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ROLL NUMBER

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La Costa Rickford
Operator's Signature

10/2/03
Date

2003 HOUSE POLITICAL SUBDIVISIONS

HB 1278

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1278

House Political Subdivisions Committee

Conference Committee

Hearing Date: January 24, 2003

Tape Number	Side A	Side B	Meter #
1	X		27.9-52.8
1		X	0.0-15.6
Committee Clerk Signature <i>Mickie Schmidt</i>			2-4-03

Minutes:

TAPE 1: SIDE A:

(27.9) REP. GLEN FROSETH: We will open the hearing on HB 1278.

(29.4) REP. KATHY HAWKEN: Testimony in support of HB 1278. There is a concern where the county deals with the roads and where the developer can demand a road. This Bill clarifies exactly who has the authority to do the road when it is necessary.

(30.7) TERRY TRAYNOR; ND ASSOCIATION OF THE COUNTIES: Testimony in support of HB 1278. (See attachment #1) Since 1915 the century code had included that section 240706, that says township and county boards may open a parkway or highway along the lines of any such tracks or track when in the judgment of the board, such parkway or highway is necessary. We don't feel that it's appropriate for an individual landowner to request and receive a private drive which would require condemnation, someone else's property to build it with county funds. We feel that this establishes that and puts the discretion back to it's local road authority

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and allows them to make those decisions. The Attorney General's office reviewed this and feels that on line 9, the word "open" is a non defined word and not necessary.

(34.9) REP. GLEN FROSETH: For clarification, What's the difference between what's considered a highway, or a public road?

(35.4) TERRY TRAYNOR: When we worked with several state's attorney's in putting this together, they felt the public road was more general statement, better defined. It includes trails, highways and all sorts of roads.

(35.9) REP. GLEN FROSETH: We have a lot of service roads in our area, utilities, access roads, etc... What procedure do they go through to get permission to build those roads?

(36.2) TERRY TRAYNOR: They coordinate with the local road authorities. Basically they secure their own easements.

(37.1) REP. GIL HERBEL: If someone is isolated, surrounded by other peoples land, who would have the authority to where that road may go in to get to that land?

(37.5) TERRY TRAYNOR: I assume it is wherever they could get the right to build the road. It would probably be a defining factor because that to me would be the most difficult thing, because you're talking about crossing someone else's land.

(37.9) REP. GIL HERBEL: On my ranch, I have the river running through it all of the way. I have a good working relationship with the guy who's isolated from the main road. I allow him to drive across my property to get to his. But if someday when I want to fence that off to put cattle on that land, will I be able to get the authority to do that?

(38.8) TERRY TRAYNOR: I don't think this would affect that at all. This would allow that land owner to petition the county to open access if you did restrict it in that way. And then the

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commission would have to determine if it was a benefit to the township or the county to invest the public funds for a single land owner. There are other issues though with that about road that's been used for 20 years, it is difficult for a land owner, even if it is their private land to close that.

(39.8) REP. SALLY SANDVIG: Who's responsible for paying for this, is it townships or is it counties?

(39.8) TERRY TRAYNOR: Who ever the local road authority is, and in an organized township, most often it would be the township in area's where the townships are unorganized, then that would fall through the counties. And that's the issue. The way that the Attorney General has interpreted that we would demand that private roads be built.

(40.9) JON MILL; BURLEIGH COUNTY ENGINEER: Testimony in support of HB 1278.

Our concern on this whole issue is triggered by the State's Attorney General's opinion that in effect said "any person with a parcel of land in petition to the county or township could have a public road to that land. That concerns us greatly.

(44.3) REP. CAROL NIEMEIER: Do real estate developers have any obligations to complete a road over to the public highways?

(44.6) JON MILL: Right now that is the approach that you are taking. It's not necessarily the real estate agent as such, it's the developers.

(45.4) REP. DALE SEVERSON: If you require that these people build the roads for public access or whatever, who's road does it become?

(46.1) JON MILL: Most of these types of situations are happening on a section line. If a developer or anybody builds a road with the minimum standards, the township will take it over and hold it and maintain from that point forward.

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(47.5) KEN YANTES; ND TOWNSHIP OF OFFICERS ASSOCIATION: Testimony n

support of HB 1278. (See attachment #2)

(50.8) REP. DALE SEVERSON: If a political subdivision on one of the bills outside of county land, wouldn't it be a benefit to the township to build that road? At what point is it not a benefit?

(51.4) KEN YANTES: To build a road it costs a lot of money. It depends on the rights of the road, the amount of personal subdivisions that can all be derived from commercial land.

When building a road, the potential income is considered.

TAPE 1; SIDE B:

(4.4) REP. GLEN FROSETH: Any testimony in support of HB 1278? Opposition?

(4.8) CURTIS & MELVIN FISCHER; ST. ANTHONY FARMERS: Testimony in opposition of HB 1278. In the Bill, it says "open section line". We want to talk about the definition of "open". We currently have a part of land, which is like a government survey, which are the section line adjacent or adjoining of property. Due to the terrain of the land, it is impossible and over the past years we have been traveling across the neighbors to get to our property, which we have been denied access to it. We feel that this Bill should state that for agricultural purposes a person should be allowed access to their property because it is our livelihood and income to get to this land. **MELVIN:** The county commissioners back in 1976, provided this land, put cattle guards and gates in for us and in 2000 the Commissioner let them take the cattle guards, lock the gates, which the county bought for us to use. All five County commissioners signed it. And now we're locked out of our land, no way to get to our cattle. It's a

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little bit less than the governments survey. This is my bread and butter, it's the only thing I can do.

(7.0) REP. GLEN FROSETH: I understand your concern. Every Bill we here has some type of circumstances that will affect citizens differently. It's our duty as a committee to try to sort out what we feel is the best result for the people of ND. We appreciate your concerns and will certainly take them under consideration.

(7.8) REP. BRUCE ECKRE: Didn't Terry Traynor say that if you had access for 20 years, that you should have access?

(7.9) TERRY TRAYNOR: If it was used for 20 years, it's considered public access.

(8.6) REP. WILLIAM KRETSCHMAR: How far do you have to drive across someone else's land? How large of a tract of land do you want to get to? Is it crop land or pasture? **(8.7)**

MELVIN: A quarter of a mile. 156 acres. 60 acres of crop land, and the rest is grazing. We've been driving it a lifetime.

(9.5) REP. RON IVERSON: And why won't the landowner let you cross it?

(9.6) MELVIN: There's a feud going on.

(10.1) REP. ALON WIELAND: Do you not have a written easement to cross the property that you are now crossing?

(10.5) CUNTIS: There was an easement written up, but it was not signed. The landowner did not sign it but his Attorney's have signed it.

(10.8) REP. ALON WIELAND: The landowners Attorney signed it on his behalf. He signed it and you have signed it?

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(10.9) MELVIN: No, it was made to the county. The easement was given to the county, it wasn't given to us. By giving it to Morton County, that made it a public road. It was signed in 1976.

(12.0) REP. GIL HERBEL: Is there any other possible access that you can use?

(12.1) CURTIS: There are other section lines going in, but they're longer distances and the terrain is bad.

(13.4) REP. DALE SEVERSON: Is the section line were used, do you think the county would bring that up to snuff to get you into your property?

(13.5) CURTIS: We have contacted the county already and they deny any work being done on it because they don't have the funding in order to do it.

(14.8) REP. GLEN FROSETH: This committee will certainly take this under consideration.

We'll have to review a few state statutes and state laws that effect open section lines.

We will close the hearing on HB 1278. **(15.6)**

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1278

House Political Subdivisions Committee

Conference Committee

Hearing Date: January 30, 2003

Tape Number	Side A	Side B	Meter #
2	X		25.1-29.4
Committee Clerk Signature <i>Mickie Schmidt</i>			2-11-03

Minutes:

(TAPE 2; SIDE A:)

(25.1) REP. GLEN FROSETH: We will open the hearing for **HB 1278**. Does anyone have any concerns with HB 1278.

(26.7) REP. BRUCE ECKRE: Mr. Fischer will have to do what any of us would have to do if we get into a legal situation, hire an attorney.

(26.9) REP. NANCY JOHNSON: Line 9, the word open may be a concern.

(27.1) REP. BRUCE ECKRE: Rep. Hawkins said she would like that taken out and she was the prime sponsor for it.

REP. ALON WIELAND: I was also asked to have us consider removing the word "such" on line 9 and 11 and put in adjoining. In drawing the diagram, it was demonstrated to me that such would mean all lines around the track and the track adjoining.

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