

# GRASS ROOTS REPORT



SUMMER 2016

*The Official Newsletter of the ND Township Officers Association*

## WHAT'S INSIDE

President's Comments.....	Page 2
Nominations for Leadership Award.....	2
Country Lawyer.....	Pages 4 & 5
Road Signing Requirements.....	Page 6
Local Roads CMP Workshop.....	Page 7
Treasurer's Report.....	Page 7

## NDTOA Delegation Attends Midwest Multi-State Conference

*by Larry Syverson*

Several members of the NDTOA Board of Directors attended the annual multi-state conference this year, hosted by the Wisconsin Towns Association in La Crosse, July 17-19<sup>th</sup>. Including representatives from Wisconsin, Minnesota, South Dakota, and North Dakota there were about sixty-six participants

A “frack-sand” mine operated by Unimin was toured. It was interesting to see that a huge facility that is geared to produce three million tons of fracking sand per year could fit so well into the area.

The view of the plant is well concealed by berms which mimic the rolling terrain of the area and are covered with natural vegetation.

The plant is cut into a hillside so the towers are not even visible from the highway. The over-burden and waste go to another berm where they are quickly seeded into natural cover and trees are planted.

Storm water is also provided for. They can handle a 100-year rainfall event without any water leaving their site to pollute the area streams.

Blasting is not used to dislodge the raw material, rather it is ripped loose with a claw on a Cat D11. The heavy

equipment has special back-up alarms that don't carry sound off site, so the noise won't bother the neighbors.

All product is shipped by rail so there is no stream of trucks leaving day and night. The office is designed to not look like a commercial building so it will not disrupt the view from the housing development across the highway.

What you see when you drive by on the highway looks like a ranger station at a park entrance.

Many of these practices and designs came about because of concerns of residents and the requests of the town board. Those were the conditions put on the use permit.

Besides working to have a positive impact on the area, Unimin pays the town 15 cents per ton for the first million tons and 10 cents after that. Definitely a case of effective zoning and land use planning.

We were told that not all the mines are such good neighbors and that brings up one of the topics that was presented during the conference—petitioning for city annexation.

In Wisconsin annexation begins when the residents and owners petition for annexation, mostly to get the

services that cities provide that the towns do not. Some of the sand mines and confined animal operations petition for annexation to a city that may be several miles away.

Why would they want to do that? Their taxes might go up some but they can then get away from the regulations of the local town board.

Mining and animal feeding are not normally done in cities so they don't have much for regulation and they don't care what goes on miles out in the country.

The city gets a larger tax base with little investment and the neighborhood is subject to an uncontrolled nuisance.

Of course the property has to touch the city in some manner, but that is often done on a very narrow corridor of property. In some cases as little as the railroad line that runs from the city past the annexed property.

This is called “balloon on a string” or “flag-pole” annexation. Some cities do reject these petitions, but not all. The town board has no right to object.

We informed the conference that in North Dakota the laws are a bit different in that annexation is done by the city looking to increase its tax

## NDTOA Officers

### **ROGER OLAFSON, President**

12945 84th St. NE, Edinburg, ND 58227  
(701) 993-8765  
rlolaf@polarcomm.com

### **LEE BRANDVOLD, Vice President**

20100 317th Ave. SW, Ryder, ND 58779  
(701) 758-2456  
ljbranch@restel.net

### **LARRY SYVERSON**

#### **Executive Secretary**

#### **Director of Governmental Relations**

465 150th Ave. NE, Mayville, ND 58257  
(701) 430-1735  
larry@ndtoa.com

### **BARB KNUTSON, Treasurer**

2600 236th St. NE, McKenzie, ND 58572  
(701) 673-3198  
barbk@ndtoa.com

### **LARRY SYVERSON, Past President**

465 150th Ave. NE, Mayville, ND 58257  
(701) 430-1735  
larry.ndtoa@gmail.com

### **THOMAS WHEELER, Dist. 1 Director**

6561 115th Ave NW, Ray, ND 58849  
(701) 641-1073  
wheelert@nccray.com

### **MARK SHIPLEY, District 2 Director**

PO Box 493, Devils Lake, ND 58301  
(701) 739-8263 or (701) 662-6896  
mark.ndtoa@gmail.com

### **AL BEKKERUS, District 3 Director**

1890 12th Ave. NE  
Grand Forks, ND 58201  
(701) 741-2120

### **LEON MONKE, District 4 Director**

5645 B 106th Ave. SW  
Regent, ND 58650-9119  
(701) 563-4498

### **BARB KNUTSON, District 5 Director**

2600 236th St. NE, McKenzie, ND 58572  
(701) 673-3198  
barbk@ndtoa.com

### **STEVE GINSBACH, District 6 Director**

16290 91st St. SE, Hankinson, ND 58041  
(701) 242-7291

Legal Counsel

### **THOMAS R. MOE**

Attorney-at-Law

39 1st Ave. NW, Mayville, ND 58257

## President's Comments



Hello everyone,

Time for another newsletter already? Calendar says so.

We are extremely wet in northeast ND and in other areas of the state it is dry. Weather is always a good conversation starter!

As this newsletter is being put together a few NDTOA board members will be attending the multi-state conference in LaCrosse, Wisconsin. If we can hold the presses a little, we might get a report on that conference in this issue.

Judging by some of the questions we receive from township officers and comments (complaints) from the general public, it appears many of us need to better familiarize ourselves with the township officer's handbook.

Special attention should be given to chapter 24-roads, and chapter 58-townships. One example I hear too often is a township officer saying "we can do whatever we want." This of course is not true.

Township officers are given a lot of power, authority, and responsibility in ND Century Code, but there are also limits to this power and authority which must be adhered to. By not following these rules and regulations gives all township officers bad publicity.

If your township does not have a sign program in place, please remember Mark Verke's pleas to get this done. He has been talking on this subject at annual conventions, workshops, and county meetings for many years.

The main reason for having this program in place is to lessen the liability to the township in case of an accident.

The convention committee is working on this year's annual convention in Bismarck on December 5th and 6th.

This convention will be observing 50 years of NDTOA so let's have a good turnout and show everyone that NDTOA is here to stay.

Let's do our jobs diligently and keep our form of Grassroots Government alive and well.



## WORKING FOR YOU!

### **Nominations Needed for Grassroots Leadership Award**

This year we are starting the search for nominees a little earlier to give you a better chance to remember that fellow township officer that has done an outstanding job, or has given years of faithful service.

That township officer deserves this recognition! Please take the first steps and send in a nomination.

We need it by November 13, 2016. If you have any questions about who qualifies, please call Larry Syverson at:  
**(701) 430-1735 or  
email: larry@ndtoa.com**

# MULTI-STATE CONFERENCE *cont'd from page 1*

base and the property owners are not always eager participants. It seems that in Minnesota and South Dakota annexation is also a land-grab instigated by the cities with some various restrictions.

There was a presentation on regulating the application of liquid manure in center-pivot irrigation.

The confined animal operations are piping the manure for miles and applying it to growing crops.

The University of Wisconsin in Madison, with help from USDA, has been doing research on the likelihood of people becoming ill from the air-borne bacterial that might be spread.

The goal is to provide data upon which guidelines and regulations can be established to control how close the applications can be to dwellings and other inhabited areas.

This might be something that should be incorporated into zoning ordinances in North Dakota before this practice becomes established here; Wisconsin has the data that could be used to base it on.

The University of Wisconsin Extension Service presented their study "*Women in Government: Why don't more Women Run?*" The research indicates that women are as likely to be elected as men if they run for an office, but very few attempt it. Especially for local offices.

Why? The research include surveys of several groups and some of the indicated roadblocks are: They don't think they will be taken seriously in what has been historically a man's roll or they don't want to take time away from family or they aren't interested in the issues handled by the office.

There were about a dozen different

reasons listed and they each got different rankings by the various groups. It was noticed that many in the audience, both male and female, disagreed with the assumptions drawn from the surveys.

One important fact this study brings up for North Dakota townships is that women are a very capable part of the population and should not be ignored when it comes to filling an office.

Other topics presented included road use agreements to protect town infrastructure and the regulation of high capacity wells for irrigation.

The transport superintendent for Kwik Trip convenience stores described the operation of their company—the many stores in their network and their fleet of trucks that deliver fuels and groceries to them.

He said that because of the deteriorating road conditions Kwik Trip is supporting a proposed fuel tax hike for Wisconsin to be used for highway repairs.

The Wisconsin Executive Director Mike Koles reported that, like most states, Wisconsin has not kept up their road maintenance and the years of neglect have taken a toll.

Now the Wisconsin Towns Association and others like Kwik Trip have joined together and formed the Transportation Development Association (TDA). They have launched a campaign—It's Time Wisconsin—"Just Fix It".

They intend to put mounting pressure on state officials from the governor on down. Wisconsin currently charges 32.9 cents per gallon and the proposal is to add another 5 cents. (In North Dakota we are currently paying 23 cents state tax per gallon.)

Koles said Wisconsin got Internet legal posting passed so a town can post its legal notices on its website and do not have to post in a newspaper.

Gary Pederson, Minnesota Executive Director, reported that his state failed to pass a comprehensive transportation bill even though that was the priority item at the beginning of the session.

Pederson also reported that many rural parts of the state are poorly or not served at all by Internet connection.

Legislation was passed to improve broadband coverage, but with limited funds, and the definition of minimum service speed was set so high that many areas in cities that already have service qualify for the funding.

Jim Puffer the President of South Dakota Association of Towns and Townships reported that they gained the ability to levy 50 cents per \$1,000 of value for secondary roads.

South Dakota townships and counties have been very limited in their ability to increase property taxes. This should somewhat ease that financial strain.

Puffer also reported that their association supported a bill that changed a funding formula to benefit the townships over the towns and as a result they lost some of their town members.

North Dakota reported that the non oil townships each received a \$4,990 one-time payment in February, but it is very unlikely to be any more in the foreseeable future as the reduced oil and ag markets have given North Dakota a billion plus budget shortfall.

For the oil producing area an

*Cont'd on page 5*

# The Country Lawyer

by Thomas R. Moe, Attorney-at-Law



Greetings!

August is here and the harvest has begun, and I'm still thinking it's May or June! The politicians have been busy, though, and both political party conventions have come and gone.

I was thinking that they ought to move the political conventions to the winter months so all that hot air wouldn't go to waste. And, speaking of wasted energy, that's why the Capitol building in Washington has a rotunda because politicians like to go around in circles.

Larry spent a couple of days in Bismarck watching the special session just in case township issues may have arisen.

I hope all township officers take some time this fall to visit with both legislators and candidates as all indications are that next January's session will involve more belt-tightening, so townships need to be vigilant.

When local township officials develop a good working relationship with their own legislators, then the fruits of those local relationships really help out Larry and the rest of the lobbying team.

We had a good visit with our counterparts from South Dakota, Minnesota, and Wisconsin multi-state township meeting held in LaCrosse earlier this summer.

I especially was interested to hear about city annexation issues that Minnesota and Wisconsin are having. Cities there are expanding at a rapid rate, and township residents are finding themselves newly-minted city residents after the annexation.

And, interestingly, many township residents there are petitioning to join up with the neighboring city, a

practice which is somewhat foreign to us! We've had some annexation proceedings here in North Dakota, mostly in areas surrounding our four big cities, and townships here really don't have a lot of say in the matter, but rather landowners themselves have to carry the protest arguments themselves.

This may be something we need to look at, as I found both Minnesota and Wisconsin laws have much more township involvement in the annexation process than we do here in North Dakota.

My attorney counterpart from South Dakota wasn't able to make it to the conference this year, but in speaking to several of our southern neighbors I found that they are having similar troubles with water and road issues just as we do.

South Dakota uses some differing road signs than we do in times of high water and that may be something for us to look at adopting as well.

All in all it was a very informative session and I thank NDTOA for allowing me to attend. North Dakota hosts the meeting next summer so I imagine we will begin working on that agenda soon.

Try to get a road and sign survey done this fall and also plan on attending the state Convention this December.

With the 2017 legislative session looming, our convention resolution process will be most important as that drives our agenda at Bismarck, and giving us your ideas and thoughts are critical.

Here's hoping you have an enjoyable rest of the summer and I hope everyone has a safe harvest.

Following are a few questions I've

received at the office. TRM

**Question:** We had a cell tower company request a "permit" from the township for a tower they want to put up, but we are not zoned. We don't have a problem with the tower, but how can we give them a permit without being zoned?

**Answer:** I imagine the tower company's home office requires some sort of documentation in their files that says they have permission from all local government officials for the tower placement.

If nothing else, you should give them a letter from the township (or they maybe have their own form for you to sign) which explains that although your township is not zoned, your township has no objection to the tower.

You may want to request that the tower be placed a certain number of feet from the road—in effect a 'setback'. Obviously, they will already have gotten landowner permission, and that should be attached as well.

This points up that sometimes other entities—in this case the cell tower folks—drive the need to consider zoning for townships. More and more often we hear of cell tower operations, wind tower companies, utilities, etc., that are requiring local "permits".

You need to consider getting started on the zoning process!

**Question:** Is there a way to close a road to traffic, but yet allow adjacent landowners to use the road?

*Cont'd on page 6*

**Country Lawyer** *cont'd from page 5*

**Answer:** Probably not, as once a road is closed to the public—I'm assuming with the proper signage—then the road is closed to everyone, including the landowners next to it. And, once one of them starts to drive around the signs, then the first path is made and everyone else will do the same!

**Question:** We had a special meeting of the township set last May because we needed to amend the budget for some additional expense that came up. We had a notice in the local newspaper ten days prior to the meeting and we listed the purpose of the meeting to “amend budget”.

At the meeting some residents wanted to discuss zoning, and the Chairman and I got into an argument about who could vote at the meeting—he said it was just the three supervisors, and I said everyone could vote. (We had a half dozen other people there). Who was right?

**Answer:** You were, assuming it was indeed a meeting of the township. Your newspaper notice and the printed agenda is one of the requirements for such a meeting. (see 58-04-03/04 of the handbook).

This is a meeting of all residents, similar to the annual meeting in March, where all can vote.

Interestingly as well, the zoning discussion was also out of order, as only those items listed in the newspaper notice are to be handled at a special meeting.

The chairman would have been correct if it had been a meeting of the supervisors, which the public can attend, but not having the ability to vote there.

But you were also right in that the supervisors don't have the authority to amend the township's budget, only the residents can do that at such a special meeting held for that purpose which it appears you did here.

**Question:** We have a newly elected supervisor who refuses to sign an Oath of Office because he says such an oath goes against his religion. Can he still serve?

**Answer:** Probably not, as an oath of office is required of all elected officials in our State, including the Governor on down. See section 58-05-10 of our handbook where it states that failure to have a signed oath will be... “deemed a refusal to serve in such office.”

You should notify him of this, and that you will declare the office of supervisor vacant, which now can be filled by appointment by the remaining two supervisors. (see Section 58-05-16, Vacancies, how filled).

**Question:** We have a shared road with the adjacent town. We do the gravelling and the city does the snow removal. We mow the ditch on the township side, and the city does their side of the road. Now the town council has decided they don't want to do any of this work and want to give the road back to us. Can they do that?

**Answer:** Hopefully, you have some minutes of prior meetings (both township and city) that will shed some light on the situation, and further, hopefully there is some sort of written joint agreement that the prior city council and the township board at that time entered into.

If not, I would check the description of the city limit boundary and make sure that the city limit line is indeed at the center of the road. You may have to check with the County Auditor about that, if the City doesn't have their maps up to date.

If the City still refuses, and you find that their city limits do in fact include half of the road, I would contact the Insurance Reserve folks and perhaps they could remind the city of some potential liability concerns regarding the city's half of the road.

**MULTI-STATE** *cont'd from page 3*

improved funding formula should direct more oil revenue to their road needs, but since that change the revenues going into the formula have slowed to a trickle.


This is somewhat offset by less oil traffic doing damage to the roads, but does little to catch up prior damage.


We also reported that we were involved in the truck size and weight harmonization study with ND Dot looking at the possibility of increasing the GVW to as much as 129,000 pounds.

Several in the audience asked what that would do to our bridges. I guessed we are not too sure of the answer to that either—perhaps we can get engineers to talk the legislature out of this change.

There were questions from the audience mostly about activities in the Bakken such as drilling and if they are getting the flaring under control and the gas captured.

We invited all present to join us next year in Grand Forks when North Dakota hosts the traveling conference.





OFFICE OF STATE  
**TREASURER**  
NORTH DAKOTA  
KELLY L. SCHMIDT, TREASURER

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**State Revenue  
Distributions**

The Office of State Treasurer is responsible for a number of distributions to political subdivisions across the state. To help you identify these distributions and the dollars affecting your community go to our website at [www.nd.gov/treasurer](http://www.nd.gov/treasurer)

For questions or assistance, please contact the Office of State Treasurer by calling 701-328-2643.

# Road Signing Requirements for Townships by Dale C. Heglund, NDLTAP Director

*Home Safe Every Day.* This simple message is a good reminder of the need to provide and maintain roadway signing that adequately guides roadway users in their travels.

Since friends and family are key users of our township roadway network it really hits home that our signing efforts protect those that we care about most.

Expanding upon this focus, we need to provide a reasonable roadway for the general public.

Mark Verke, a North Dakota Insurance Reserve Fund (NDIRF) Loss Control Representative, is a strong advocate for signing programs and a powerful ally of the township officers.

Mark's message is clear – township officers are charged with the responsibility to provide and maintain a signing program.

Signing programs can reduce accidents and thereby reduce risks and losses. In other words, signing helps roadway users get home safely every day.

The North Dakota Local Technical Assistance Program (NDLTAP) team provides training and technology transfer that helps local leaders understand and adhere to signing requirements.

Roadway signing is provided to notify drivers of roadway regulations and hazards. A minimalist approach to signing is recommended.

By providing only the messages required for the driver to understand the roadway ahead, the number of signs is kept to a minimum and the drivers are not distracted.

Fewer signs mean lower costs and more time for the driver to focus on the job of driving.

## Let's review some signing basics:

Back in June 2014 a Federal directive required all roadway

owners to develop a plan to maintain sign retro reflectivity.

Retro reflectivity is the amount of vehicle light that bounces off of a sign and is received by the driver's eye. The amount of light returned is a function of sign type and quality and is a key factor in a driver receiving the necessary roadway information.

A sign program is a system that inventories signs on the roadway, evaluates sign conditions and defines a sign replacement plan.

## *Do you have a signing program in place? Y/N*

It makes sense to tap into area signing experts to help you when you need signs or have questions about sign requirements. NDIRF, NDLTAP, North Dakota Department of Transportation, county sign leads, sign suppliers and signing contractors are great resources.

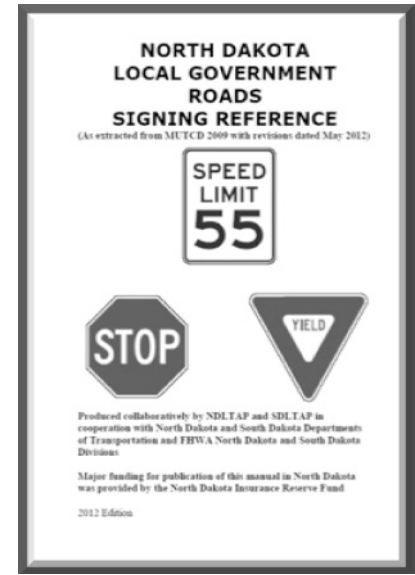
## *Do you have a signing expert to tap into? Y/N*

Signing requirements are spelled out in the Manual on Uniform Traffic Control Devices (MUTCD). Since the 2" thick manual is a bit ominous, the 174 page **Local Roads Sign Book** was developed to help local leaders understand signing basics.

## *Do you have a copy of the MUTCD or the local roads sign Book? Y/N*

Sign classes are a great way to understand signing rules and the Township's signing responsibilities. NDIRF and NDLTAP offer signing classes.

Classes vary from 15 minutes to four hours, depending upon the target audience. Classes are often provided free of charge. A sign class can help you to understand how to provide a safe roadway that adequately warns the traveling public of regulations and hazards.



## *Have you attended a Sign Class? Y/N*

A sign policy is a written document that the Township has adopted a plan to maintain signing on their roadway network.

## *Has your Township adopted a sign policy? Y/N*

## **Does your Township have a Home Safe Every Day focus?**

If you answered **yes** to all of the questions above then you are on track. If you answered **no** to any of the questions above, let's figure out how to get you back on track.

NDLTAP has developed a web based **Road Signing Resources** page to help: <http://www.ndltap.org/resources/signing.php>. The NDLTAP team wants to be your resource of choice. Let us know how we can help.

*North Dakota Local Technical Assistance Program (NDLTAP) is a NDSU/UGPTI program that is funded by the North Dakota Department of Transportation, the Federal Highway Administration and the North Dakota Insurance Reserve Fund (NDIRF).*

# Local Roads Corrugated Metal Pipe (CMP) Workshop

by Dale C. Heglund, NDLTAP Director, (701) 318-6893 or dale.heglund@ndsu.edu

NDLTAP has partnered with True North Steel to develop a workshop to help county, township and small community personnel learn what it takes to design, install and maintain culverts.

## Workshop focus areas:

PIPE SIZING—state rules and design methods engineers use to size culverts

PIPE COATING SELECTION—options available

PIPE LENGTH—how to calculate and order

PIPE PERFORMANCE—review, slope, interior, flared ends, outlets, velocity, etc.

PIPE STRENGTH—how soil and pipe strength combine

PIPE INSTALLATION—this is the field portion of the workshop—the hands-on installation of a CMP on a county road—to cover pipe survey, bedding, pipe placement, pipe backfill, compaction and pipe collars.

PIPE SLIP LINING—extending pipe life

County, township and small community representatives will benefit from this workshop. Pilot workshops are



being planned for the third week of September, from 8:00 a.m. to 3:00 p.m. in two locations. Contact Denise Brown, NDLTAP Training Coordinator at (701) 328-9856 or denise.brown.1@ndsu.edu for information.

*North Dakota Local Technical Assistance Program (NDLTAP) is a NDSU/UGPTI program that is funded by the North Dakota Department of Transportation, the Federal Highway Administration and the North Dakota Insurance Reserve Fund (NDRIF).*

## Treasurer's Report by Barb Knutson, District 5 Director

Happy Summer!

Finally getting some rain and things are greening up again. I know that is not the same all over the state. Some have had just plain too much so hope it evens out.

Dues have come in fairly well, however just a reminder they are due the 1<sup>st</sup> of May and delinquent the 1<sup>st</sup> of October.

Been working on the mailing list. I see there are some that have not reported their officers for this year.

The auditors really need this information. They have been very good about sharing what they have, but it is only as good as we give them.

Thanks to all of you that have provided this information. We need to be sure to get new officers on the

list so they start receiving the newsletters etc.

It is also possible to get the Grass Roots electronically. If you would rather do that, just let us know your email address and it will be done.

Have been receiving questions on the requirements from the IRS. If this is you, do not be afraid to call the director in your area to get and keep up to speed.

Would also be a good time to get on board with the ALTR accounting system, so by the end of the year it is all entered and reports are complete. Need more information on that, give your director a call.

It is not too early to think about setting some time aside in December to attend the annual meeting which will be held in

Bismarck this year. Those dates are December 5<sup>th</sup> and 6<sup>th</sup>.



Look for information in an upcoming issue of this newsletter.

If you have questions, feel free to call your directors or anyone on the board and we will be happy to try to help you in any way we can. Have a Happy and safe summer!

**DISCUSSION FORUM ONLINE:** If you have any questions about situations in your township, please click on the "Discussion Forum" tab at [www.ndtoa.com](http://www.ndtoa.com) and we will post them. Someone else has probably confronted the same situation and be able to help you.



# Grass Roots Report

North Dakota Township Officers Association  
2600 236th St. NE  
McKenzie, ND 58572



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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?**

**WON'T YOU PLEASE PAY THE DUES?**



**PROTECTING THE PUBLIC TRUST**

**30**  
*years*

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