

TOWN OF FAYAL
4375 SHADY LANE, EVELETH, MN 55734

Judy M. Sersha, Clerk/Treasurer

Steven J. Kniefel, Chairman

Supervisors: Tony Tammaro, James Pernu, Ron Beldo, Kathryn Erjavec

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PUBLIC HEARING ON PETITION TO VACATE SOUTH AIRPORT ROAD

DECEMBER 7, 2004

The Public Hearing on the petition received from the Eveleth-Virginia Airport Commission to vacate Fayal Township Road 6714, the South Airport Road, was called to order by Chairman Kniefel at 6:00 PM. Present were: Chairman Kniefel, Supervisor Beldo, Supervisor Erjavec, Supervisor Pernu, Supervisor Tammaro and Clerk Sersha.

Audience members in attendance were:

Mark Butorac	4950 Voss Road	Mt. Iron, MN
Jerry Ulman	4306 Shady Lane	Eveleth, MN
Bob Thomas	Eveleth-Virginia Airport Authority	
Gary Ulman	Eveleth-Virginia Airport	
Sheldon Krall	Eveleth-Virginia Airport Authority	
Anthony J. Zadnikar	606 N. VanBuren	Eveleth, MN
Denny J. Bone	7820 Hwy. 135	Virginia, MN-St. Louis County Land Dept.
Dave Skurla	7820 Hwy 135	Virginia, MN-St. Louis County Land Dept.
Davetta LaCoursier	4134 Miller Trunk Road	Eveleth, MN
Gerald LaCoursier	4134 Miller Trunk Road	Eveleth, MN
Michael Erjavec	7574 Ely Lake Drive	Eveleth, MN
David Jones	4332 Miller Trunk Road	Eveleth, MN
Lee Branville	4512 Woodlawn Point	Eveleth, MN
Bob Mavec	7715 Birch Lane	Eveleth, MN
Erik Knutson	4312 Shady Lane	Eveleth, MN
Robert Marcaccini	4439 Lakeside Drive	Eveleth, MN
Jon Marcaccini	4439 Lakeside Drive	Eveleth, MN
Craig Schlossin	7887 Thunderbird Trail East	Eveleth, MN
Scott Smith	4014 Miller Trunk Road	Eveleth, MN
Ted Polocec	Eveleth-Virginia Airport Authority	
Dale Dickson	7893 Pine Drive	Eveleth, MN

Chairman Kniefel- The purpose of the hearing is to consider a petition that has been received by the township for the proposed vacation of a township road, South Airport Road, also known as Township Road 6714. There is an agenda to follow, and you will all have a chance to speak, if you

so desire. This is a bit of a formal process, and I want to advise you all that this meeting will be tape recorded and a transcript of this meeting will be prepared. Because of that, when you do speak on this issue, we are going to ask that you come up to the podium so the tape recorder will pick up your comments so they will be made part of the record here this evening. I also ask that any comments that you do make are directed to the town board, and not amongst yourselves. Later on, the board may have questions to ask of you, and we may come back and ask you questions. We are here to gather input, and hear your opinions, and try and resolve this issue. That being said, we have a few things that need to be brought into the record before we hear the public commentary. The first thing is the reading of the actual petition presented to the town board . The town board received this petition on October 20, 2004.

Chairman Kniefel then read aloud the petition received from the Eveleth-Virginia Airport Commission. A copy is attached to these minutes.

Kniefel- In response to that petition, the board has taken some steps in considering this. The first was a Special Meeting of the town board, held on October 28, 2004. That special meeting was an inspection of South Airport Road, on-site. It was a short meeting and I will read the minutes from that meeting.

Chairman Kniefel read aloud the minutes from the Special Meeting held October 28, 2004. A copy of the minutes is attached to these minutes.

Kniefel- Further action by the town board was to approve a resolution basically accepting the petition as being valid, and setting the date and time of this hearing.

Chairman Kniefel read aloud Resolution 2004-7. A copy of the resolution is attached to these minutes.

Kniefel- That all being said, there are a number of notices and requirements that have to be complied with, and I will ask Clerk Sersha to bring us up to speed on that.

Sersha- I do have the affidavit of publication, required by the Town of Fayal. I have the affidavit of posting, that the notice was posted in the designated posting places of the town. I have the affidavit of mailing, and the list of property owners within one-half mile that notices were sent to, as required by the resolution.

Kniefel- Then there was requirements of personal service of the petitioners by the –did that get provided?

Sersha- What I received today, were copies of a letter which you had sent to Mary Cossalter, with a copy of a certified postage to the Commissioner of the DNR and the Eveleth-Virginia Airport Authority. I received three affidavits– received by the City of Virginia Clerk's office, a notification of the Township of Fayal Resolution 2004-07, signed by Lois Roskoski of the city clerk's office of Virginia, received by Denny Bone of the St. Louis County Land Office a notification of the Township of Fayal Resolution 2004-7, signed by Denny Bone, received by the City of Eveleth Clerk's office a notification of the Township of Fayal Resolution 2004-7, signed by Jackie Monahan Juneck.

Kniefel- It appears that all of the notification requirements have been met for this hearing?

Sersha- Yes.

Kniefel- Including the Minnesota DNR?

Sersha- Commissioner of DNR, yes.

Kniefel- OK, I will then ask the Clerk to read into the record any communication received to date.

Clerk Sersha then read into the record letters received as follows: Letter dated December 6, 2004 from Northern Natural Gas Right of Way Agent Leland C. Mann, Letter dated November 19, 2004, subject- Notice of Road Vacation - South Airport Drive - Twp. Road 6714 to the Fayal Town Board of Supervisors, from Scott J. Kelling, Supervisor Tower Area Trails and Waterways and letter to Fayal Board of Supervisors from Gene, Mona and Erik Knutson 4312 Shady Lane. Copies of the letters are attached to these minutes.

Sersha- That is all the correspondence I have received to date.

Kniefel- Thank you. With that being said, we will move to the oral presentations. First of all we will hear presentations in support of the petition, so I would ask anyone to speak in support to step up to the podium.

SUPPORT OF ROAD VACATION

Robert Thomas- I am a member of the Virginia Airport Authority, and first off, the request for the vacating of the road is not for ah, and certainly, the only issue we have is safety and continuing back to 1980 was requested by the Minnesota Department of Transportation, to either move the road or have the road closed. With that, I have a letter dated October 21, 2002, that says approach to runway 32 is still obstructed by road on the south side of the airport. Last time we talked you were attempting to get the road closed. Please either close or move the road to secure the approach to runway 32. The problem is, there is a transition slope that runs off runway 32 and one four and the slope is, I believe, forty to one, is that correct Gary? Actually, when you're on the runway, there is no slope but all you so is (plane?) an obstruction. Now, once you move outside into the transition area the glide scope, or transition scope is forty to one. So, for every forty feet you can be one foot high, so it puts you directly into our flyway. Previous to that in 2000, and every two years we seemed to get another letter that says your approach to runway 32 is obstructed by the road, I understand you are working to get control over this road. Please continue those efforts. It is not that we wanted to restrict, we have in fact asked several times over the years for the road to be gated, so that nobody could get down there, or at least not be an obstruction to the flyways coming into the airport. Since that point in time we have purchased that land, or are in the process of purchasing, maybe the final one or two final parcels of land from the St. Louis County Land Department. We thought we would own them all, but in fact there was one little problem that we, that came up, that we are resolving right now. Again, it is not that, the road is certainly a public road at this point in time, however all properties that abut the road are either owned by the City of Eveleth, City of Virginia, or the Airport Authority. As soon as you step off of the right of way of the road, and in fact they are marked no

hunting and no trespassing beyond that signage, so I don't know if anyone here said it was to get to public lands, but that is actually false, so you can't get to public lands, or you will not be able to very shortly, outside of the one piece I was telling you that we are in the process of purchasing. Again it is not our purpose to restrict, it is our purpose to only create a safety margin for the airport, and that has always been our purpose since about 1979, 1980 in order to get this road either gated or to vacate the road.

Gary Ulman- My name is Gary Ulman and I am with the Eveleth-Virginia Airport. So far, just jotting down, it looks like there's probably six interests in the road. Number one would be St. Louis County, they have survey stakes up where they need to test their equipment and measure their equipment. They have come to us in the past and asked us to let them go in the airport and I say no problem. The second would be St. Louis County for land sales or timber sales, that's no problem. Northern Natural Gas, I talked to the Leland man and said we have no problem giving them access as to equipment and what not. Minnesota Department of Transportation Aeronautics Division, they would need access to the new navigation aid. Us, ourselves, Eveleth-Virginia Airport need access, maintenance around the airport. Minnesota Power and Quest, once again, they are utilities, we have no problem with them. Basically that's it, it's just utilities and government people that have an interest in getting back there.

Kniefel- Anyone else wish to speak in support of the petition?

Michael Erjavec- Yeh, I'm Michael Erjavec and I share a forty line with the airport, the former Matt Filipovich property, and I had some concerns about access. I had twenty acres down there that cross Ely Lake creek and my only access is over that so called culvert across this unnamed tributary. I have no access to my side now, other than that but I'd have to cross airport property to get to it. I had concerns about that. But, I came, I think it was the Saturday of deer hunting, about 5:30 at night, there was two cars coming down that road with its brights on, and I thought, it's a miracle somebody is not trying to land. When you are up in the sky, you're going to be blinded by them—lights that close to your runway. It turned my feelings about it around because I really think the overriding thing is the safety issue there. I wouldn't want to be the guy coming down, landing that plane, with those lights coming like that—it's a safety issue, plain and clear. I feel for these people and their hunting property and that, but that's life, but I think the overriding thing is the safety, people coming down there with their bright headlights on, that's all I've got.

Kniefel- Thank you, Mike. Anyone else wish to speak in favor of the petition at this time?

David Jones- I am David Jones and I live at 4332 Miller Trunk Road. When they gave you those names, all those people on Miller Trunk to close that road, who's the guy who got those names, I wonder? Who's the one that got the names?

Kniefel- I don't know, the petition was presented to us. I don't know who got the names. Who pounded the turf to get the names, I guess I can't answer that.

Jones- I could probably go and talk to those people and they'd say to keep it open. They've hunted for hundreds of years back there, and I got artificial knees, I can't breathe, and I bought a 4-wheeler just so I could go back there and hunt and have fun. There's all kinds of people that go back there

hunting, I don't know where they're bothering the airplanes. This safety business—I got a brother that flies a plane, I got a son-in-law that flies, and they both fly in over here. I don't know where they get this safety business. They're coming over our highways here on Miller Trunk Road, jets and everything, and then somebody was telling me, I don't know how true it is, that they want to build a road from that Senator Wellstone to the airport. So, they're going to build a road there? They should be able to go around there so we can have access to get in the back there. What if one of those planes came in and that gasoline blows up? What if the deer is on the runway, wolves. We're back there, we're protecting them. I see people walk their dogs on that road, people jog on that road, and they been doing it for years and years and now all of a sudden somebody wants to close it. There was a guy, three years ago, somebody was telling us we couldn't hunt there because he was on the airport commission and he's got land a little bit from there, so he wants everything for himself, that's what I think.

Jones- How do you get on this airport commission, how do you get on that?

Gary Ulman- Live in Eveleth, you have to be a resident of Eveleth or Virginia.

Jones- Eveleth or Virginia?

Kniefel- I think we are kind of getting off the track. I appreciate your comments. I think we kind of transitioned into opposition, though. Before we take more testimony in opposition, does anyone wish to speak in favor? (No one came forward.) Does anyone wish to speak in opposition?

OPPOSED TO ROAD VACATION

Gerald LaCoursier- My name is Gerald LaCoursier, and I am probably the closest landowner to this road. I have lived here for 37 years in this township, and I have been hunting behind the airport for 37 years. I know a lot of other people that hunt back there, and trap and everything else. But now its getting to be a more popular place for people to ride horses too, so it's being more used all the time. If they want to close the gate, then close the gate, after they build a road around so we still have public access to public lands.

Kniefel- Thank you Jerry. Anyone else?

Jon Marcaccini- Jon Marcaccini, Lakeside Drive. I don't hunt, but I drive by that road a lot, my brother lives over that way and I just see many, many people, residents of Fayal Township, using that road for just what these other gentleman said. Walking your dogs, or walking, or just parking your car on a sunny day, and to deny the people of Fayal that access just isn't something I think we should do. The road has been there forever and I don't think it has really presented a problem for the airplanes. I mean, the pilots deal with lights and stuff no matter where they land. I have been at other airports where there's highways right next to the gate too. I mean real highways, not a road like this. I just think that for the people of Fayal, it is something that should be left open. Thank you.

Kniefel- Thank you, Jon. Anyone else?

Denny Bone- My name is Denny Bone and I am an area land manager with the St. Louis County

Land Department in Virginia. There is some history to this in the past, there was a hearing before, I don't think it was brought up of the past petition to close that road, and I think it was kept open, oh about 5-6 years ago.

Kniefel- Seven, eight, oh, 1995 – nine!

Bone- A little longer than that, I guess. And, at that time, the land department objected to the closing of the road because it was the only practical access to the public land back there that is used for forest management and public use, or maybe for trail riding for snowmobiles, to ATV's to hunting. It is probably the only and major chunk of public ownership in the township. It is used by the residents, and we have been using it in the past, with the cooperation of the airport authority to get back there to do some harvesting. Dave Skurla, the forester out of Virginia, the geographical area that he manages, has had some timber sales back there. There are a lot plans for future sales out there either one or two more times in the next rotation. Granted, there is a lot of swamp out there in that area, to the north and to the west. It is the most practical access for us to access that area. It is seasonal for us for the most part, because it is winter, swampy, there is a stream crossing which we have dealt with. I'm not sure if the culvert is still there, I haven't been out there for awhile. It has been a problem over the years for washouts. We do access throughout the winter primarily. We have followed the regulations over the concerns the airport has when we have been out there because we have heavy equipment out there that uses the road and back in there and in the vicinity of the runway. So, it is practical to get back there, it is important to us to manage the timber back there. It does provide revenue to the township also for the revenue we generate out there. It does provide another secondary, or in this case primary recreational area that the residents have in their own backyard and coming off the other road system that is parallel or north to south to the township line is the Townline road, and it is not very good to come in that way, there is even more swamp. So, we are concerned that the access is there for us to manage the timber resource, and also to provide access to the residents of the township, or anybody, to get back there, and it is a logical, good road that can be used for recreational purposes in the summer because there isn't heavy traffic there. So, I guess we would object to having the road closed to the public at this point, unless there is a guaranteed access for forest management, but also for forest recreation or recreational purposes.

Kniefel- Does anyone else wish to speak in opposition?

Schlossin- Craig Schlossin, 7887 Thunderbird Trail. It seems like kind of a grey area with public land—you're talking federal, state, city. I have been using that for 20 years. I'd like to continue, even if its just limited access. I could see vehicles—you were talking about 40 to 1? Is that if somebody is standing on the road?

Bob Thomas- Actually, the, a part of the road runs right through glide slope of the runway.

Schlossin- So are you going to cut it down? I mean grade it down to get it—is it too high?

Thomas- Again, the only thing we requested in the past is that a gate be put up so you wouldn't be in the glide slope, in the runway glide slope. We couldn't get that done because it's a public road.

Schlossin- I guess I need a map because I have been walking and biking there for twenty years and

I've never had an airplane come over me yet, so I don't even know what you're talking about. How would the public access that land? I have looked at the map and there is many square miles back there. If you go to Clyde Road, that's almost inaccessible. Are you planning another trail there? If you closed it, how are we going to get back there? I mean there is public lands that you can't use then.

Supervisor Tony Tammaro- Tell you what, we never said we were closing it, that's why we're having this hearing.

Schlossin- Well, that's what you're proposing.

Supervisor Ron Beldo- No, we're listening, we are not proposing anything

Schlossin- Would you be open to another trail? With limited access—a walk in gate? Something?

Tammaro- That's a total possibility, absolutely.

Schlossin- Would you decide that before you close the road?

Kniefel- Absolutely, that's why it wasn't closed eight years ago.

Schlossin- And, would that satisfy you?

Bob Thomas- We are easily satisfied, its just that we can't get over these barriers just because the way roads are set up and unfortunately there is no nice way to go through here. We just wanted a gate originally.

Schlossin- Well it seems like an awful lot of public land back there, whether its state, federal, city, and we are all going to be locked out. There's going to be no way in there.

Thomas- I don't want to get off the way they are running the meeting. You know it has to be that you are for or against.

Schlossin- I oppose it.

Kniefel- Thank you, anyone else?

Mark Butorac- Mark Butorac, I live in Mt. Iron, I am also a business owner in Eveleth. I grew up in Fayal Township and I have been going back there for 30 plus years. They keep on talking about safety concerns as far as vehicles on the road, but yet they allow snowmobiles to be tested right alongside the runway. There is also a snowmobile event the grass drags, which occur over the summer. I never had any problems back there with airplanes coming close to me or whatever and that's about all I have to say.

Kniefel- Ok, anyone else? Ok, hearing none, I'd like to open it up at this time for the board to ask questions.

Q & A

Tammaro questioned Bob Thomas about the Airport's purchase of land from the county. Thomas explained they have not completed the purchase at this time, but expect to shortly. Tammaro stated that Thomas made it sound like once that land transaction was complete, that as soon as you step of the road right of way, you would be on airport land. Thomas stated that would be true, and that he did not know of any particular parcel you could get to without crossing airport land.

Schlossin questioned how you could trespass on public property? If the land is owned by the city, it is public. Tammaro questioned how much land the airport is purchasing from the county. Bone answered it is a small strip of about 5 acres, perpendicular to the road. Kniefel questioned the timeline on the sale. Bone states the county attorney is looking into who it can be sold to—the joint powers, or one of the cities. Thomas states the City of Virginia will be procuring the land for the joint powers. Bone states the land dept. has sold property to the airport in the past, and there will probably be another piece on the west side of the creek that will also be sold..

Kniefel states it is obvious that there has been no maintenance on the road just beyond the creek, and questioned if the maintained portion of the road falls on tax forfeit property? Bones states that is kind of fuzzy. Kniefel states there is no survey of the road to make a qualified evaluation other than to say it goes 100-150 feet past the creek, past that there are a series of logging trails that have not been maintained by a road authority. Kniefel states that is the claim the town has taken as far as public use. Bone agrees that the land department has used the public road for its timber sales, but after a certain point it may have asked for a temporary access from the airport to get to its land. Bone states that at some point in the future it will have to be determined where the road actually does end and that could be done by GPS very easily. Bone further states that though the Land Department is a public entity, they are not a road authority, and anything that is done by the land department to get to their property after a certain point, does not make that portion public.

Supervisor Kathryn Erjavec stated that Bone had earlier stated the road is the most practical access, but questioned if it is the only access. Bone answered the road is the most practical access, although there are winter roads the land department uses for access, but of course that is seasonal. Environmentally, the land department does not want to make roads out there for future timber sales and would like to continue to use the road in place.

Erjavec states that whether the road is vacated or not, the land department still needs access and permission would be needed from the airport to get to the land they want to get to. Bone states they will probably request a long-term permanent easement from the airport to get to the lands. Erjavec questioned whether there are other roads abutting the state tax forfeit property. Bone answered the Clyde Road. Erjavec states that the county is not being landlocked if there is another access. Bone states there is legal access, that would have to be submitted to the county for an access permit, for accessing from Clyde Road. Environmentally, the land department would be crossing many more wetlands, and it would open up another thoroughfare that could be misconstrued as a public road. Bone states they would rather just use the existing road. The existing road is accessed through a 9 ton road, Miller Trunk, and access from the Clyde Road would be only 5 ton.

Erjavec questioned if Bone thought that by having the logging road there, it gives the public the right to access those public lands across airport property? Bone answered no, you cannot infer that right, it would have to be legalized to the tax forfeit property or an easement would be needed.

Kniefel questioned Bone that if the township were to vacate the road, would the county like to see a contingency on the vacation that an easement would be given by the airport to maintain that access? Bone agreed. Kniefel questioned how the road would be maintained. Bone answered that anytime the road is used, the land department contracts call for the road to be maintained in as good or better condition, although the use is only occasional. The land department is also charged with recreation, but that does not mean roads have to be built to every piece of property for people to drive to the destination. Access through the Clyde road to the public lands would be very difficult to walk in, and an ATV would have to be used by the public. Erjavec questioned use of ATVs on wetlands. Bone answered yes, there are laws, but they change every time the legislature meets. Currently they are waiting for another update from the DNR.

Schlossin questioned when the last time the road was graded. Supervisor Ron Beldo answered it has been awhile.

Kniefel stated that back in 1995 there were plans to expand runway 1432 and questioned what expansion plans the airport has, if any. Gary Ulman answered that back in the '70's the original plan was to expand the runway and go further south-southeast with it. Since we already have a longer runway, the plan has gone to the east-west corridor, extending eastward, basically affecting less operations. Kniefel asked if the east-west runway plan was to expand 927 up to the 5,000 foot threshold? Ulman answered that is the long term goal, and that right now they are at 4,215 feet and we would move the threshold on the west end 500' east and extend the east end of the runway the additional to make up to the 5,000 feet. Sheldon Krall stated that way, the airport does not have to go and cut the tops off the residents trees. Kniefel questioned if moving the runway would still have the same effect for the road. Krall answered it is a moot point and will not make a difference, the road will still be a hazard.

Kniefel stated that in 1995 the safety issues were brought up, and questioned if the airport has given any consideration to mitigating the loss of the road—by moving it, replacing it etc. Kniefel states that tonight we have heard some real concern, and it is up to the board to decide if the road does have a public purpose. Ulman stated the airport would be willing to have a trail developed on the south edge of their property. As for getting in on the other end, to hunt etc. the commission has discussed at meetings about issuing a permit to get in and give them a training course.

Kniefel questioned where the airport planned to fence. Ulman answered the original plan is to start at the road and fence to the south property line, and then to fence the perimeter. Financial restraints make that impossible at this time. For the short term, the fence would be put right at the beginning of the road, and if anyone wants access, they can come to the airport.

Supervisor Jim Pernu questioned if the new VOR would be fenced around? Ulman answered that is why they would put a gate up on the road, the new VOR does not have a fence around it. Pernu questioned what is stopping anyone from going in and messing with it? Sheldon Krall answered that is why they want to put a gate on the road, on the Old Miller Trunk side.

Kniefel questioned that if the town board were to vacate the road with the following conditions- that the land department and utility companies be allowed a permanent easement, and a trail be established for the public, if that would be acceptable to the airport? Ulman questioned if the township is going to pick up the gravel from the road. Kniefel answered no, because it is not the intention to obliterate the road.

General discussion on possibilities for alternate access, such as North Airport Road, East Thunderbird Trail, or the establishment of a trail on the south boundary line of the airport's property. Denny Bone drew a map and there were discussions on placement of the runways and a proposed access to the public lands.

Chairman Kniefel thanked everyone for attending and stated that the Board was in no position to make a decision at this time. Further discussion by the board will be needed and Kniefel suggested the hearing be continued.

Motion to continue the Public Hearing to December 21, 2004, 7:00 PM, made by Supervisor Tamaro, support from Supervisor Beldo. Motion carried unanimously.

Chairman Kniefel stated that additional written comments will be taken up until the time of the continuation of the hearing.

Chairman Kniefel adjourned the Public Hearing at 7:18 PM

Respectfully submitted,

Judy M. Sersha
Clerk of Fayal

Approved: _____ Attest: _____
Chair Clerk