

**McLean County Commission Proceedings  
Tuesday, November 15, 2016**

The final regular November meeting of the Board of Commissioners was called to order at 8:31 a.m. by Chairperson Steve Lee. Present were Commissioners Lee, Doug Krebsbach, and Barry Suydam. Also present were Auditor Les Korgel, Deputy Auditor Nancy Leidholm, and Stu Merry of BHG News Services.

Moved by Krebsbach, seconded by Suydam, to approve the minutes of the previous meeting as submitted. Roll Call Vote: Aye: Suydam, Krebsbach, and Lee. Nay: None. Motion carried.

Highway Superintendent Jim Grey joined the meeting along with Wold Engineering representative Mike Rivinius. Grey stated that mowing should be wrapped up this week with the exception of catching up on regrowth. Graveling will be shut down this week to start gearing up for winter. Grey reported that he did not have to purchase salt this year as there was enough left over from last year. Work on County Road 12 will continue until the weather stops them.

Rivinius updated the Commission on ongoing projects. The bridge repair east of Washburn on County Road 22 has wrapped up; the box culvert on Painted Woods Creek just needs seeding and fencing and will hopefully be completed before the snow flies.

Moved by Krebsbach, seconded by Suydam, to approve the sale of unsold tax sale properties to the cities for \$1.00 plus fees. Roll Call Vote: Aye: Suydam, Krebsbach, and Lee. Nay: None. Motion carried.

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

CHECK #	VENDOR	DESCRIPTION	AMOUNT
A131229	C&R RADIATOR	PARTS	663.86
A131230	DEERE CREDIT, INC	1 MONTH RENTAL – 4 JOHN DEERE TRACTORS	1,575.00
A131231	ENERBASE COOP RESOURCES	FUEL AT WASHBURN SHOP	14,503.83
A131232	WILTON FARMERS UNION OIL CO	LP TANK RENTAL	3.00
A131233	GARRISON FARMERS UNION OIL CO	GARRISON SHOP SUPPLES	61.50
A131234	FASTENAL COMPANY	PARTS	10.76
A131235	FILTER CARE OF GRAFTON	WASHED FILTERS	164.14
A131236	GARRISON CITY	GARBAGE/WATER	51.95
A131237	INTERSTATE POWER SYSTEMS INC	PARTS	411.26
A131238	JOHN DEERE FINANCIAL	PARTS	1,099.67
A131239	MAX FARM SERVICES	FUEL	6,338.46
A131240	MCLEAN ELECTRIC COOPERATIVE	ROSEGLEN, UNDERWOOD & GARRISON SHOPS	386.00
A131241	MCLEAN SHERIDAN RURAL WATER	WATER	62.46
A131242	MDU	WASHBURN, TURTLE LAKE, MAX & GARRISON SHOPS	494.82
A131243	MENARDS - MINOT	PARTS	750.18
A131244	MILLENNIUM EXPRESS	DELIVERY CHARGES	12.98
A131245	NAPA AUTO PARTS-GARRISON	PARTS, GARRISON SHOPS SUPPLIES, OIL	239.14
A131246	NAPA AUTO & TRUCK PARTS	PARTS, WASHBURN SHOP SUPPLIES	143.31
A131247	ND DEPT OF TRANSPORTATION	PROJECT RPC-2879(084)	6,781.28
A131248	ND SAFETY COUNCIL	ANNUAL MEMBERSHIP DUES	250.00
A131249	PRAXAIR DISTRIBUTION	PARTS	343.30
A131250	RESERVATION TELEPHONE COOP	TELEPHONE	115.82
A131251	TRUCKS OF BISMARCK	PARTS	116.87
A131252	VERIZON WIRELESS	HIGHWAY DEPT CELL SERVICE	192.26
A131253	WAGON WHEEL LUMBER	WASHBURN SHOP SUPPLIES	92.58
A131254	WALLWORK TRUCK CENTER	PARTS	62.68
A131255	WEST RIVER TELECOMM	TELEPHONE/DSL	87.76
A131256	BOB BARKER COMPANY	PERSONAL HYGIENE PRODUCTS, BLANKET - SHERIFF	51.29
A131257	CHASE DRUG STORE	PRISONER MEDICAL - SHERIFF	229.78
A131258	CHARM-TEX, INC.	SHOWER CURTAINS, SOCKS, PERSONAL HYGIENE - SHERIFF	137.40
A131259	CITY OF WASHBURN	WATER/SEWER – LAW ENFORCEMENT CENTER/COURTHOUSE	537.12
A131260	CULLIGAN WATER CONDITIONING	PORTABLE TANK EXCHANGE – PARK	90.00
A131261	D&L AUTOMOTIVE	UNIT S-3 OIL CHANGE – SHERIFF	50.33
A131262	DACOTAH PAPER COMPANY	GARBAGE BAGS, CLEANERS, AIR FRESHENERS, GLOVES, FLOOR CLEANER, PAPER TOWELS, TOILET TISSUE, BLEACH, SHAMPOO/BODY WASH, KLEENIX	1,265.68
A131263	DAKOTA CENTRAL SOCIAL SVCS	McLEAN COUNTY SHARE BILLABLE EXPENSES – SEPT/OCT 2016	137,470.53
A131264	DOC'S SHOP	OIL CHANGES, HEADLIGHT HARNESS, ROTATE TIRES – SHERIFF	586.08
A131265	MICHELLE EFFERTZ	REIMBURSE NOVEMBER CELL PHONE, OCTOBER TRAVEL	59.16
A131266	ELECTRONIC COMMUNICATIONS	REPAIR S & BATTERIES – SHERIFF	950.00
A131267	ELECTION SYSTEMS & SOFTWARE	16GND BALLOTS	4,604.09

A131268	ENERBASE COOP RESOURCES	GASOLINE – SHERIFF	233.18
A131269	LADD R ERICKSON	OCTOBER TRAVEL	133.92
A131270	WILTON FARMERS UNION OIL CO	GASOLINE, OIL CHANGE – SHERIFF	615.44
A131271	FARMERS UNION SERVICE ASSOC	2016 HARPER ALL TERRAIN MOWER	48.00
A131272	GARRISON FARMERS UNION OIL CO	GASOLINE, OIL CHANGES – SHERIFF	602.63
A131273	TURTLE LAKE FARMERS UNION OIL	ANTI-FREEZE – WEED CONTROL	165.24
A131274	GREAT PLAINS RENTAL, LLC	TRAILER RENTAL FOR GENERAL ELECTION	393.75
A131275	GRIMSLEYS EXHAUST & FUELS	GASOLINE – SHERIFF	437.82
A131276	HATZY'S REPAIR	OIL CHANGE, MOUNT/BALANCE TIRES – SHERIFF	186.90
A131277	HIWAY 83 EXPRESS	GASOLINE – SHERIFF	155.86
A131278	LESLIE M HULTBERG	REIMBURSE HEALTH INSURANCE – APRIL – SEPT 2016	4,589.13
A131279	INFORMATION TECH DEPT	LERMS USER FEES – SHERIFF; T-1 LINE ACCESS, VPN, USER FEES, EXCHANGE EMAIL ACCOUNTS	1,222.50
A131280	CALLA EDWARDS	OCTOBER TRAVEL, CELL PHONE REIMBURSEMENT	111.86
A131281	RICHARD JOHNSON	CELL PHONE REIMBURSEMENT	30.00
A131282	JT & COMPANY	SHIPPING FEES FOR MWRAP – SHERIFF	3,550.00
A131283	K & D SERVICES	CHECK WASHING MACHINE – SHERIFF	50.00
A131284	KRAUSE'S MARKET	COFFEE, VINEGAR, BOTTLE WATER FOR ELECTION TRAINING/ABSENTEE BOARD	6,609.35
A131285	NOELLE KROLL	REIMBURSE NOVEMBER CELL PHONE, HAZMAT CONFERENCE	73.20
A131286	LEXIPOL LLC	SUBSCRIPTION ACCESS	2,975.00
A131287	CURT MALO	REIMBURSE NOVEMBER CELL PHONE	30.00
A131288	MCLEAN ELECTRIC COOPERATIVE	SECURITY LIGHTS – COURTHOUSE, PARK; PARK BOARD, GARAGE, CAMPER PADS, PARK, CAMPGROUND METER	774.00
A131289	MCLEAN COUNTY AUDITOR	OCTOBER POSTAGE – COUNTY AGENT	33.42
A131290	MDU	COURTHOUSE, LAW ENFORCEMENT CENTER	421.62
A131291	MIDCONTINENT CABLE CO	CABLE TV – SHERIFF	93.21
A131292	NAPA AUTO & TRUCK PARTS	OIL FILTER, AIR FILTER	22.13
A131293	ND ASSOCIATION OF COUNTIES	CONVENTION REGISTRATION & TRAINING FEES – COMMISSIONERS, KORGEL, KNUTSON, REISER	1,605.00
A131294	RYAN OBERG	REIMBURSE NOVEMBER CELL PHONE	30.00
A131295	OFFICE DEPOT	HP 61, 60, 75, 951 & 950 INK/TONER – SHERIFF; HP 507A TONER, CHAIR MAT, BLUE/GREEN COPY PAPER	799.57
A131296	OTTERTAIL POWER COMPANY	BUTTE, TURTLE LAKE, WASHBURN, & MAX SHOPS, COURTHOUSE, RADIO TOWER	2,369.56
A131297	PHARMCHEM INC.	SWEAT PATCH ANALYSIS – SHERIFF	475.00
A131298	JAIMI POCHANT	INMATE CARE	690.00
A131299	PROTECTION SYSTEMS, INC	INSPECTION & MAINTENANCE CONTRACT	460.00
A131300	RECORD KEEPERS	SHREDDING SERVICE – OCTOBER	24.00
A131301	RESERVATION TELEPHONE COOP	GARRISON DEPUTIES, PARK, 911 TRUNKING	206.02
A131302	SALHUS SEPTIC PUMPING	SALLY PORT FLOOR DRAIN PUMPED	120.00
A131303	S & J HARDWARE	ANTI FREEZE – PARK	9.00
A131304	SRT COMMUNICATIONS, INC	911 TRUNKING	698.28
A131305	CHI ST ALEXIUS HEALTH	INMATE MEDICAL – SHERIFF	1,582.33
A131306	TASER TRAINING	TASER RECERTIFICATION – SHERIFF	225.00
A131307	TELETRAC, INC.	SUBSCRIPTION	1,680.00
A131308	UNDERWOOD CLINIC PC	INMATE MEDICAL, DEPUTY PHYSICAL	249.00
A131309	UNIFORM CENTER	UNIFORMS – SHERIFF	969.50
A131310	VERIZON WIRELESS	DATA CARDS – SHERIFF	1,760.50
A131311	WATER PURITY INC	WATER DELIVERED	63.00
A131312	WEST RIVER TELECOMM	911 TRUNKING RECURRING, MONTHLY TELEPHONE BILL	3,692.62
A131313	WESTERN FRONTIER INS AGENCY	NOTARY BOND RENEWAL – SIX – SHERIFF	50.00
A131314	WEX BANK	GASOLINE – SHERIFF	7,225.99

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

Chief Deputy Sheriff/E-911 Coordinator Richard Johnson and Assistant Jail Administrator Wade Krohmer joined the meeting to discuss continuing overtime for the jailer/dispatchers. Chief Deputy Auditor Lori Foss was asked to join the meeting to aid in the discussion. Johnson stated that 160 hours works the best for everybody because it gives flexibility and they've been doing it that way for so long. Lee feels the 171 would give more flexibility and result in less overtime. Lee would rather see the accumulation of comp time rather than payment of overtime to keep costs down. In general, Lee doesn't like comp or overtime in practice. Foss commented that the 171 is common practice as per the Fair Labor Standards Act, but it is at the discretion of the board to use a lesser amount if they should desire when determining a starting point for accrual of overtime/comp time.

Moved by Suydam, seconded by Krebsbach, to approve continuing with current level of 160 hours worked before overtime starts and to allow the accrual of comp time rather than paying overtime under the current policy with the understanding that overtime must be approved ahead of time and the board agreed to revisit the issue again in July of 2017. Roll Call Vote: Aye: Suydam, Krebsbach, and Lee. Nay: None. Motion carried.

Chairperson Lee opened a public hearing at 9:15 a.m. with regards to Falkirk Mining Company's request to temporarily close section line roads in order to conduct surface coal mining and reclamation operations. Falkirk Mining Company's Land Agent Doug Stoltz, Engineering Manager Steve Burke, and Land Manager Chris Frieze, were in attendance.

Moved by Krebsbach, seconded by Suydam, to approve the following resolution as submitted:

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:

- a. County Road 20 as it passes through Section 27, Township 145 North, Range 83 West.
- b. The north-south section line road between Sections 33 and 34, Township 145 North, Range 83 West.
- c. The east-west section line road between Section 6, Township 144 North, Range 83 West and Section 34, Township 145 North, Range 83 West.
- d. The east-west section line road between Section 6, Township 144 North, Range 83 West and Section 33, Township 145 North, Range 83 West.

WHEREAS, a public hearing was held upon the Petition of Falkirk before the Commission the 15<sup>th</sup> day of November, 2016, 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.

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 said section line roads will not be required due to a readily accessible alternate route of travel that has been constructed at Falkirk's expense along the following route:
  - a. The road constructed between Section 22 and 27, Township 145 North, Range 83 West; and
  - b. The road constructed between Sections 21 and 28, Township 145 North, Range 83 West.
5. That the temporary closing of said section line roads does not deprive adjacent landowners access to their property.
6. 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. County Road 20 as it passes through Section 27, Township 145 North, Range 83 West;
  - b. The north-south section line road between Sections 33 and 34, Township 145 North, Range 83 West;
  - c. The east-west section line road between Section 6, Township 144 North, Range 83 West and Section 34, Township 145 North, Range 83 West; and
  - d. The east-west section line road between Section 6, Township 144 North, Range 83 West and Section 33, Township 145 North, Range 83 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 rods 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 rods 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 15<sup>th</sup> day of November, 2016.

ATTEST:

McLEAN COUNTY COMMISSION

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Les Korgel, County Auditor

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

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

The Chairperson closed the public hearing at 9:17 a.m.

Chairperson Lee opened a second public hearing at 9:17 a.m. with regards to Falkirk Mining Company's request for permitting surface coal mining operations within 100 feet of the outside right-of way of certain public roads.

Moved by Suydam, seconded by Krebsbach, to approve the following resolution as submitted:

RESOLUTION  
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 north and south sides of the section line of Section 23 and Section 26, Township 145 North, Range 83 West; and
- b. The north and south side of the section line between Section 22 and Section 27, Township 145 North, Range 83 West.

WHEREAS, a public hearing was held upon the Petition of Falkirk before the Commission on the 15<sup>th</sup> day of November, 2016, 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;

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 north and south sides of the section line of Section 23 and Section 26, Township 145 North, Range 83 West; and
- b. The north and south side of the section line between Section 22 and Section 27, 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.

ATTEST:

McLEAN COUNTY COMMISSION

\_\_\_\_\_  
Leslie Korgel, County Auditor

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

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

Moved by Krebsbach, seconded by Suydam, to accept the responsibility for maintenance costs of reopened section line roads as follows: between the SW¼ of Section 19 and the NW¼ of Section 30, Township 145 North, Range 82 West and Sections 24 and 24, 23 and 26, 22 and 27, and 21 and 28, Township 145 North, Range 83 West, and Section 25, Township 145 North, Range 83 West and Section 30, Township 145 North, Range 82 West. This will reopen County Road 20 in its original location. Roll Call Vote: Aye: Suydam, Krebsbach, and Lee. Nay: None. Motion carried.

The Chairperson closed the public hearing at 9:21 a.m.

Moved by Suydam, seconded by Krebsbach, to approve the permit request from Falkirk Mining Company to install and maintain the following described facilities on highway right-of-way:

- A 6.9kv power line across the county road approximately 450 feet north of the southwest corner of Section 21, Township 145 North, Range 83 West.
- A 6.9kv power line across the county road approximately 285 feet west of the northeast corner of Section 29, Township 145 North, Range 83 West.
- A 6.9kv power line across the county road approximately 1,680 feet east of the southwest corner of Section 29, Township 145 North, Range 83 West.
- A 6.9kv power line across the county road approximately 2,550 feet south of the northwest corner of Section 33, Township 145 North, Range 83 West.
- A 6.9kv power line across the county road approximately 50 feet north of the southeast corner of Section 33, Township 145 North, Range 83 West.

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

Falkirk Land Manager Chris Friez addressed the Commission on upcoming Federal Coal Leases and the moratorium placed on them earlier this year by the Federal Government.

There being no further business, the chairperson declared the meeting adjourned at 9:49 a.m. until the next regularly scheduled meeting on Tuesday, December 6. The commission minutes and agenda can be found on the county website at <http://www.mcleancountynd.gov>.

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Steve Lee, Chairperson

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Nancy Leidholm, Deputy Auditor