

Tuesday, July 19, 1994, the Sabine County Commissioners' Court met in a Special meeting. The following members were present:

John L. Hyden	County Judge
Keith Clark	Commissioner Pct. #1
Lynn Smith	Commissioner Pct. #2
Carolyn White	Commissioner Pct. #3
Chester Cox, Sr.	Commissioner Pct. #4
Janice McDaniel	County Clerk

Judge Hyden called the meeting to order at 9:05 A.M.

Agenda item #1- Notice of Public Hearing for Petition Regarding Gravel Hill Road- Plaintiff Harvey P. Boudreaux was represented by attorney Blair Bisbey.

Defendant Jesse Marshall, et ux, was represented by attorney Tom Rorrie.

The Court heard opening statements from both attorneys and testimony from: Dick Horn, Vance Hargrove, Rob Smith, Nelda Melton Marshall and Jesse Conn.


After some discussion among the Court, Judge Hyden made the motion that the Commissioners' Court finds that there is sufficient evidence for us to reaffirm the prior Commissioners' Court finding that the road is in fact a public road.


Commissioner Smith seconded. All voted for. Motion carried.

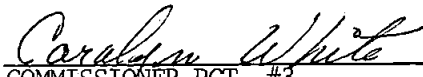
Commissioner Smith made the motion to adjourn. Commissioner White seconded.

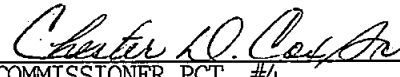
Meeting adjourned.


  
COUNTY JUDGE

  
COMMISSIONER PCT. #1

  
COMMISSIONER PCT. #2

  
COMMISSIONER PCT. #3

  
COMMISSIONER PCT. #4

  
COUNTY CLERK

IN THE COMMISSIONERS COURT  
OF SABINE COUNTY  
JULY 19, 1994

FILED FOR RECORD

AT 11:25 O'CLOCK A.M.

JUL 21 1994

*Janice McDaniel*  
Clerk, County Court, Sabine County  
BY \_\_\_\_\_ DEPUTY

In Re

Gravel Hill Road

Upon receipt of a petition from Mr. Harvey Boudreaux and an order attached duly signed by District Judge Monte Lawless, to abate for a period not to exceed 40 days cause #9623, in the District Court of Sabine County, such order being signed on the 27th day of May 1994, an order setting hearing for July 19, 1994 before the Commissioners Court of Sabine County was issued by County Judge John L. Hyden.

The matter was heard by the Commissioners Court beginning at 9:00 a.m., July 19, 1994. The plaintiff was represented by Mr. Blair Bisbey; Seale, Stover, Coffield and Bisbey and the defendant, Jesse Marshall, et ux was represented by Mr. Tom Rorie; Stripling, Sutton, Rorie and Pedersen. Sworn testimony from witnesses was heard. The Judge allowed an opening argument from both counsel prior to examination and cross examination of witnesses. Several exhibits from the District Court trial were introduced by both plaintiff and defense Attorney's. Summaries of the testimony of witnesses who testified at the trial in the District Court, May 30, 1989 were prepared, exchanged and approved by Counsel prior to the hearing and given to members of the Court at the hearing together with the opinion from the 12th Court of Appeals.

The first two witnesses called by the plaintiff's attorney, Mr. Bisbey, were Mr. Dick Horn and Mr. Vance Hargrove. Both of these men are known well by the Court as being credible and of high moral character.

Mr. Horn testified he drove his vehicle down the contested road/lane in the late 1930's and 1940's to visit a Mr. Bennett. Mr. Horn is approximately 75 years of age.

Mr. Hargrove, (81 years old), testified it had always been a county/public road, that he traveled it frequently during the 1920's and 1930's and that his father worked on the road many times for the County in lieu of paying taxes. He described in detail how the road joined what is now FM 1592 and proceeded south to the southern most line of the Melton property, approximately 1/4 mile, then southwesterly approximately 1/4 to 1/2 mile, then south across Tebo Creek to what is now SH 184 near Bronson. He testified how the bridge would "wash out" often and that it was always replaced by Sabine County. Mr. Hargrove also testified the road proceeded south from now FM 1592 between the Laird and Melton homes but closer to the Melton's home than the Laird's. In fact the road ran within 30-50 feet of the east side of the Melton home. He also testified the road was used by those living in the Gravel Hill Community to go to Bronson as well as at least two other families who lived on the north, (the Bennett's) and one on the south side of Tebo Creek, the Cole's.

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Mr. Hargrove further testified the Laird's had a fence running east-west along now FM 1592 and such fence cornered at the intersection of the contested road/lane, (N.W. corner of Laird's property), then proceeded south along the east line of the contested road/lane. The Melton's did not have a fence.

Ms. Marshall testified she was born in 1928 and grew up in her parents home, (the Melton's) until she married in 1946.

Little if any testimony established the use or maintenance of the road after the mid 1940's. The only use being that of loggers and hunters. The Bennett's moved in 1949.


Testimony from a prior County Commissioner, Mr. Smith, who was on the Court at the time the Court affirmed the road as a county road in October, 1971, testified that he did not feel an agenda giving notice that action would be taken by the Court was ever proposed or posted. Mr. Smith said, "They never had an agenda in those days". It was rather evident, the action of the Court was "Ex Parte" and no notice was ever given to the Marshall's or Mrs. Melton who was living at the time.

Based primarily on the testimony of Mr. Hargrove, and particularly the testimony describing the location, condition, direction of travel, familiarity with area and the fact the County did maintain the road and its bridges to "as good" condition as all other County roads including the now FM 1592, the Commissioners Court voted unanimously the road in question was a public road, should continue to be considered as such and ordered the road opened.

It was bothersome to the Court that the deed records show the road from now FM 1592 to be located on Melton property. Of course, we have no way of knowing what offers of conveyance were made by Mr. Melton to Sabine County or what acceptance was granted by the County. We were convinced the County did maintain the road to some degree through the work of citizens in lieu of taxes and we question why such maintenance was not stopped prior to the 1930's by Mr. Melton if the road was not intended to be a public road. There appeared no question Mr. Melton was competent to do so and that the public relied on the acts or lack of affirmative action to the contrary and were served by the same.

The Court further felt the acts or lack of action, as the case may have been, on the part of Mr. Melton made clear his donative intent.

In summary, it is the unanimous decision of the Commissioners Court that an implied dedication was established, although at a time prior to and during the very early years of Ms. Marshall's life, and the same is reflected in the minutes of the Court this the 19th day of July, 1994

  
John L. Hyden  
County Judge

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THE STATE OF TEXAS  
COUNTY OF SABINE  
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE FILED AND  
DULY RECORDED IN THE COMMISSIONERS COURT MINUTES OF SABINE  
COUNTY, TEXAS.



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Janice McDaniel County Clerk  
by Louise Clark  
DEPUTY

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