisdiction over the subject matter of the Petition and the public roads and rights-of-way stated therein;

Whereas, the Notice of Hearing on said Petition was duly served and published as required by law; and

Whereas, the interests of the public and the interests of the affected landowners will be protected.

Now, Therefore, be it Resolved that the Commission does hereby approve the conducting of surface coal mining operations, except actual coal removal, by Falkirk within 100 feet of the outside right-of-way line of the following public roads:

- a. The section line road between the NE¼ of Section 2 and the NW¼ of Section 1, Township 146 North, Range 82 West
- b. The section line road between the NE¼ of Section 1, Township 146 North, Range 82 West and the NW¼ of Section 6, Township 146 North, Range 81 West
- c. The section line road between Section 1, Township 146 North, Range 82 West and Section 36, Township 147 North, Range 82 West

Be it Further Resolved that this Resolution, the Petition involved herein, and the Affidavits of Publication of Notice of Hearing be filed with the McLean County Auditor.

Dated this 5th day of September, 2023.

Attest:

Beth Knutson, County Auditor

McLean County Commission

By: _____

By: _____

By: _____

Moved by Lee, seconded by Suydam, to approve the 100 feet of right of way variance as amended by Falkirk. Discussion followed. Roll Call Vote: Aye: Lee, Suydam, and Cottingham. Nay: None. Motion carried.

Resolution Of
McLean County Commission

Whereas, pursuant to the provisions of Chapter 38-14.1-07 of the North Dakota Century Code and Chapter 69-05.2-04 of the North Dakota Administrative Code, The Falkirk Mining Company ("Falkirk") petitioned the Board of County Commissioners of McLean County, North Dakota ("Commission") for permission to conduct surface coal mining operations within 100 feet of the outside right-of-way line of the following public roads:

- d. The east side of the county road located between the NW¼ and the NE¼ of Section 29, Township 145 North, Range 83 West
- e. The east and west sides of the county road located in the SW¼ of Section 29, Township 145 North, Range 83 West
- f. The east and west sides of the county road located in the NW¼ of Section 32, Township 145 North, Range 83 West
- g. The north and south sides of the county road located in the N½ of Section 32, Township 145 North, Range 83 West
- h. The east and west sides of the county road located in the SE¼ of Section 32, Township 145 North, Range 83 West

Whereas, a public hearing was held upon the Petition of Falkirk before the Commission on the 5th day of September, 2023, at 9:05 a.m., CDT, in the Courthouse in the City of Washburn, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented;

Whereas, the Commission has jurisdiction over the subject matter of the Petition and the public roads and rights-of-way stated therein;

Whereas, the Notice of Hearing on said Petition was duly served and published as required by law; and

Whereas, the interests of the public and the interests of the affected landowners will be protected.

Now, Therefore, be it Resolved that the Commission does hereby approve the conducting of surface coal mining operations, except actual coal removal, by Falkirk within 100 feet of the outside right-of-way line of the following public roads:

- d. The east side of the county road located between the NW¼ and the NE¼ of Section 29, Township 145 North, Range 83 West
- e. The east and west sides of the county road located in the SW¼ of Section 29, Township 145 North, Range 83 West
- f. The east and west sides of the county road located in the NW¼ of Section 32, Township 145 North, Range 83 West
- g. The north and south sides of the county road located in the N½ of Section 32, Township 145 North, Range 83 West
- h. The east and west sides of the county road located in the SE¼ of Section 32, Township 145 North, Range 83 West

Be it Further Resolved that this Resolution, the Petition involved herein, and the Affidavits of Publication of Notice of Hearing be filed with the McLean County Auditor.

Dated this 5th day of September, 2023.

Attest:

McLean County Commission

By: _____

Beth Knutson, County Auditor

By: _____

By: _____

Moved by Lee, seconded by Suydam, to approve the temporary section line closure as requested by Falkirk. Discussion followed. Roll Call Vote: Aye: Suydam, Lee, and Cottingham. Nay: None. Motion carried.

Resolution Of
McLean County Commission

Whereas, The Falkirk Mining Company ("Falkirk") has petitioned the Board of County Commissioners of McLean County, North Dakota ("Commission") to temporarily close the following described section line roads that interfere with surface coal mining operations pursuant to the provisions of Chapters 38-01-07.1 and 38-01-07.2 of the North Dakota Century Code:

- i. The section line road between the NE¼ of Section 2 and the NW¼ of Section 1, Township 146 North, Range 82 West
- j. The section line road between the NE¼ of Section 1, Township 146 North, Range 82 West and the NW¼ of Section 6, Township 146 North, Range 81 West
- k. The section line road between Section 1, Township 146 North, Range 82 West and Section 36, Township 147 North, Range 82 West

Whereas, a public hearing was held upon the Petition of Falkirk before the Commission on the 5th day of September, 2023, at 9:15 a.m. CDT, in the Courthouse in the City of Washburn, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented.

Now, Therefore, be it Resolved that the Commission does hereby find, conclude, and determine as follows:

1. That the Commission has jurisdiction over the subject matter of the Petition and the section line roads involved therein.
2. That the Notice of Hearing on said Petition was duly served and published as required by law.
3. That the temporary closing of said section line roads is necessary due to the fact that said section line roads interfere with Falkirk's conduct of surface coal mining operations.
4. That the temporary closing of said section line roads does not deprive adjacent landowners access to their property.
5. That a public benefit exists in temporarily closing said section line roads and that the interests of public and the affected landowners will be protected.

Be it Further Resolved, based on the foregoing, that the Commission hereby determines and orders as follows:

1. That the following section line roads be temporarily closed until such time as Falkirk's surface coal mining operations which affect the use of said section line roads by the general public are completed:
 - a. The section line road between the NE¼ of Section 2 and the NW¼ of Section 1, Township 146 North, Range 82 West
 - b. The section line road between the NE¼ of Section 1, Township 146 North, Range 82 West and the NW¼ of Section 6, Township 146 North, Range 81 West
 - c. The section line road between Section 1, Township 146 North, Range 82 West and Section 36, Township 147 North, Range 82 West
2. That Falkirk provide farmers access to their lands for farming purposes during the time that said section line roads are temporarily closed.
3. That within a reasonable period of time after completion of surface coal mining operations Falkirk shall restore said section line roads to as good a condition as existed prior to the temporary closing to the extent required by the Commission.
4. That Falkirk inform the Commission when the restoration of said section line roads is completed, at which time Falkirk shall tender said section line roads to the Commission for acceptance for general public use.
5. That the Commission may at any time exercise its rights to monitor the continued need for the temporary closing of said section line roads and may request Falkirk to show cause why said section line roads should not be reopened if surface coal mining operations in the vicinity thereof have been completed.
6. That this Resolution, the Petition involved therein, the Affidavits of Service and the Affidavits of Publication of Notice of Hearing be filed with the McLean County Auditor.

Dated this 5th day of September, 2023.

Attest:

McLean County Commission

By: _____

Beth Knutson, County Auditor

By: _____

By: _____

Chairperson Cottingham recessed the meeting at 9:18 a.m.

Chairperson Cottingham reconvened the meeting at 9:32 a.m.

NDSU Extension Agents Sarah Bedgar and Kamile Moderegger joined the meeting to update the commission on current NDSU Extension operations.

Received and ordered filed the fee collection report from the Recorder's Department for the month of August in the amount of \$12,105.70.

Received and ordered filed the fee collection report from the Sheriff's Department for the month of August in the amount of \$3,309.48.

Moved by Suydam, seconded by Lee, to approve the following vouchers for payment:

A detailed list of checks is available for public inspection anytime during regular business hours in the McLean County Auditor's Office.

Roll Call Vote: Aye: Suydam, Lee, and Cottingham. Nay: None. Motion carried.

Knutson presented the budget narrative for period ending August 31, 2023. She presented data showing property tax collections are at 93% collected including 97% with discount for 2023 or \$18,874,686.20; government reimbursement revenues totaled \$1,993,470.85 compared to \$1,876,206.08 in 2022; fees and miscellaneous revenues totaled \$1,339,688.93 compared to \$1,163,110.87 in 2022; and expenditures were at 58.15% of total budget for 2023.

Knutson presented the Uncollected Tax List for years 2020-2022 showing a total of \$999,366.02.

Knutson presented the current list of delinquent tax payers owing more than \$4,000.00 showing 34 taxpayers owing \$327,485.59 in back taxes.

There being no further business, the Chairperson declared the meeting adjourned at 10:09 a.m. The commission minutes and agenda can be found on the county website at <https://www.mcleancountynd.gov>.

Steve Cottingham, Chairperson

Diane L. Blumhagen, Deputy Auditor