



NDTOA

Grass Roots Report

*ND Association of Township Officers
Finley, ND 58230*

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MAY 2003

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The Official Newsletter of the ND Township Officers Association • NATaT Member

How the 58th Legislative Session Affects ND Township Officers

The 58th Legislative Session is over. Hallelujah!

A list of most of the bills that your legislative arm worked on this session appears later in this issue. I would like to tell you of some of the most important bill actions that will affect you as a township officer.

My wife and I moved to Bismarck in the first week of January and maintained an office and apartment on behalf of the NDTOA at the direction of your state board of directors.

We reviewed the last two years of resolutions and worked to introduce legislation to implement as many of them as possible. I read all of the 1,050 bills that were submitted to be sure that they would not adversely affect townships.

I then worked to kill any that I thought to be of an adverse nature. In the legislative process, a good bill can turn out to be bad and a bad bill, with the right amendments, can turn out to be a good bill.

Therefore, we must remain vigilant throughout the session from start to finish and we did so.

SB2055 was a good idea that went wrong because it included townships under the legislatively created entity wording and **would have mandated that all township assessors be residents of the township.**

It also called for all townships to tape record all of their meetings and keep a copy on hand for a year. If we all had a staff and office space, it might be different. I opposed this one and *it was killed in the Senate* by a 11-36 margin.

SB2181 would have taken the right of refusal of a liquor license away from townships. I opposed this bill as *we should have the right to say no if we don't want a liquor establishment in our township.* The

Senate agreed and voted 3-44 to kill this one.

SB2127 would have removed the right of a township to be part of the culvert placement process under certain conditions. This bill was amended to put the townships back in control and I supported it as amended. It passed the Senate by a 46-0 margin.

When SB2127 got to the House of Representatives it was amended again and I worked to kill the bill. This killing *action leaves the townships in control as we were in the past.* The House agreed by a 6-83 margin.

HB1305 called for a restriction of any public entity meeting outside of their jurisdiction from taking action on any issue. This didn't sound bad on a State level and it may have held down some unnecessary travel expenses.

Township officers meeting in town at the local coffee shop (having properly designated this as an official meeting) could have been in violation of State law. *We opposed this bill and the Senate agreed* by a 1-42 margin.

SB2390 was supported by NDTOA as a fairness move on property taxation. The last nine years agricultural land values have skyrocketed at a much higher rate than other classifications of taxable property.

This bill set a floor on the ag land cap rate which will reduce the proposed ag land property tax increases by 10.2% on a state wide average.

The State Board of Directors examined the proposed effects of this bill, considered past taxation policies and directed me to *support the cap rate floor at 9.5%.* *The Senate agreed by a 26-19 margin and the House concurred at a 52-37 margin.*

HB1278 was introduced to give

direction to who should decide whether or not a road should be built in a township.

The Attorney General in January of 2002 had decided that it was the duty of a township or a county (acting on behalf of an unorganized township) to build roads on or off the section lines to a parcel located away from the section line.

In order for us to get out of this financial catastrophe, we introduced HB1278 to say that if the township thought it was good for the community as a whole then we could build a road. *This returned the authority to decide back to the residents of the township that were going to have to pay for the road building.* This bill passed the House by a 79-9 margin and the Senate by a 40-5 margin.

HB1372 was introduced to ask for notification of emergency services when unit trains were on the township road ways.

In the first hearing, Barb Knutson, Nolan Verwest, Bob Forward, Norm Andrus, President of the County Association and I supported this bill. The sponsors, Representatives Dennis Johnson and Dale Severson, also defended the passage of HB1372 and the House agreed at a 85-9 margin.

The Senate amended the bill by taking out the notification process and making it a Class B misdemeanor for any person who left trains on the tracks for over 10 consecutive minutes. The Senate approved the changes by a 44-0 margin but the House refused to agree with the changes.

The bill went to a conference committee to work out the differences. This *committee combined the ideas which resulted in a*

"How The 58th..." cont'd on page 3

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President's Message *by Donny L. Malcomb*

Greetings township officers! Well spring has finally arrived. The snow is gone, finally, grass is greening. New calves in the pastures, and farmers are in the field. Yes, spring is definitely here and it feels great. Hope you all have a wonderful spring and planting season.

Our township association has been busy doing primarily one thing, and that is representing your interests in the state legislature. This has been spearheaded by our secretary and lobbyist Ken Yantes.

Ken and his wife Darlene actually moved to Bismarck for the session so that he could follow all the bills pertaining to townships. Ken also introduced bills on behalf of the township association, most as a result of resolutions submitted by townships at our annual meetings.

Again the importance of bringing resolutions to our annual meeting. Ken will be giving a run down of the action in his *Secretary's Corner* and legislative update section of this newsletter.

I would like to take this moment to thank Ken for his diligent and dedicated effort in lobbying the legislature on behalf of this association and the townships of North Dakota. He did a magnificent job following the bills and keeping us updated as to what was happening. I'm sure Darlene also helped him. THANK YOU KEN & DARLENE! I would also like to say special thanks to the other officers who helped Ken. Thanks to Nolan, Steve, Barb, Robert, Bea, and Tom, and anyone else who assisted.

Those of you who attended our annual meeting in Bismarck and our workshop by the IRS became aware that we would have to complete W2s and 1099s. At this point that is still a possibility for the 2003 year and beyond. At this point we will have to issue W2s to all township officers for salaries they receive from dollar one.

We do not have to pay or withhold income tax but will have to pay social security tax and pay medicare tax. We will also have to issue 1099s for anyone a township contracts with and pay \$600 or more for work done for the township.

If this contractor or individual is incorporated we will not have to regardless of the amount. Efforts are still being made to get this changed, so watch this newsletter for future information.

As you are aware, our dues for this coming year were increased by \$5. I

believe our dues are now \$40 per township.

The increase was implemented at our annual meeting in Bismarck. We had made a budget cutting proposal to decrease the number of issues of this newsletter from four to three issues per year. A motion was then made from the floor to continue with four issues and increase dues for \$5. Motion passed.

This newsletter costs approximately \$15,000 per year and is our greatest single expenditure. There have been some comments out there that our dues are too high.

Please consider this: Just in our lobbying effort alone we made and saved you thousands of dollars. The NDTOA introduced HB1278, without it you would have had to build a road for whomever demanded, whether on section line or not, to provide that person access to their property.

Could your township afford to build a mile or two of road at \$50,000 per mile. Now, you only need to do it if economically feasible. Without NDTOA representation you would've had to taperecord your township meeting; your assessor would've had to be a resident of your township; you would be unable to refuse a liquor license in your township, and you would have lost your authority to place culverts.

We also lobbied for a cap on the capitalization rate limiting the maximum your property can be taxed; protected your road tax funds; made railroad crossings safer for emergency vehicles; and that was only part what happened this legislative session.

This is only one area your dues are working you. How about workshops, this newsletter, www.NDTOA.com; legal advice; and more. Our dues are a real deal at twice the price and you are only paying half.

Please send in those dues to your county association. If that stated above is not enough reason to join call 701-453-3285 and I will give you more.

In closing I would like to thank those county association for inviting me to your annual meetings. I was not able to make them all but was able to make Mountrail, Ward, Burke, and Wells. Thanks to the other directors who filled in and attended on my behalf and for the association. If questions or need someone to attend a meeting please feel free to call. Have a great spring!



Secretary's Corner

by Ken Yantes

I wish to thank the ND Association of Counties for allowing us to rent an office in their new building this legislative session. We were able to more closely work together on like policies and coordinate legislative efforts due to the close proximity of office spaces.

Mark Johnson Executive Director, Terry Traynor Assistant Director, Wade Williams Government Relations and Norm Andrus the President of the Association of Counties and longtime friend of the NDTOA, welcomed us and were very supportive of townships throughout the legislative session.

We were asked to take part in the Friday conference call with the county officials legislative committee. The dialogue between us helped develop a better understanding of each others policy stands and was good for both organizations. I feel that this is something that should be considered in the future.

We have had a long standing policy which states we should work together with other organizations on like policies. Almost every thing that affects counties ultimately affects townships. It is no wonder that we find like policies and yet not all policies are compatible.

I CAN MOVE THE WEBSITE AD BELOW TO FIT ROBERT FORWARD'S ARTICLE. IT WILL NEED TO BE SHORT. OR I CAN PUT A SMALL FILLER AND LEAVE THE WEBSITE.

At our previous and most recent gravel roads workshop a topic that always comes up and gets considerable discussion is the “washboarding” on the gravel roads. The operators indicate they get many comments from the road users indicating it is the motor grader operator that is responsible for this. There are many causes for this, and we will discuss briefly.

Lack of Moisture

When conditions are dry, much of the “fines” in the gravel material is lost—the amount depending on the traffic. It is very difficult to do a good job of blading when there is a major loss of “fines” and no moisture. **Prolonged dry conditions add to the problem.**

Traffic

People’s driving habits—**hard acceleration and braking, are the greatest problem.** This is usually noted more so at intersections, going into and out of the intersection. Also at sharp curves and driveways this can be noted. As vehicle tires begin to spin, or when braking, a slight amount of gravel is displaced. After a repeated number of times the material gets displaced and “washboarding” then occurs.

Poor Quality of Gravel

If the surface gravel has poor gradation, with little or no binding characteristics and a low percentage of fractured stones, then “washboarding” can be expected to occur.

Since we have no control over the moisture or the driving habits of people, the only thing we have control over is the quality of gravel. We should have specifications on the gravel to get a good gradation of what works best. **To purchase the “cheapest” gravel and place on the roadway may not be the cheapest in the long term.**

The ideal blend produces a gravel that will compact into a dense, tight mass with an almost impervious surface. This will reduce “washboarding” dramatically.

Occasionally we can find distortion of the road surface that has been caused by the motor grader. **If the motor grader is run too fast, the machine will start to “lope” or bounce.** The surface distortions that occur will usually be at the same diagonal to the machine as the blade is and the spacing of the surface distortions is greater than when normal washboarding occurs. In this instance it would be caused by the operator.

Our LTAP center provides operator training for gravel roads. Most of the counties throughout the state take full advantage of this training. We have an excellent instructor in Ken Skorseth and we will again be providing training at two locations next year.

We encourage county commissioners and township supervisors to attend these workshops to get a better understanding of what occurs on the roadway and how to best correct problem areas. Contact our LTAP Center at 800-726-4143 or Vern at 701-328-2658 for further information or assistance.

Submitted by Vern Monger,
Local Technical Assistance Program, NDSU



My grandfather once told me that there were two kinds of people; those who do the work and those who take the credit. He told me to try to be in the first group because there was much less competition there.



www.ndtoa.com

Preparations For Equalization Meetings *from April 2003 Property Tax Newsletter*

In April, township and city boards of equalization will meet to review 2003 assessments. These boards are responsible for examining the assessment list to determine whether all taxable property is listed and values of similar properties are equalized, and for acting on appeals by property owners.

Assessors can assist their boards by preparing a report that summarizes assessment changes, total valuations, sales ratio statistics, exemptions, credits and other pertinent assessment information.

The best opportunity to make changes in assessments and correct inequities is at the township and city boards of equalization, because the township and city boards of equalization can easily make changes to individual assessments.

Typically, older properties are over-valued compared to what the market indicates they sell for. Township and city boards of equalization have authority to add to the assessment list property that was omitted by the assessor.

The township board of equalization may increase property values only after notifying the property owner of its intent to increase any amount. The board of equalization must recess, and the township clerk must send written notification to the property owner of the board's intent and the date on which the board will reconvene to finalize the action.

The board must meet again to allow the property owner to appeal the assessment and to finalize the assessments. The city board of equalization has the same responsibilities as the township board of equalization.

However, the city board needs to notify the property owner of its intent to increase any value by more than 25 percent. The city board of equalization must recess, the city auditor must send written notification to the property owner, and the board must reconvene to consider any appeals and finalize the current year assessments.

The next level in the equalization process is the county board of equalization which meets within the first 10 days of June. This board is responsible for reviewing the assessments as finalized by the township and city boards of equalization.

Prior to the meeting date, the county board should request the tax director to do

spot checks on valuations to the county.

The county board of equalization, after notifying the local board of equalization of its intent, may reduce individual assessments provided the owner has appealed the assessments.

The county board of equalization may increase individual assessments only after notifying the local board of equalization and the property owner by mail of its intent, and holding another meeting to consider any appeals.

The board may direct the county auditor to correct a classification of an improperly classified property. The county board of equalization does NOT have authority to add any omitted property to the assessment list.

The county auditor must add the omitted property according to N.D.C.C. §§ 57-14-01 through 57-14-07. The county board of equalization does have authority to increase or decrease an entire class of property within an assessment district or the entire county by a percentage without first notifying all of the property owners.

Property owners may appeal their individual assessments directly to the county board of equalization without first appealing to their local boards of equalization.

The final step in the equalization process is the state board of equalization. The state board of equalization meets the second Tuesday in August to equalize individual values and the values between counties. A property owner may appeal the decision of the county board of equalization to the state board of equalization, but the state board has no statutory authority to reduce any assessment unless the property owner has first appealed the assessment to the local and county boards of equalization.

County auditors, tax directors and assessors can advance the equalization process by informing their respective governing boards of their responsibilities and the procedures for the equalization meetings.

NOTE: The *Property Tax Newsletter* is available by checking out their website at www.state.nd.us/taxdpt/property/pubs/.

“How The 58th...” *cont’d from page 1*

Class B misdemeanor for leaving the train on the tracks for over the 10 consecutive minute limit and included, by written agreement, that the road authority or the commercial entity would notify emergency services should a crossing be blocked. The bill then passed the House by a 88-5 and the Senate by a 46-0 margin.

Several bills on wind energy were introduced and a lot of debate took place; the only surviving bill was SB2310. This bill asked for an interim committee to continue to study the problems associated with all aspects of wind energy development and site reclamation procedures.

SB2394 had a clause in it that helped to further clarify who should vote at a township meeting. It said that a *qualified elector may have only one residence as shown by an actual fixed permanent dwelling, establishment or any other abode.*

This is the first year that the NDTOA has had policy on the Territorial Integrity Act which has to do with authority and territory of the RECs and the IOUs. Our policy supported the RECs and HB1454 was killed in its house of origin. The vote was 32-59 favoring the RECs stand.

The NDTOA has been in support of the Advisory Commission on Inter-Governmental Relations ever since 1986. This commission brings the governmental entities of our state together in a forum to talk over shared problems and to come to an agreement on them.

HB1333 called for the killing of the ACIR. I opposed this concept and the discontinuance of the ACIR was removed from the bill. The House Committee on Government and Veterans Affairs decided on a 10-4 vote to ask for the removal of the authority to introduce legislation from the ACIR. This didn’t seem too bad of a compromise as there are four legislators on

the committee as members that could introduce legislation for the commission. The House agreed by a 88-6 margin.

The representative who introduced HB1333 came to the Senate Committee and told us of how bad the commission was and how he had hoped to kill it with this bill. At this point, your lobbyist reversed direction and sought to kill HB1333. Thanks to the good Senators, the bill was killed in the Senate by a 4-41 margin and the ACIR was saved unscathed to serve to promote efficiency and effectivity in government as it has done in the past.

I wish to thank all of the township officers that took the time to e-mail, write, call or visit with your legislators in support of township legislative stands. It takes all of us to make it work and we were very successful this year.

Your Legislative Affairs Representative in Bismarck, Kenneth Yantes

Reporting A Claim—Part II

THE NDIRF CLAIMS PROCESS

It probably comes as no surprise to any NDIRF township member that questions regarding the claims resolution process are among the most frequently asked. This article is intended to supplement the claim reporting discussion presented in the last issue of Grassroots and provide a broad overview of the claim volume handled by the Fund and the typical reporting and adjusting process.

First, let’s do the numbers. NDIRF receives an average of 1,800 new claims every year. At any point in time, the claims department is handling around 500 open claims—20% of which are in various stages of litigation. Total claim payments made in 2002 (the most recent full year for which figures are available) were just under \$3.5 million, including expenses for adjustment and legal representation. Open claim reserves consistently run at approximately \$7 million.

A variety of different types of claims are filed with the NDIRF. These range from the fairly common, such as injuries arising from an automobile accident or slip and fall, to claims involving more complicated issues such as drainage disputes and contract interpretation. In many instances, the facts and responsibilities are clear, allowing a claim to be resolved in a matter of days, while other situations may involve litigation lasting for years.

What happens when a Fund member has a claim, either their own (a “first-party” claim, such as hail damage to covered vehicles or equipment) or one where an injured third party is making a claim against the township? The normal procedure is to **immediately** contact your NDIRF agent and report the claim. The agent is paid a commission to service the township’s

account and a part of this service includes transfer to the NDIRF of claims information in a timely manner. A notice should also be provided to your agent, even when no formal claim has been submitted, in situations where you expect that a claim will eventually be made. Early reporting to your agent affords the NDIRF an opportunity to immediately investigate the circumstances of the incident and provide advice to the township regarding further action.

Once notified of a claim, the agent completes a loss notice report and sends it on to the NDIRF. This is often accomplished by fax transmission to speed up claims reporting as time is always important and, in cases where litigation has been commenced, critical. A claim is set up on the NDIRF’s computer system the day it is received and a file is created. An adjuster is assigned to the claim based on several factors including location, type of claim and complexity of the issues. If the claim has been placed in litigation, the NDIRF assigns an appropriate defense attorney immediately so that a response can be entered in a timely fashion.

Many claims can be adjusted in-house, meaning investigation by NDIRF staff adjusters using information gathered via telephone or mail, since on-site inspection is often not cost effective. When claims do require on-site investigation to determine liability or verification of repair costs, they are handled either by NDIRF staff adjusters or outside independent adjusters retained by the NDIRF, depending upon the location and complexity of the claim.

The NDIRF’s underlying philosophy is to work with townships to reduce the likelihood of claims—but they do occur and their prompt, fair resolution is our goal.



The Country Lawyer *by Thomas R. Moe, Attorney-at-Law*

Greetings to all! I hope all of our townships had uneventful, yet productive, annual meetings. I heard from several of you leading up to the March meetings concerning getting new people to run for the several offices. It's a difficult task, but we must continue to recruit as best we can. It's the only way to keep our local government "local"—by continuing to maintain the township form of government.

If the opportunity presents itself where there has been a resignation during the middle of a term, I suggest recruiting someone to fill "just the remainder of the year." Then the person gets their "feet wet," and are willing to run on their own at the following election.

With spring upon us, farmers and ranchers will be busy. When working those far away fields be on the lookout for any strange activities at abandoned farmsteads or buildings. Law enforcement officials tell us these remote sites are prime candidates for meth labs.

At this writing the Legislature is winding down from another session. We will soon take up the task of determining which pages of our handbook need updating due to changes in the law made by

the 2003 session. If you have any ideas for other materials to be included in the handbook let myself or your district director know. We'll be working on this project this summer, for distribution at the 2004 NDTOA convention, and, at the 2004 regional workshops.

Following are some questions I've received in the office. Have a safe spring!

Q. How long do we have to keep old election records? Our clerk has boxes of the stuff.

A. Election records can be destroyed after ten years after "first being offered to the State archivist." Check Section 58-07-05 for the list of records and documents that fall under this rule. Be careful, however, that those boxes don't contain other records that you want to keep—especially annual meeting minutes. Sometimes minutes from meetings way in the distant past is the only way we can find out about easements or other transactions which may have occurred.

Q. Our township has a couple of small savings accounts. Any reason why we couldn't combine them into one?

A. You should be able to combine them, unless there was a restriction placed on the account by a past township board. (See answer to the question above!) Even after combining, you still could separately account for each fund's balance within the combined total.

Q. We sold our township hall last year. Now we have no place to meet except in a private home and that's not working out as well as we thought because some people have told us that they are not comfortable meeting in someone else's house. The local bank has a nice community room (on the ground floor!) which we could use free of charge but the bank is not in our township. Can we meet there, out of the township?

A. Yes. Interestingly, the law states that the annual meeting may be held at "such place in the township or in an adjacent township..." See Section 58-04-01. Private homes are the meeting place for several townships that I am aware of and I have also heard the comment on several occasions about patrons not being comfortable about a public meeting held in a private setting. Sometimes that's the best that is available, however.

District 5 Notes

by Barb Knutson

In trying to put an item together for the newsletter, I was at a loss as to what I could share. I arrived at the idea that the time I spent at the legislature afforded me an experience that most people never have.

I was, at first overwhelmed. I would have remained that way if I had not had the opportunity to spend time with the board members that have spent time, and I mean a lot of time, on the legislative scene.

Ken Yantes, our lobbyist, and all the rest of the board members, are most dedicated board members and I have really come to appreciate all the time that is spent on trying to keep laws from passing, and getting laws passed; that are of benefit to the townships, as a whole.

It was very interesting to see what it takes to get action. We spent a considerable amount of time visiting with the attorneys

from Worker's Compensation, as well as others, to get the unreasonable fee for filing a late report to the Bureau of \$2000, plus \$100 a day, down to a fee that we can live with. This was just one of the many bills that the association spent time on.

Another bill that was a real challenge was the bill that would have made it mandatory that townships be responsible for building roads to new residences, no matter where someone decided to light. It would have literally broke some townships. This was defeated by the diligence of Ken and others that went to bat. Make sure you read the legislative report to see more on these.

It not only takes knowing the legislators and their views, but it takes diligent attention as to how the wind is blowing every day, because it is very changeable.

Before I worked with this board; I was

not aware of the extensive effort that is put forth to keep grassroots government at the grassroots, which is where it belongs.

I have also been impressed; when attending the county annual meetings, by the hard work that local boards are putting into the running of their associations. It is so very important, and I am glad to see some young people taking interest also. Keep it up!

It is my feeling, that it is an honor to serve with this board; and have learned just what our dues go for. It is a voice that would not otherwise be heard.

In all the years that I have served on the local board; I have to admit that I questioned the membership and if it was worth it. After spending time on the board, believe me, it is time and money well spent.

If there are questions, be sure you contact one of us and we will do our best to get you answers. Your participation is of utmost importance. Good Job to all of you!

Grassroots Policy Becomes Law—SB2309

Our Workers Comp bill was introduced by Senator Dave O'Connell to eliminate all penalties to organized townships. Ask for what you want and be ready to negotiate was our strategy.

We worked together to get it drawn up and I secured the right cosponsors. We needed two Republicans and one Democrat from the House and Senate because the Republicans out-numbered the Democrats by a 2 to 1 margin.

We needed strong Senators, so I asked John Andrist and Judy Lee to join Dave O'Connell's effort to correct these extreme penalties (all three were past recipients of our Legislator of the Year Award).

I asked Representatives Bruce Eckre, Nancy Johnson and Dale Severson (again two Republicans and one Democrat) to endorse our bill. They are all strong supporters of township government and members of the House Political Subdivisions Committee.

Workers Comp recognized that we were serious about change and sent me an e-mail saying that they have taken care of townships in their rules book. I said, "Show me in black and white."

The attorney e-mailed me a copy of the rules and after reading them I said, "See you in committee; it's not covered and you still hold the \$2,000 hammer over our heads." The next day two attorneys and the CEO of ND Workers Comp found the township lobbyist in the Capitol Building and they were in a mood to negotiate.

I stood firm in wanting to have the penalty reduced and it must be done in NDCC as rules can be changed too easily by a state agency. Barb and Nolan sat in during the negotiations and when we left we had the penalties cut to \$50 for the first violation and a maximum of \$150 to any organized township.

We also had an agreement that the Workers Comp Attorney, Anne Green,

would testify in favor of the bill. Testifying before the Senate Industry, Business and Labor Committee were Senators O'Connell and Andrist, Anne Green and myself. The committee gave us a 6-0 do pass and the Senate gave us a unanimous 47-0 pass recommendation.

When SB2309 was heard in the House Political Subdivisions Committee, the same testimony was given from the same people and the committee gave SB2309 a resounding 13-0 do pass recommendation. The House of Representatives concurred with a 93-0 vote; the bill was signed and filed to become law on the first of August.

This is an example of a resolution brought forth by a township through our grassroots policy development process, fought for by NDTOA, implemented successfully in the legislative halls to become law. Thanks to the township that brought this forward as it will benefit all of us now.

Check out www.ndtoa.com • Check out www.ndtoa.com • Check out www.ndtoa.com