

Public Hearing

Commissioner's Court

April 10, 2000 11:00 a.m.

Members of the Court present:

Jack Leath	County Judge
Keith Clark	Commissioner Pct. #1
Lynn Smith	Commissioner Pct. #2
Doyle Dickerson	Commissioner Pct. #3
Gene Nethery	Commissioner Pct. #4
Janice McDaniel	County Clerk

Judge Leath called the meeting to order at 11:00 a.m.

Agenda item #1-Black Jack Road

Judge Leath told the people present that we are calling this road "Black Jack Road" because it apparently at one time went to the "Black Jack Community" as we understand it.

Commissioner Smith said the road is located in the southwestern part of precinct 2. It comes into Sabine County from Jasper County. Jasper County maintains the road up to the County line. It has not been maintained north of the Sabine County line in many years. He said he had been requested to maintain this road back when he first came into office, but he had too many other problems at that time to even consider it. The purpose of this meeting today is to try to determine the status of the road, was it ever a public road and was it ever maintained.

Judge Leath said he believes there will be disagreement as to where the old road is exactly and we may not be able to establish that today.

Eddie Morton said that back in the thirties this was a rural mail route. Joe Thornton's place was just south of this property and the school bus would pick his daughter up. The road did not actually touch this property but there had to be a road or driveway from this road to the property. People lived there. After WW II, the people moved out of that area because the roads were so bad you could not get in or out.

Commissioner Smith said he and Mr. Morton went down this road. The road was clear until the oil well site. The only part that is not clear is where the oil well site is. He asked Mr. Morton if this was correct and he said agreed.

Ivy Lee Clark told the Court that all he wants is a way to his land. At one time there was a house place there so there had to be a road to it.

Judge Leath asked Mr. Clark if this road were opened would it give him access to his land?

Mr. Clark said it would be about 50 yards or so but there is an old road that goes to the land.

Debra Hudgens said she wants to buy Mr. Clark's property but she cannot if there is not a road to it. Whether it is a right-of-way or not, all we want is somebody to maintain the road. Jasper County does their part and Sabine County should do their part. We pay taxes in Sabine County. Mr. Clark pays taxes in Sabine County. We feel like there should be a road there. Just because it has not been maintained in the past years does not mean it is not a public road. It has not been voted closed.

Johnny Paul Stewart said he has been on the property and there is an old driveway. There is an old gatepost, hinges and all, still there that lead off the old road into this property. Everyone deserves a way to his or her property.

Commissioner Smith said the old driveway and gatepost that Mr. Stewart is referring to is farther on down the hill not up the hill where the most recent traffic has passed. The place where most of the recent traffic into this property has been is farther up the hill and is obviously a new route.

Manuel W. Lowe said he and his daddy used to go through there on horses. We used to hog hunt on there about. There was an old road there then. He said he was in there when he was a kid but has not been down there in recent years. He said he believes that everyone deserves access to his or her land.

George Lowe said he has maintained this road ever since he has worked for the County. He said he has been down the road when he was a kid but could not tell the Court exactly where the road was. You had to cross a bridge on the road.

Ben Hopson said that road has been there for years and years. He said he rode horses down the road years ago but he does not know exactly where the road ran.

Mr. Morton said this road intersected the old Brookeland to Hemphill road at the 4-mile post. Back then the Commissioners hired 2 men to measure the Brookeland to Hemphill road and put mile post.

Kathy McClintock said she had wanted to buy the property before and talked to Ivy Lee about it. She said he told her that there might be a problem with Susan Dunmire because she did not want people going in there. She then talked to Ms. Dunmire and Ms. Dunmire told her that at one time it was a public road but she was going to quit telling people because she did not want people in there because of her hunting leases. Ms. McClintock said did not feel like fighting over the road so she looked at something else. She said he had gotten some old maps from the Forestry Service so she just passed this information on to her sister.

John Michael Stewart said he is for reopening this road.

Ken Foster, Forestry Consultant, said he works for Susan Dunmire on managing her land and timber. He said that if Ms. Dunmire wanted to deny access she would have put up a gate at her south boundary line years ago. There is over a thousand feet of public road through the center of her property that remains open. She has no intention of closing that portion of the road. The old roads were used by her Grandfather in running cattle and by the old timers that lived in there just trying to carry on every day life. The roads have ceased to be needed and have become part of her property. Mr. Foster gave the Court maps he obtained from the Forest Service and from the U. S. Department of the Interior Geological Survey. Mr. Clark's property is located on the northern most corner of Susan's property. On the Geological Survey map(1957), the Black Jack road shows to go all the way through to Black Jack, right across her western most corner. The right fork shows to end at her south line. The 1953 U. S. Forest Service map also shows the Black Jack road crossing Susan's western most corner and going all the way through. He said that he, Susan and Commissioner Smith parked their vehicles and walked the old road to that western most corner. At that corner there is an old road with an old gate with a chain and lock at the Forest Service corner. You can still see the road, roadbed, ditches and old barb wire fence on each side of the road. It follows her property line about 200 feet then turns off to the north. From that point all the way back around, there is no roadbed. There is a trail that we followed that Susan keeps open for deer hunting. We contend that the road that goes north is the old Black Jack road. On the 1984 map, the road shows to end at the county line but it actually goes a few hundred feet into her property. This road remains open to

serve the Thornton place, the Dunmire place, the old Berryman place and Temple-Inland. Once it gets up into the center of Susan's property, our issue is that it does not serve anyone from that point on except Susan. He said they do not dispute one word that has been said this morning as far as the road being there and being used by these folks for all the reasons.

Commissioner Smith asked Mr. Morton if the road that Mr. Foster is talking about is the same as the road he was referring to as the Brookeland/Hemphill road?

Mr. Morton said the Black Jack Road intersected the old Brookeland/Hemphill road.

Mr. Foster said that if this road is declared a public road, it will open Susan up to illegal dumping, timber theft and people open to trespassing. If the people get off the road at any point, they will be on Susan's private property. The issue is getting access into Mr. Clark's property. Does he have legal access and where is it? Mr. Foster said he believes he does but not on Mrs. Dunmire's property. A 1965 map shows that Mr. Veatch owned the adjacent property to Mr. Clark's. In 1945 he bought this 25 acres from Susan's Grandfather. That's why it is carved out of the corner of the Veatch property to begin with. When he bought the property, it became part of the rest of his holdings. There is numerous case law that indicates that once you merge a piece of property and make it a part of your holdings and you have legal access to your holdings, you have no need to go to adjacent land owners and demand access to your property. The property that Mr. Clark now owns passed down through several property owners and they had access from the east and north, some other way besides coming through the Bradshaw property, Susan's Grandfather. This access should have passed down to Mr. Clark. He said there is a good road that comes in at Thornton's gate and goes through Thornton property and goes into Mr. Clark's property at his eastern most corner. He said that when he inspected Susan's property lines, Mr. Clark was logging in there. There were log trucks, logging service trucks, lowboys and pickups in there. All driven over this established road right to his property and that he has a legal right to use since his property came out of this property.

Commissioner Smith said it is no more clear at this time about the proper thing to do. By the testimony given, it is clear that it was a public road and it has not been closed. There are no fences and no action by the Court to close or abandon the road. He said he would not be uncomfortable about re-establishing

this as a public road to some point. The question is what point. Even if that happens, how would you connect it to Mr. Clark's property?

Commissioner Smith asked Mr. Morton if this road is any different from some of the other roads that he has helped the County open in the McKim Creek area?

Mr. Morton said that years ago, the people maintained most roads. Instead of paying a tax, if you had a team, you would have so many days a month to work the road.

Mr. Foster said a 1968 Attorney General's opinion states that a Commissioners' Court does not have the authority to declare a public road. This should be done in District Court. He said he does not believe the Court should open up a road that dead ends inside someone's private property.

Judge Leath asked Mr. Foster if he would file suit if the Court decides to declare this a public road.

His answer was yes.

Commissioner Smith said he can see no good at this time to re-open the road but to recognize that it was once a public road.

Commissioner Smith moved for the Court to go on record to recognize the road we are referring to as "Black Jack Road" to be a public road from the point of leaving the Jasper County line to the point of intersecting with the old road known as the Brookeland/Hemphill road. To recognize it as a class "C" road.

Commissioner Clark seconded. All voted for. Motion carried.

Judge Leath declared the public hearing adjourned.

Jack Leath COUNTY JUDGE

Keith Clark COMMISSIONER PCT. #1

Lynn Smith COMMISSIONER PCT. #2

Doyle Dickerson COMMISSIONER PCT. #3

W. H. Hanning COMMISSIONER PCT. #4

ATTEST:

Janice McDaniel COUNTY CLERK

State of Texas
County of Sabine

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE FILED AND
Y INDEXED IN THE COMMISSIONER COURT MINUTES OF SABINE
COUNTY, TEXAS.

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JANICE McDANIEL COUNTY CLERK

BY Louise Clark
Deputy



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