



**SEPTEMBER 2005  
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*The Official Newsletter of the ND Township Officers Association • NATaT Member*

## NDTOA...YOUR ORGANIZATION

We stand as an organization made up of ND Township Officers, for ND Township Officers, created and maintained by ND Township Officers.

How do you want your organization run? What do you want NDTOA to do for you? Most officers will respond by saying, "Be our united voice at all levels of government."

Truly, this is one of the most important duties and responsibilities of your state organization. Your state officers and directors must always be ready to respond affirmatively to the needs of the membership and to carry the united strength of our 1,100 dues paying townships and 6,000 grassroots elected township officers.

One of the questions raised at our July State Board meeting was, "What does our membership want to have presented at our annual meeting in December and at our 19 meeting-two

week long workshop program presented in mid-February?

Although many important items were surfaced and considered, the board wondered what else our members might want? We usually bring in speakers that inform us of what has happened and what is coming up that will and does affect us as township officers in our townships.

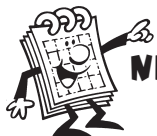
We put together a workshop program with the same degree of concern for our members. Please let us know what you would be interested in learning more about. Contact your state director as listed on the second page of this newsletter and pass on your wishes. I am sure your director would be pleased to hear from you and to serve you.

Your State Board has considered the possibility of submitting to the 2007 Legislative Assembly a bill that

would allow a township to increase its mill levy from the present 18 mill cap. What do you think would be an attainable number and do you think we should do this?

Think about this and bring your thoughts to the annual meeting in the form of a resolution.

Remember, NDTOA is made up of, **for and by** locally elected grassroots government leaders of our state—the Township Officers of North Dakota.



### **MARK YOUR CALENDAR UPCOMING EVENT:**

**NDTOA ANNUAL MEETING • DECEMBER 5 & 6, 2005  
SLEEP INN SUITES • MINOT, ND**

### **DIRECTOR NOMINATING PROCEDURE**

Floyd Miller, District 1, Larry Syverson, District 3 and Barb Knutson, District 5 are up for re-election for 2005 and they are eligible for another two-year term.

Anyone interested in serving on the NDTOA Board of Directors may contact any member of the Nominating Committee: Donny Malcomb (701) 453-3285; Ralph Olson (701) 438-2344; Kerry Schorsch (701) 579-4703; or Robert Forward (701) 742-2749.

### *45 Years of Township Service*



**IRENE BENZ** of Moord Township in Slope County has been the township clerk since March 1960. Congratulations and thanks for everything you've done for Moord Township!

## NDTOA Officers

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## President's Message *Donny L. Malcomb*

Greetings officers! Fall is upon us and in most areas harvest has begun.

Hope you have excellent crops and a good harvest. There are several issues I would like to discuss. Once again, thank you for your overwhelming support of our dues increase proposal. I realize this is a major dues increase from \$50 to \$100 but truly believe the benefits you will receive will far surpass the additional cost.

Our organization really needs a full time staff member to provide you with better existing services and also necessary to expand services to the individual townships and county associations. Please attend our annual meeting and participate in the voting of this very important move in our township association.

Notice the change in the annual dues transmittal form in this issue of our newsletter. It will allow your county treasurer to pay state association dues from your tax revenues when available, but will also allow your county treasurer to pay your county association dues to your county association.

A lot of townships and county associations are using this method of payment because of its simplicity, mostly because it eliminates dues billings.

There have been some questions as to our voting procedure at our annual meetings. That specifically being two votes per county association present at the annual meeting.

Some feel it should be more depending on how many representatives that county has in attendance. The association bylaws were set and approved by the membership with the two vote per county method. It was set up this way so that equal representation from all areas of the state could be represented on an issue when voted on at the annual meeting.

This supposedly would prevent the railroading of an issue by a certain area or special interest group. In order to change this voting a proposal to change this voting method needs to be presented and voted upon at our annual meeting. It is a bylaw change and needs proper notice needs to be published in writing in the NDTOA newsletter at

least 30 days prior to the annual meeting.

In Ward County, the county association is concerned about the bridge and culvert policy that the county is imposing on townships. I will discuss this in this newsletter to inform those in Ward County what is going on and believe it will be of interest to townships across the state. Each county seems to have their own bridge/culvert policy.

The state century code states and attorney general opinions have substantiated that code. The code basically states that counties are responsible for all bridge repairs and culverts in natural drain areas.

These provisions are stated in 24-08-02 and 24-08-2.1 of the state century code. So why aren't our counties doing this? The answer is money. They have limited funds and are trying to make their budgets reach further just as we in the townships are doing.

The law is there but there are no penalties if they fail to adhere to it. If forced to do so I am sure they will be making a change in the law at the next legislative session that may be more adverse than the policies they are currently offering townships.

In the long run I believe it may be best as a county association of townships to negotiate a bridge and culvert program that hopefully the county and the townships can live with. This is what I believe must be done in Ward County.

The Ward County bridge policy states that the township are responsible for the first \$2,000 of bridge repair and culverts under 60 inches in diameter. The problem with this policy is that a 60 inch culvert costs \$8-10,000 to purchase and install at its minimum. This is very difficult for townships operating on annual budgets of the same amount or less.

The Ward County Township Association will be meeting with townships in the near future and establishing a bridge policy that hopefully we townships can work with and propose it to the Ward County Commission for acceptance. I will keep you informed as to the progress of this proposal.

A proposal was brought to my attention concerning continuing education or training for new township

# Secretary's Corner

Ken Yantes

My congratulations go to your Vice President Steve Ginsbach for his devotion to your organization's legislative effort this past month. Steve represented us again at the State Board of Tax Equalization meeting and at the Interim Committee on Finance and Taxation in Bismarck on the 9th and 10th of August.

Steve's continued presence at these meetings indicates the seriousness of his commitment to defend township officers in the legislative halls. Thanks again, Steve!

NDTOA's annual meeting in December will see restructuring of our

organization's leadership.

President Don Malcomb will have served the maximum of two consecutive terms, as the by-laws allow, and cannot run for re-election this year. Any township member of our association can be elected to the office of president.

Being president of the North Dakota Township Officers Association requires a high degree of commitment to serve our membership and the ability to speak with a united voice in support of the policies developed by the membership. If you are a township officer and up to the task, now is the time to start campaigning.

The odd number state directorships will again be up for election which includes Larry Severson, Floyd Miller and Barb Knutson. Any township officer from these areas may run for the office of State Director. Directors are elected for a two year term. Should you be satisfied with the service these directors have provided, then you may want to give them a vote of confidence as they all can be re-elected at this upcoming annual meeting.

All those township officers that receive this newsletter are invited to come to the annual meeting in December.

## President's Message Cont'd from page 2

officers. State law requires that newly elected city officials and county officials must obtain state approved education within one year after they are elected to fulfill the elected position they have been elected to.

This they obtain at their state county association meetings and workshops, or if a city official through their league of cities association. It is believed that it gives these newly elected officials better insight, information, and makes them better public officials.

The training for our newly elected township officers could be provided by the NDTOA at their annual meeting or area workshops.

Finally, please come to our annual meeting in Minot on December 5-6. A township officers workshop is already in the making, and a workshop on certifying assessors is also planned. Your ideas are needed to provide information to you in these workshops. Please contact myself or any district officer with your ideas or suggestions. The board of directors of your state association will be meeting in late September to finalize plans for the annual meeting.

District Directors for Districts 1, 3, 5, will be nominated and elected. My position as president is up for election also. If you would like to be considered for this or a director position please let us know or come to the annual meeting for nominations procedures.

In closing I would like to thank the

North Dakota Insurance Reserve Fund paying for publishing and LTAPP for putting together a manual for townships on signs. This handbook tells what type of sign is needed for different locations—where to put it, how to place it. It is available free of charge. However, in order for you to get one for your township you must attend our annual meeting or one of our workshops. Thanks again to these wonderful organizations for this terrific manual.

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# Three Directors Seek Re-election in 2005



**BARB KNUTSON, District 5,** has served on the board for approximately four years. She feels the most important issue she has brought forth is possibly more communication between local boards and the state board.

The one big thing that we have been working on is getting books computerized for the purpose of more accountability and that the board, as a whole, will have a better idea of where the money is coming from and where it goes.

We, as townships, have had to start complying with the IRS withholding laws. She has been working with townships that need help in getting this accomplished. It has been a lot of work for the townships to get up to speed on this. We have seen the results of their efforts. We feel this is going pretty smoothly.

Another issue is to obtain a full time secretary for the state board so we will have a presence, not only in the eyes of the local boards, but that we will be able to continue to be very visible on the legislative level.

She did not realize just how much is needed in the line of legislative work alone before she joined the State Board.

Individually, the board members have gotten more involved in the legislative process and she feels that is very important. After spending considerable time there herself, she realizes how important this is.

With the hiring of a full time secretary they would be able to take care ongoing items that need to be addressed and they could be constantly on top of the important issues in the legislature that affect us all. There are many other meetings that need to be attended throughout the year that needs an effective lobbyist.

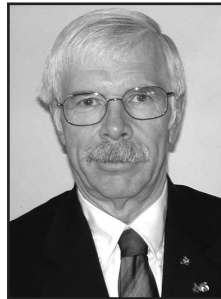
Barb plans to work on continuing the effort to hire a full time person to

protect our interests and also get the books computerized for the benefit of all involved.

Barb is married to Gordon and they have two children and three grandchildren. They live on a farm although they are no longer full time farmers. They have both served on local township boards. Barb has been clerk-treasurer on the local township board since 1987 and the county board for several years.

Barb says, "If I am elected to the board for another term as director, my aim is to do the very best to serve in this capacity."

## **LARRY SYVERSON, District 3,**



has been on the State Board for six years. He and his wife Patricia live on a farm in Rossville Township near Portland. They have three adult children, two sons and one daughter.

Larry has served as a Township Supervisor for 24 years—the last several years as Chairman. He also serves as the Township Assessor so they can keep some local control in the Township.

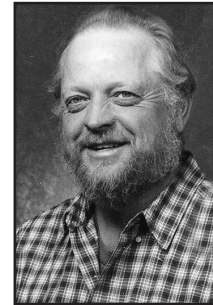
One of his primary concerns is the property tax, he introduced a resolution, which passed, at an annual meeting to reduce the dependence of education funding on property tax. In this past session of the Legislature a couple of bills tried to do just that, they were defeated but they sparked enough interest to go to an Interim Committee. He believes that we should attend the meetings of this committee and actively support property tax reform.

Meeting like this Legislative Interim Committee On Taxation point out a need for a full time person to watch out for NDTOA interests.

At the December meeting in Minot the membership must vote on funding

to provide for a full time Executive Secretary to do just that. Whether your county supports the dues increase or opposes it please send your delegates to the convention to vote, this is the time to decide the future of NDTOA.

**FLOYD MILLER, District 1,** has served as director for four years. His district is busy with oil field traffic on their roads.



Some companies are willing to build and pay for a new road on some of our section lines, but they do not want to build them according to the township specifications. He is encouraging the township supervisors to put their foot down and force them to build them to specs because it is the law.

His plans for the future are to attend all of the county township annual meetings that are held in my district and hopes that they will invite him to do so. He will try to have some updated township handbooks with him for anyone who may need one. It is very important that every township supervisor have one.

Floyd was born and raised in Hebron Township, Williams County, graduated from Williston High School in 1970, and attended UND Williston. He has been married to his wife Debbie for 28 years and they have two sons and two grandchildren.

They live on his grandfather's homestead 1/4 of land that he staked a claim on in the fall of 1906. He became involved with township government when he began farming full time in 1987

Floyd enjoys serving as your district director. It is very interesting as well as challenging and he would appreciate your support to serve again.

# Water, Water, (nearly) Everywhere *NDIRF Staff*

AND ANIMALS, TOO! In view of the radically wet weather pattern that has emerged over much of North Dakota in the past few months, now might be a good time to revisit some lessons we all learned the hard way in 1997 and 1998.

Experience in those two years, where NDIRF member loss ratios were nearly double the average, taught us that excess water can cause more than widespread crop losses, property damage and added infrastructure repair costs—it can generate injury, loss of life and resulting claims against NDIRF member townships as well.

The most serious weather-related claims in 1997 and 1998 typically resulted from road, street or bridge washout conditions. In the years since,

NDIRF has spent considerable time and resources engaging members with road and street maintenance responsibilities (including townships) in discussion on how best to avoid these problems in the future.

None of us can control the weather, but we can influence its results by being extra-attentive to inspection, proper signing and repair of damaged roadways or public works infrastructure.

Working together, we may be able to keep difficult situations involving too much water from getting worse.

Another type of claims activity for NDIRF that doesn't involve many townships, as few townships need auto coverage, but which may be of general interest to you is that we have paid out

approximately three-quarters of a million dollars in the past 15 years for damage to vehicles caused by striking animals.

As you might expect, most (\$630,000) of this comes from hitting deer (393 of them). There are others, however, including birds (94-\$27,000); cows (9-\$26,000); buffalo (2-\$21,000); moose (3-\$11,000); rabbits (10-\$6,000); raccoons (5- 5,000); dogs (4-\$4,000); and antelope (1-\$1,000).

Incidentally, the bird total includes 53 pheasants, four partridge, 36 described just as "birds" and only one turkey—this was surprising as we would have guessed NDIRF had been involved in claims with more than one turkey over the past 15 years.

## DUES TRANSMITTAL AUTHORIZATION TO THE STATE AND COUNTY ASSOCIATIONS

We, \_\_\_\_\_ Township of \_\_\_\_\_ County,

do hereby authorize payment of our dues to the North Dakota Township Officers Association AND the local County Association to be withheld from Township Tax Revenues as they are available after January 1st of each year.

This authorization shall be effective for the current calendar year and each subsequent year until cancelled by the Association or the above named township.

Chairman \_\_\_\_\_ Supervisor \_\_\_\_\_ Supervisor \_\_\_\_\_



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



Greetings to all! Where has the summer gone? They say that every summer is headed for a fall, but don't we get time to enjoy it first? I was reading that some parts of Illinois are really dry—which leads me to believe that there are really only two seasons—rainy and rainier, or as in Illinois, dry and drier.

Townships and counties finished up the equalization process in June and I think there was a lot of frustration this year, with the mandate for higher taxes and property values steadily increasing. It's probably not too early to begin a dialog with your legislators for next session, as I think we will see several proposed provisions relating to changing the property tax structure in this State. Township officers need to voice their concerns early and often on this topic.

Mowing road ditches for the fall is right around the corner, so you may want to visit with some of the landowners who "forget." Townships can do the work and charge back against taxes as long as notice to the offender is provided, but sometimes gentle reminders work better. It's a good time to take along a saw when on road inspections to take care of those pesky little trees which got started last spring. By taking care of those trees now will really save time and trouble years from now.

Make plans to attend the annual meeting of NDTOA in Minot in December. Remember, the convention is for all—supervisors, clerks, treasurers, assessors, zoning officers, dog catchers, etc.

Under the term limits listed in our NDTOA by-laws, there will be some new state officers elected so that is probably another good reason to attend—one may get elected to something if you don't show up!

Have a safe harvest season. Here are some questions received in the office.

TRM

**Q.** We had a landowner clean a township ditch and he left it in a mess. He used a backhoe and there is quite a drop off. Are we liable or is he? He did all the work.

**A.** The township is responsible. You should contact the offender and order the mess cleaned up and the grade put back at a reasonable level—probably at least 3:1. No one should work in a township ditch without permission from the supervisors. With prior permission, you could then learn of the work plan and lay out the township's requirements for side slopes, etc. Even though the fellow did "all the work" he obviously didn't, as clean-up and safety concerns should be part of the job. He may not be concerned about safety, but safety is your obligation to the public.

**Q.** One of our supervisors moved to his parent's farmstead because they quit farming and moved to town. The farmstead is only two miles away but it is in the next township. The two townships vote together. Can our supervisor stay on (as supervisor) in our township?

**A.** No. From the way you explained it, it sounds as if he has changed his residence, and that triggers the ineligibility. The two townships voting together merely means that the townships are joined as one precinct only for voting purposes in the November election—and not joined together for township business. Your guy should probably resign and a new supervisor appointed to fill the office until the next March annual meeting. Now, if he still retains a home/house/residence at the old place, then it could be argued that that still is his home and he hasn't changed his residence—yet.

**Q.** We have a road that meanders on and off a section line for almost two miles. It meanders because of hills and sloughs and the old-timers understandably took the easy way around. Now we have a new landowner who says our road is on his land and not on the section line. (he's right because the section line

goes right through a slough and the road goes around) He says we should move the road or else pay him for using his land. Do we have to?

**A.** Some people must get up on the wrong side of the bed every morning! I suppose it's too much to hope for to see if the "old-timers" got any thing in writing. You could check with the County Recorder's office and see if an easement was ever filed, or if something was stated in the clerk's minutes way back then. Most of the time, they didn't record these "handshake" easements, thinking that no one would ever question it. Regardless, I think you're okay, because if taken to court, I think a prescriptive easement for public necessity would be recognized by the Judge; meaning that the road has been there for such a long time that in effect an easement for a road does indeed exist. If this persists, you may want to gather some statements from some of your older residents who could certify the long-time existence of the road.

**Q.** Can a clerk make a motion at a meeting?

**A.** No—at supervisor's meetings; Yes—at March annual meetings or special meetings of the township

**Q.** We have a section line on which there is no road. A new landowner has built a house about 100 yards down that section line and he built his own driveway (on the section line). Is this a public road, even though it's only a driveway and the township spent no funds in building it?

**A.** If it's on a section line, it's a public road. That doesn't mean you have to necessarily maintain it, however; just watch for obstacle clearance and maybe watch for problems at the end of the driveway where the gravel quits and the section line continues on. You should probably get a letter from the landowner wherein he states he built the driveway with his own funds and that he will be responsible for maintaining it in the future.

# State Taxation Report *Steve Ginsbach, Vice President*

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The ND State Board of Tax Equalization met in Bismarck on August 9, 2005. This is the third step in our taxation process in North Dakota.

Taxpayers who feel they have a legitimate complaint regarding their property taxes must appear at their local board of equalization—township or city—and make their complaint to that board.

If no satisfactory results are obtained then taxpayers must appear at their county board and state their concerns. Should the taxpayer feel he has not had results then the final step is at the State Board of Equalization.

At the state level the taxpayer's concerns will be heard and a delegation from the State Tax Department will go and investigate your problem. Then a report will be sent back to you on their findings.

A group of taxpayers from Valley City appeared before the board and stated their problems with the reassessment in Valley City done by Van Guard Appraisal. The problem was in a flood plain part of Valley City and one taxpayer was very vocal in his objections to this assessment.

He was objecting to the figures and to the assessing personal coming into his property. This taxpayer felt that this would infringe on his rights given to all U.S. citizens by Article 4 of the U.S. Constitution. The city assessor met with him and he did allow inspection of his property.

The issue of farm exemptions appeared and through the discussions it seemed that some counties are behind in their implementation of this part of the ND Tax Law. It was recommended that more education regarding this matter be given to all counties.

Another area where some counties are behind is in classifying ag land. One proposal was to have a firm like Kadrmas Lee & Jackson help find ag acres, then the State Board of Equalization would then revalue all ag land.

Nelson County had a taxpayer whose land was under water for several years and asked the State Board to lower the value. The ag land report had only two counties that were over 5% in value

difference where a change was necessary to reach 2005 true and full value.

The commercial report had only one county that was under the 5% difference. The residential report had six counties that were either over or under the 5% needed to reach 2005 true and full value.

This concluded the 2005 Board of Equalization. They will meet again in September for reports on all properties that had the State Tax Department checking into.

On August 10, the Interim Tax Committee met at the Capitol. As I was checking out of the motel that morning I met Senator Conrad in the lobby. He was waiting for a ride as he just had a staff meeting. While visiting with him he told me about one spot in the Devils Lake drainage project that did not make him very happy.

He explained that one small area about twice the size of the average living room that about 1.5 million dollars were spent on. Those of us with a farm background would call this a slough, but political correct Washington calls this a WETLAND!

A pipe was bored under this postage stamp size slough because Devils Lake water would contaminate this. Senator Conrad really wondered where common sense was in this matter.

The Interim Tax Committee was called to order by Senator Urlacher. His opening remarks reminded those present that taxation affects all segments of North Dakota and should not be taken lightly.

Marcy Dickerson, State Supervisor of Assessments reported to the committee that since 1985 there have been about a 155% increase in mill levy for school districts. The committee agreed to further study the State Board of Equalization's report on school taxation.

Allen Braaten, township officer from Richland County, reported to the committee that a bill or a study by the committee to address the issue of a disaster hitting a county or part of a county like excessive rain, hail or drought.

He suggested that some form of tax

relief needs to be done that year as taxpayers are affected now—not several years later as with the NDSU formula. Richland County gave a report regarding the increase in valuations and also the mill levy increases for all jurisdictions have been on the rise and some other forms of revenue should be looked at.

Richland County also reported that their county has a farm exemption committee to review a portion of these exemptions to fine tune this law further.

Representative Belter commented to Richland County that he felt this was only a Richland County problem. Others present did comment that some other parts of the state are seeing some problems also or that it is on the horizon.

Next, the capitalization rate issue had several comments from various members present. Senator Cook defended this sessions changing of the capitalization rate. Representative Arlo Schmidt immediately defended last sessions capping of the capitalization rate. Chairman Urlacher stepped in and moved to the next order of business.

A motion passed to study a 70% state and 30% local funding for education and to look into various forms of funding education.

Property tax, sales tax and income tax as property tax alone is becoming a burden across the state.

Last order of business of the committee was to recommend that a taxpayers bill of rights should be looked into to help inform our citizens. With this the committee adjourned.

One more final comment from your vice president. If any one in the state needs water they are welcome to come to the southeast corner and take all they want.

In closing I wish every one in the state perfect weather, so all may complete this growing season successfully.

---

## *Exercise*

*At least half the exercise I get every day comes from jumping to conclusions.*

—Bruce Dexter



# Grass Roots Report

ND Association of Township Officers  
Finley, ND 58230

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## Newsletter Editor Notes...

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