

# County commissioners approve Wheel Tax; effective Feb. 5

By Alan Dale  
The Plain Talk

Clay County Commissioners voted to approve Ordinance #2014-04 on Tuesday, which will set in motion a wheel tax to go into effect on Feb. 5.

Commissioners Leo Powell, Phyllis Packard, and Travis Mockler were in attendance at the commissioners' meeting at the county courthouse and unanimously approved the move following lengthy discussion on why the move needed to be made.

The first reading of the ordinance will be on Dec. 9 followed by a second one on Dec. 30.

An adoption of the ordinance would come that same day, Dec. 30, and it would be put into publication on Jan. 8-9 and 15-16 before finally going into motion on Feb. 5.

A total of 421 registered, county voters (5 percent) must sign a petition to ask for a referendum for a vote

on the ordinance by Feb. 5.

"This time is going to be different in that people have to realize that it's one thing to keep putting off paying a wheel tax and not keeping your roads up - which is why we are in the predicament we're in - it's also going to cut off future funding from the new legislation they will run through this year," county commissioner Leo Powell said.

Part of the ordinance reads that "the total vehicle tax may not exceed the sum of \$16 per vehicle... The total sum of all proceeds from the tax shall be retained by the county and deposited in the county road and bridge fund, to be used only for highway and bridge maintenance and construction."

A wheel tax has been voted in twice before by the county only to be shot down by voters in the past. Commissioners say that this time it would not behoove Clay County because it simply boils down to big dollars if they turn their back on the tax.

According to Powell, a state senate bill proposal option A created for raising various revenues for road maintenance includes a stipulation that counties adopt a wheel tax or they could lose additional funding. A total of 19 counties in South Dakota do not implement a wheel tax and could see the state decline providing additional, needed funds for not having a wheel tax in place.

"I can almost guarantee part of this (proposal) will pass and there is no doubt that the committee was very intent upon the fact that if you don't have a wheel tax and you don't have a long-range plan, you are not going to be eligible for any of the funds," Powell said. "One thing that has been consistent is that if you're not paying your fair share from your county you aren't going to get anything from the state until you do."

Powell also repeated a conversation he had with senator Mike Vehle who told the Clay County

Commissioner, "Clay County hasn't paid its fair share in over 10 years."

When Powell later double-checked he discovered it was closer to "20 years...and avoiding to pay the \$4 per wheel and before that \$2 per wheel."

Packard stated the repercussion of what could occur if a county did not have a wheel tax in place as literature in the various senate proposals states.

"The county is not eligible for the new funds," Packard said. "If you do not pay your fair share you will not be given a chance for any of the new funds collected."

"They are trying to push the issue of a wheel tax," Packard said about the state's agenda. "Locally, we have a quote of one repair that is \$750,000 just to do a mile-and-a-half. If we take these highway funds and do this one repair it will take practically everything we have. It would take away chip-sealing for the year and

we'd have to eliminate any other repairs in the county. Then we would be facing escalating costs for fixing the other roads. We need the funds to be able to get out there to repair our roads and make them truly functional. This would help us fix the roads we have."

Packard is concerned that if the ordinance goes to vote it would push back the wheel tax as much as a year and would put needed work on deteriorating roads that much further behind.

Packard added that there used to be more money available in the past, but now that is no longer the case funds are becoming less available to get from the state.

Mockler said that people would pay the various taxes the senate passes and yet end up not seeing the revenue kick backs if Clay County decided to repeal the wheel tax.

One person in attendance compared the senate's attitude toward the

implementation of the wheel tax and the potential loss of benefits if it were not passed in a county to blackmail.

"It's along the same lines as you don't have to raise the drinking age to 21," Phil Terwilliger, deputy state's attorney said while in attendance at the meeting. "But we don't have to give you the funds if we don't have to."

Packard voiced her agreement by saying, "It is blackmail."

The commissioners were asked if the senate committee coming up with the new proposals weren't being tasked with simply putting the wheel tax into law.

"They said they are not going into each individual county and tell them how to tax their people," Powell said. "They said we gave you a tool, an option, to raise money in your county for your county roads and you did not do that."

"I can guarantee if you are not participating, you will not be receiving."

## STEADY

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by doing this we will increase the opportunity for our students to not only help the economy in Vermillion but across the state. If we can have our kids graduate and work in (Vermillion) it can only help with economic development and quality of life in the community."

Eagle Creek has offices in Pierre and expressed interest in expanding into the Eagle Creek market.

"They wanted to hire trained people with software knowledge and have working experience on the job," Haraldson said. "They came to us, and said they wanted to bring jobs to Vermillion so how could they set up additional training with people they could hire."

The IT Academy was set up through the governor's economic development office. They facilitated the university, Eagle Creek, and Vermillion working together.

"We are going ahead offering the courses and the regents said to expand the program in five of the six public universities so any one can take the courses now," Haraldson said. "We are planning on doing it. Whether our students are committed to work at Eagle Creek or not, there is a big demand for

software consultancy."

Academy graduates can be in demand with a number of companies.

"Our education courses are not solely dependent on Eagle Creek," Haraldson said.

Moran echoed that sentiment.

"As with a lot of other programs we want to make sure our education programs are what the expectations of the industry standards are and that our students have the competencies moving into the potential employment areas," Moran said. "Ideally as we would envision things that this is a place that builds qualified employees."

Approximately 15 students completed the academy program last summer and this spring they are trying to increase that number heading into the meat of the program. The academy provides students with a set of competencies to move out into the work force.

A course is planned for the spring as a prep for the summer intensive course work. There they work on programming and toward a computer science degree. The academy also welcomes returning adults to the educational system looking for a change in career direction, according to Moran.

The spring prep course can be a springboard for the four course workload over the summer.

"It is geared toward the motivated student," Moran said. "For dedicated students it is manageable."



A currently unoccupied building at 1215 Princeton Street is a big part of the problem facing Eagle Creek Software Services who was supposed to move into the building this summer. Unpaid rent and other issues have led to the Vermillion Chamber and Development Company to file suit against the company.

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Eagle Creek's presence helped the program since they addressed issues and aided development in the software industry.

"We are looking forward to working with them and others in the future," Moran said. "Right now I have no more information of what their future is, but what we'd like to have is a place interested in our students."

"If one says they aren't hiring that loses some of the potential for our students. When Eagle Creek is more in a hiring mode

we are more than happy to work with them."

What the academy is trying to do is to look into getting multiples employment businesses involved with the program so as not to be dependent on any one company.

"I know Eagle Creek has interviewed a number of students that have gone through the academy," Moran said. "We are working to just get our students the competencies to get ready for employment."

## SAFETY

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how safe are the renters in Vermillion?

### NO CODE, BUT STILL SAFE?

The Plain Talk took time out recently to visit with Dustin and Sarah Wolforth, a married couple living in Vermillion. They allowed for a look at some of the windows in their home as this reporter and property landlord Marty Gilbertson along with fellow plaintiff Joe Hubert took stock on the current situation.

Immediately upon inspection, it was learned that a number of the home's windows did not pass the 4.5 square-foot requirement, falling short at just under 2-foot, 8-inches of open-able area.

Yet the Wolforth's felt fine if they were forced to evacuate through them in case of emergency.

"If I had to I'd get out," Dustin Wolforth said. "I would have to squeeze, but if there was an actual fire and that was my only way, I would get out."

"I could get out for sure," Sarah Wolforth said. "I'd put a chair through a window. It doesn't matter how big the window is I am getting out if there is a fire."

At issue? If the new city codes are ultimately enforced, construction could take place on these homes in order to get up to specifications. It also could lead to an increase of rent for owners to help recoup some of the costs plaintiffs would incur in meeting the new standards.

"Do I have to get loans out to pay this and if I do where am I going to get the money to pay it back?" Gilbertson said outside of the Wolforth's

home. "(The city's) answer to everything is you can just raise rents. I can't raise my rents much more than where we are at. If you look at how city government works they assess more fees, raise taxes, or charge more for certain services. That's how they raise their revenue."

"If my property goes empty I can't pay my payments. If we don't rent a place over the summer, we lower the price just to get someone in there. I don't have cash for this stuff."

Rent may not be an issue for the Wolforths but it doesn't mean they aren't concerned about the possibility of it going up in general.

"I don't like that and I'd prefer that the rent not go up," Dustin said. "It concerns me that if they had to make a bunch of changes to make code that the rent could go up. In my eyes rent is already pretty high to begin with. Ours here is pretty reasonable, but at the same time we looked around to begin with and rent around town is high because it's a college town and they can get away with doing that. They charge a little more because kids don't want to live on campus."

Then of course there is the question of some of these homes having egress windows too high to reach in case of needing to escape.

That would lead to more construction or the need for a step being built into the wall.

"It would be more concerning, I never thought about that (if his window was higher)," Dustin said. "If I had to get a step stool or a chair that would probably be more concerning. For me personally, it's not an issue."

"It's a safety issue, but I think people would prefer not to have (a step)."

"I would not like a step in front of my windows," Sarah added. "It would be one more thing that would be in the way."

Then of course there would be the time and distraction of having to put the steps into the walls as to make the windows accessible.

"I know for one I would not enjoy it if I had to all of a sudden I had to live somewhere else for a few days or weeks because of the fact that they were knocking out walls," Sarah Wolforth said. "Or even if I was going to stay and have workers in my home, doing all that. It would be an inconvenience."

Gilbertson said a process like that could take a month or so considering they couldn't just put in replacement windows but would have to take the current one out to the base of the wall and rebuild in a new one.

"Now I am starting to modify my building," Gilbertson said. "That's why you don't change these. If I have to do this it's going to be a major deal. This isn't something you just go out and buy."

### ENFORCEMENT OF THE CODES: ARE THEY CONSISTENT?

After seeing that the Wolforths could get themselves out of their windows that were reachable without a need for a step (see accompanying photographs), Gilbertson admitted they still weren't up to spec.

"These windows are not in code, it's not even close," he said. "If we had our grandfather clause or our 'exception', these windows would be legal. If you can get your body up through that, you can get out."

Gilbertson's primary

concern is the safety of all his renters, but the question is how can the property owners afford to make these drastic, sweeping changes without it coming at a heavy cost to them and the renters.

Code enforcement has increased in recent years, but that doesn't change the fact that these rentals that are now being called to question for safety concerns that were not deemed dangerous before.

That is a big part of the problem according to both Gilbertson and Hubert.

"If that house was built in 1978 and was a rental now those windows aren't big enough," Gilbertson said pointing across the street to a private home. "If they were built to code then and were big enough then, why aren't they big enough now? That's all we are trying to say. When is it going to stop? Next are we going to have to upgrade our electrical? Do we have to put building sprinklers in? Why can't we follow the national code like everybody else does rather than having the custom code the city felt they needed to write?"

When told that the city had told *The Plain Talk* that approximately 150 windows are being called to question, Gilbertson rebutted.

"It's a fluid number because they are still counting," he said. "(The Wolforth's home) has an imminent danger window that did not get recognized on my inspection. I am saying it is because we just measured it, but they did my inspection this summer and I wasn't told I had to change them. There is no

consistency. I didn't know a thing about this until 2012 when this thing blew up and they started telling us we had to start changing windows."

The other issue is if the windows present a danger why are ones not being considered "imminent" dangers getting five years to be fixed?

"If it's so dangerous then why are we getting five years to fix them and not having to do them by yesterday?" Hubert said. "They keep saying there is forgiveness there. But how does that work if a different inspector comes in next time? Where are you at? Unless they document something that says you are good forever and they don't. They just change the rules as they go. They say now four-and-a-half-feet is OK, so what happens two years from now and they say they want five? Where do we go from there?"

Also being called to question is the safety of privately owned homes.

The city can't enforce codes on these domiciles to do eminent domain laws, but if they did pose a serious danger, Hubert and Gilbertson believe the city could find a way to make them safer.

"If privately owned homes, with children, are considered ones that have imminent dangers why can't they enforce these codes on them if it is that dangerous?" Gilbertson asked. "That's an owner-occupied home right there with the same windows and they are fine. (The city) is not going to make them change them. Same exact windows

and it's because of imminent domain laws they can't force them to do anything."

### IT ALL BOILS DOWN TO...

If the injunction bid fails and the codes are enforced, if the lawsuit is found in favor of the city, the people affected won't be just the plaintiffs but the renters as well.

They will start looking elsewhere.

Hubert said if they raised rent on an older building that could potentially entice renters to seek the same price in a newer model that may already be up to code.

That is why Gilbertson values the pragmatism of the International Property Maintenance Code.

"They have that exception in there because they recognize you have older facilities and you have to honor the facility from when the time it was built," Gilbertson said.

"We recognize (some buildings) aren't perfect or to today's standards, but we do recognize that it is acceptable to maintain it that way."

If they are forced to make the changes, the property owners would face serious challenges.

Many of Hubert's properties are Section 8, low-income housing, where rent could not be raised to help defer the costs to get up to code.

"We'd eat whatever we would put into it," Hubert said.

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