

GRASS ROOTS REPORT



SPRING 2020

The Official Newsletter of the ND Township Officers Association

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BAD NEWS FOR THE PRAIRIE DOG

By Larry Syverson

Because of HB1066, "Operation Prairie Dog", townships and counties had a promise of continuing funding, something we could count on getting every odd numbered year. \$115 million would flow out to the non-oil counties and townships every other year as long as the oil and gas tax revenues filled the buckets of the formula. HB1066 also continued the funding flow to the townships in the major oil & gas producing counties.

Everything was going fine as late as February; it seemed the county-township infrastructure bucket would fill even a few weeks early of the end of the biennium June 30, 2021. Once that bucket fills to \$115 million, each township in the non-oil counties would get about \$9,300.

That was before the Saudi-Russian oil production conflict caused a huge world over-supply of crude which was then compounded by the chilled US and world economies. Now, it doesn't look good for township money from the oil and gas taxes.

I asked Brent Bogar, consultant to the Western Dakota Energy Association, for his take on the Prairie

Dog Money. "Regarding funding I have been telling people that Prairie Dog money, especially for the county and townships is not going to happen. Right now the forecast update doesn't even have the \$400 million SIIF filling, which is the bucket before the county/township bucket."

He continued, "For the oil townships they are taking a hit as well. I am projecting roughly a 50% decrease this year and 70%+ next year. I have shared this with WDEA through some webinars and we are planning to do another in a couple of weeks with updated information."

You can follow this and other energy in ND topics with weekly updates from <https://ndenergy.org/News/WDEA-Weekly-Newsletter>

The reduced travel and fuel use in ND will also likely impact the highway user's fund which feeds the quarterly township mileage payments. It is not known just how much yet, just be mindful that it may not be as much as you are used to, try to not spend money you don't have.

Social Distance and Meetings

The pandemic began to touch ND just as townships were setting up their annual meetings for the third Tuesday of March and things continued to get worse for the tax equalization meetings in April. We got a lot of questions about how townships could safely get the meeting requirements met.

Several different means were used to complete the meetings, small meetings could be held with participants keeping apart, some meetings were moved outdoors and in at least one case the annual meeting election was conducted by drive-up voting. The later equalization meetings were allowed to be conducted entirely as conference or video conference calls.

One troubling issue came up, in many townships there is no suitable meeting place so they meet in private homes, now the hosts became wary of having the township as meeting guests in their homes. We always maintain that holding meetings in private homes is a very poor practice for several reasons. For one, the citizens of the township may be intimidated as guests and hesitate to bring up

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President's Comments



Greetings Township Officers,

I would like to take this opportunity to Thank everyone who attended our 2020 workshops in February. The workshop tour was a success!

I enjoyed traveling throughout the state and getting the chance to meet many of you. It was very interesting to hear about township issues and how they differ from different parts of the state.

In two weeks' time, the NDTOA workshop crew (Larry Syverson, Barb Knutson, Tom Moe and myself – all from NDTOA, Mark Verke – NDIRF, Leanna Emmer - NDLTAP and Dale Heglund - NDLTAP) traveled about 2000 miles and held 16 meetings throughout the state with over 850 township officers in attendance.

When we were on the tour, there were reports of the Coronavirus that had reached the United States. At that time, we had no idea how this would affect our annual township meetings.

As we approached the date of our annual meeting, the phone calls, texts and emails started to come in. Hearing the same question over and over...do we hold our annual meeting?

Several problems surfaced; ranging from buildings being closed, to the concern of too many people in attendance from the large townships.

I hope that everyone followed safety precautions and were able to meet somewhere and hold their annual meeting.

With all the uncertainty that took place at the time of your annual meeting, we must remember that all

budgets and annual township ledger reports need to be filled out completely and turned

into your county auditor. Failure to do so will result in a loss of tax revenue for your township. Another thing to remember at this time, is to fill out the list of officer's form. Please be sure to fill it out completely with name, current mailing address, phone number and email if you have one.

By the time we got to the equalization meetings, meetings were to be held via conference call, zoom, etc. It makes a person wonder if all precautions we are now taking will become the new "NORMAL".

With spring upon us, it appears mother nature is not on our side again. Make sure that you take time to inspect your roads for any hazards that have developed and are in need of repair.

Be Safe - Stay Healthy

Lee Brandvold - President



WORKING FOR YOU!

Check out the
**HOT TOPIC
BUTTON**
on our website:
www.ndtoa.com

The Country Lawyer

by Thomas R. Moe, Attorney-at-Law



Greetings!

My hope is that this is finding you all well and in good spirits considering the pandemic situation we all are experiencing.

Several townships had questions about holding their annual meetings given the restrictions on gathering of people, and I know that several townships postponed their meetings until later dates.

Unfortunately, our state law is silent about postponements of our annual March meeting, so hopefully residents and county auditors will understand that some of the required information and documentation will be forthcoming as soon as possible.

Several townships planned to take up the annual meeting agenda at a special township meeting—which is probably the “correct” way to take care of the necessary business when an annual meeting doesn’t occur.

See the question and answer section below about special township meetings.

I’ve been watching some of the debate in Congress about some of the stimulus packages that have been proposed to help small businesses, etc., cope during this time of social distancing and closed stores.

The various proposals reminds me of something Will Rogers said about Congress: *“It’s a strange place. A person gets up to speak and says nothing. Nobody listens. And then everyone disagrees.”*

Once again, stay well, and hopefully we will see you down the road soon! Following are some questions that have been forwarded to me.

TRM

Question: My understanding is that there are different requirements for having a special meeting than having an annual meeting. Is that correct?

Answer: Yes, although the two types of meetings are very similar. (See generally, Chapter 58-04 of the Century Code in your handbook regarding Township meetings).

First, understand that both are meetings of residents, not just supervisors. Supervisor meetings are a whole different animal and have a different function. Both the annual meeting and special township meetings require newspaper notice—at least 10 days’ notice in the legal newspaper.

The annual meeting automatically occurs pursuant to state law on the third Tuesday in March; while a special meeting occurs upon request—either by at least two of the township’s officers, or by a petition of the township’s landowners (freeholders).

The agenda for an annual meeting is not required to be published in the newspaper; however, the agenda for a special meeting must be specifically listed in the newspaper notice, and, no other business than what was advertised can be taken up in a special meeting.

All other procedures—e.g. meeting organization, voting, elections, moderators, etc., are the same for either of the meetings.

Finally, I understand that the attendees at either of these meetings are usually just the super

visors and the clerk,

but remember that at these meetings the officers are wearing their resident ‘hats’, not their officer ‘hats’.

Question: We have a resident that wants to plant trees 34 feet from the center of the section line road. Can we stop him from planting that close, as there no doubt will be snow drift problems on the road because of these trees?

Answer: Without a zoning setback, the township has no authority beyond the 33 foot right of way line. (A setback is a stated distance beyond the 33 foot line which the township can choose to control the planting of trees, or disallow any other permanent obstructions.)

Question: We had a couple of gravel bids from different contractors at our annual meeting. We would have liked to have discussed the bids without the contractors being present. Is there a way to do that?

Answer: Probably not—township meetings are open to the public—which includes your contractors—according to the open meeting provisions of State law. (Note: there are some exceptions for “executive sessions”, but discussing gravel bids would not fall within the meaning of that term!)

Cont’d on next page

Update on Township Road Survey for the 2010-2021 Legislative Road Needs Study

By Alan Dybing, UGPTI

As part of the 2019-2021 Legislative Road Needs Study, UGPTI in conjunction with NDTOA, surveyed North Dakota's roughly 1,300 organized townships.

The survey was designed to obtain information on graveling and blading costs as well as to compare and contrast maintenance practices across the state.

The response from township officials was tremendous with 71% of the surveys completed, surpassing the 2016 survey by nearly 300 responses.

The information provided in the survey responses is being used to inform Legislative leaders as part of the ongoing needs study which will provide an estimate of the 20-year funding needs to maintain North Dakota's county, township and tribal roads and bridges.

In addition, the responses provide invaluable data to describe variations in costs and practices across different regions of the state.

Thank you to all of those who responded to the survey and special thanks to Larry Syverson who promoted the survey in the NDTOA newsletter and made it available via the organization's website.

The draft report of the needs study will be available in July at www.ugpti.org.

The Country Lawyer cont'd

Question: I am a new township clerk, just elected this year. I got the township records, and other paperwork from the prior clerk, but not sure what all my duties are. Is there a listing of those duties?

Answer: See section 58-07 of the North Dakota Century code which is found in the Township handbook. *(If you didn't also get the most recent copy of the handbook, order one from NDTOA—address listed on page 2 of this newsletter.)*

That section of the law is a couple of pages and lays out much of the information you are looking for. If you are also the Treasurer, those duties and responsibilities are at Section 58-08 of the handbook.

Probably most important, however, is something that is not specifically listed—and that is making sure that when the supervisors meet, that they apprise you of any actions they may have taken, so that a documented record of those actions can be created. Even better would be to

try to attend when they meet.

Several townships now have their supervisors meet on a monthly basis which is very helpful for the clerk as well.

Question: We have a subdivision in our township and those homeowners have been talking to us about creating a special assessment district so they could pave their frontage road. Some are for it and some are not. How many homeowners does it take to get this project started?

Answer: The procedure for creating a special assessment district is laid out in Section 58-18 of the Century Code and is in your handbook.

A petition of at least 60% of the freeholders (landowners) is needed to get started. A special assessment district allows just the homeowners in the district (the subdivision you mentioned) to tax just themselves for the cost of the project, rather than trying spread the tax levy over the entire township.

MEETINGS cont'd from page 1

sensitive issues or engage in critical discussions.

For many townships the video conference could be a very good tool to increase participation while reducing travel time and expense. As they are, they are very well suited for the equalization meeting as well as the meetings of the board of supervisors, since at those meetings only the board votes, and their votes are to be public roll-call votes anyway.

The annual meeting of the township or special meetings of the township pose a different prob-

lem. The reason for the meeting is to allow the citizens to vote and a secret ballot is to be used, so far we have not seen that there is a provision in any of these conference platforms to afford a secret ballot.

Perennially, we have been getting questions about meeting attendance when so many people are still out of state until the weather warms. Perhaps this difficult situation we are now in will help us gain some ability to allow remote attendance for snowbirds. That might be something the legislature would look favorably on.

Flood Damage Repair Reimbursement Tips for Township Roads and Bridges

by Kelly Bengtson, Bridge and Pavement Engineer
ND Local Technical Assistance Program
NDSU Upper Great Plains Transportation Institute

Once again, many county and township roads were under water as a result of this spring's runoff event. The large volumes of snow from the past winter finally melted in late March and early April and filled up drainage areas that were already saturated from the extremely wet fall of 2019.

Financial relief for roadway damage due to flooding may be available if it falls within a disaster declaration.

Generally, the higher-volume county roads and bridges are covered by Emergency Relief (ER) and the lower volume county and the township roads are covered by the Federal Emergency Management Agency (FEMA).

The NDDOT is the contact for Federal Aid roads (FA), and more information can be found in the NDDOT ER Manual <https://www.dot.nd.gov/divisions/localgov/docs/ddir/ER-Manual.pdf>. The Federal Aid site threshold is \$5,000 per site.

FEMA provides assistance for all other local roads. The information below provides an overview of the FEMA process.

Recently, Emmons and Dickey counties were added to the fall 2019 Presidential disaster declaration. Those counties joined Barnes, Eddy, Foster, Grand Forks, Griggs,



Example of a road that was completely submerged in water for an extended time. Debris needs to be cleaned up and re-graveled. (credit: North Dakota Department of Emergency Services)

Kidder, LaMoure, Logan, Mountrail, Nelson, Sargent, Sheridan, Stutsman, Traill, Walsh and Wells counties in FEMA disaster DR4475. At this time, 16 counties have reported impacts from the spring 2020 flood event. However, a Presidential disaster designation for those impacts has not been declared. It appears that chances are good that a declaration will be issued for this most recent event which resulted in water levels higher than those experienced last year in many parts of the state.

Being approved as an applicant and then signing up officially for the

disaster and reimbursement of costs, are just the first steps.

According to Jerry Miller, who is with the North Dakota Emergency Services Department, "You should check with your COUNTY EMERGENCY SERVICES OFFICE before you begin any work to be sure your township is on the eligible list of applicants. They will bring you up to date with any changes requiring documentation on the event. Costs are typically reimbursed at a rate of 75% federal, 10% state and 15% local."

There are three primary categories that townships can use to

recover costs from flooding:

A – for debris removal,

B – for emergency work (barricading or closing roads), and

C – for road or bridge damages.

Four additional categories include:

D – water control facilities (legal drainage ditches),

unless that program is extended, debris cleanup by local governments will only be reimbursed for employees working overtime.

All debris should be stockpiled in the road right of way, OUTSIDE OF THE FLOODPLAIN, measured by the cubic yard, and have longitude/latitude for the beginning and end-

before, during, and after, and document the location with a site number and a map. A burning permit must be obtained before piles are burned and the remaining unburned piles should be hauled to an approved landfill or stored offsite on township or county property.



E – Public Buildings/Equipment,

F – Utilities, and

G – Parks and recreational facilities.

In North Dakota, townships are a sub-applicant under their county for a disaster application. Under the fall 2019 flood event, the minimum damage amount for eligibility in a flood category is \$3,300. However, because townships are sub-applicants, their sites can be combined to meet or exceed this amount,

According to the ND Department of Emergency Services (<https://www.des.nd.gov/>) in Bismarck, FEMA (<https://www.fema.gov/disaster/4475>) was administering a pilot program that allowed reimbursement for township or county employees to clear debris on regular (non-overtime) time. However,

ing points of the segment the debris was collected from. Be aware that cell phone apps for GPS coordinates



may be based on cell tower locations and not on satellite mapping locations.

The ND Department of Emergency Services & FEMA wants satellite mapping locations. Before stockpiling, collecting and burning the piles, take digital pictures (with your phone or camera) of the debris

Repairs can be done on a work-completed basis or a work-to-be-completed basis. Work completed costs and documents can be submitted to the county which, in turn, will submit these costs to the state for approval and reimbursement. Costs must be itemized to include material costs, labor, and equipment.

A list of equipment used should also be provided. Work to be completed is an estimated cost for a site or combined sites which encumbers funding for this work. The funds are then paid out after the work is completed, reviewed, and approved. A complete review of the DR 4475 Applicant Briefing Packet Guide is available by scrolling down to it at this link:

<http://grants.des.nd.gov/site/PA.cfm>

I hope this helps you understand the process. Good luck and feel free to call me 701-866-3840 or reach out via email if you have any questions at Kelly.bengtson@ndsu.edu. I would be glad to help!

Treasurer's Report by Barb Knutson



Happy Spring! Hope it is here for good. Kind of cold the last few mornings. I know all parts of the state are not experiencing the same weather or soil conditions. Hoping for improvements where needed.

Have been receiving dues at a fairly good rate. Still a few counties out there that have not paid and some townships that pay individually still not in. Due date is May 1 and delinquent October 1 of current year.

I want to thank the counties that have paid for the unorganized townships in their counties. We are glad for the fact that those counties realize they receive the same benefit as organized townships as far as work done with legislature and anything other ways the state association can be of assistance to all townships.

This last year, have worked on helping townships that are not organized to organize, helping some of those same townships to merge with neighboring townships to pool their resources as well as pool their people pool of citizens to form boards that can cover a larger area.

We realize that in some areas the residents are dwindling and makes it hard to get a board together with

one township. We encourage those that are considering dissolving because of this to consider merging townships, as this will enable you to keep grass roots oversight on your roads. It is important to our state!

In working on mailing list, a couple of things. If you are new on the board, have moved or changed from PO box to physical address or vice versa, please be sure to let your clerks and treasurers know so that can be passed on to the county when paper work is turned in to auditor.

The auditors are helpful in sharing that information with us. Their lists are only as good as they get from us. I sincerely appreciate the calls, texts and emails that I get with this information. This makes it possible for us to get the Grass Roots in the hands of the correct people. Thanks again!

Anyone that is interested in getting the newsletter electronically, please let us know your email address and we will see to it the change is made. If you get it electronically, you will not receive a paper copy.

Reminder to check out the NDTOA web page at this address: www.ndtoa.com. If you need to

see century code, something in handbook, special announcements that may come up from time to time, contact your local director, this is a good way to keep in tune. Check out **Hot Topics** to see important announcements. Want to see other things on the page, let us know and we will see what we can do.

Just a reminder, those townships in counties that have county associations, please be sure you pay your dues to the association in your county so they can keep the county's share of dues before paying state dues.

Hope this finds you all well and that we have a season that allows us to do our summer work on roads that need attention. Carry on and be calm!

TIME TO CONSIDER GRASSROOTS REPORT ONLINE?

You could have notices of meetings and other information as much as two weeks earlier by getting this newsletter online. Just go to the website NDTOA.com and click on the button "Receive Newsletter Electronically". You will have the news before it can be printed and mailed.



Grass Roots Report

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NOTICE TO COUNTY COMMISSIONERS

If your county includes unorganized townships:
Is your county paying dues for each unorganized township?
The per mile funding each township gets is a result
of NDTOA effort. If your county doesn't pay dues,
someone else is paying your freight!
Your county has benefited from NDTOA for many years.
**Have you calculated the benefit your county
has received from the efforts of NDTOA?**

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