

YANKTON COUNTY – TOWNSHIP TASK FORCE

FINAL REPORT

Purpose

There is concern that the unorganized townships are costing the county more in road maintenance expenses than they are providing in property tax, license fees and other revenue. Would organizing these areas be an advantage?

Members

Bob Cap, member, organized

Raymon Epp, Commissioner, organized

Kevin Huber, Vice Chair, organized

Cheri Loest, Chair, unorganized

Cliff Madson, member, unorganized

Todd Woods, Commissioner, unorganized

Meetings

May 31, 2017 – Organizational meeting

June 19, 2017 – Guests Greg Vavra (South Dakota Local Transportation Assistance Program) and Patty Hojem (Yankton County Auditor)

July 10, 2017 – Guests via phone Maureen Wegenke (South Dakota Association of Towns and Townships) and Jay Leibel (SDATAT lawyer) and guest Rob Klimisch (Yankton County States Attorney)

July 17, 2017 – Guest Rodney Polley (Clay County Highway Superintendent – all organized); the Bon Homme County Highway Superintendent was invited but unable to attend (all unorganized)

July 30, 2017 – Working session

August 14, 2017 – Final working session and recommendations

Definitions

County road – a road (paved or gravel) in the county under county jurisdiction

County secondary road – a road in an *unorganized township* under county jurisdiction

Road district – an incorporated area created to construct or maintain a road (SDCL 31-12A-1); it must be outside the boundary of a municipality; no political subdivision of the state may relinquish or transfer jurisdiction over any public highway to a road district (SDCL 31-12A-5.2)

Road district road – a road in a *road district* where the county or organized township is not financially responsible for its maintenance; however it is a public highway where traffic regulations are enforceable by any law enforcement officer (SDCL 31-12A-25.1)

Township road – a road in an *organized township* under township jurisdiction

Findings

History of Yankton County Townships

The Yankton County Government Center records were searched for township organization petitions and commission approval dates. The minutes were not inspected for abolishing or dissolving records of specific townships.

It is interesting to note that on 11 Jan 1896, the county commissioner minutes read “...Yankton County be divided into civil townships as follows...” The commissioners then proceeded to number the townships and name them (**Table 1**). Township 96-57 was listed twice. It is assumed this was a clerical error on the part of the transcriber as the second listing should have been 96-56.

Table 1. Division of County into Civil Townships (11 Jan 1896 Commission Minutes; Book 4, p.240)

TWP	Name	Name
96-57	Township number one	Norway
96-57	Township number two	Jamesville
96-55	Township number three	Mayfield
96-54	Township number four	Turkey Valley
95-57	Township number five	Lesterville
95-56	Township number six	Central
95-55	Township number seven	Walshtown
95-54	Township number eight	Marindahl
93&94-57	Township number nine	Lakeport
93&94-56	Township number ten	Utica
93&94-55	Township number eleven	Mission Hill
94-55	Township number twelve	Volin
92&93-54	Township number thirteen	Gayville

At one time, every civil township was organized *except*: 93-57, 93-56 and 93-55. These areas were initially recognized by the county commissioners (**Table 1**) but were not included when the townships directly to their north were organized, those being Ziskov, Utica and Mission Hill (**Table 2**). Please note that Ziskov, Utica and Mission Hill townships chose not to include the word “north” in their official names.

In 1999, there was an effort to merge two townships, Utica South and Ziskov South, into one organized township. The county commission held a public hearing on March 23, 1999, where residents were advised to form a committee, develop parameters for organizing and circulate petitions to determine if a majority of citizens were in favor of organization. It is unclear how many petitions were circulated. No election was held.

Table 2. History of Township Organization (Yankton County Commission Minutes)

TWP	Name	Organization Date	Commissioner Minutes Book	Page	Current Status
96-57	Norway	2 Jun 1896	4	264	Unorganized
96-57	Odessa	28 Dec 1910	7	1	Unorganized
96-56	Jamesville	17 Aug 1914	7	263	Organized
96-55	Mayfield	3 Apr 1902	5	392	Organized
96-54	Turkey Valley	7 Jan 1903	5	443	Organized
95-57	Lesterville	2 Jun 1896	4	263	Unorganized
95-56	Central	2 Jun 1896	4	263	Unorganized
95-56	Central	6 Aug 1900	5	231	Unorganized
95-55	Walshtown	6 Mar 1906	6	196	Organized
95-54	Marindahl	2 Oct 1900	5	247	Organized
94-57	Ziskov	1 Nov 1912	7	123	Unorganized
94-56	Utica	2 Mar 1907	6	274	Organized
94-55	Mission Hill	21 Jan 1908	6	339	Organized
94-54	Volin	5 Sep 1911	7	46	Organized
93-57	-	-	-	-	Unorganized
93-56	-	-	-	-	Unorganized
93-55	-	-	-	-	Unorganized
92&93-54	Gayville	6 Jan 1904	6	43	Organized
92&93-54	Gayville	6 Jan 1913	7	142	Organized

Procedure to Organize a Township

State law differentiates between initial organization, reorganization, division or merger, and reestablishment for townships.

Initial organization. For civil organization of an area that has never been organized, the following requirements must occur:

- Must be a contiguous territory. (SDCL 8-1-3)
- Must contain at least five resident voters. (SDCL 8-1-3)
- Size cannot exceed four congressional townships, together with any fractional townships that are contiguous. (SDCL 8-1-3)
- A majority of the legal voters of a civil township shall petition the board of county commissioners for civil township organization. (SDCL 8-1-5)
- The board of county commissioners shall complete the civil township organization thereof by appointing a board of supervisors for such township to act until its officers are duly elected and qualified. (SDCL 8-1-5)

Reorganization, division or merger. The following requirements must occur:

- Resulting township must contain at least five resident voters. (SDCL 8-1-7)
- Subject to approval by voters in the affected area, the following three methods may be used to reorganize, divide or merge townships or fractions of townships: (SDCL 8-1-8)

- the *board of county commissioners* proposes the action; or
- the *affected township boards* propose to the board of county commissioners the action; or
- a *majority of the registered voters* residing in the affected portions may petition the board of county commissioners the action
- If any of the above three conditions are met, the board of county commissioners must hold a hearing to consider the proposal, subject to applicable public notices. (SDCL 8-1-9)
- *Approval by the voters* in the affected civil townships and the affected portions of unorganized congressional townships as provided. (SDCL 8-1-10)

Reestablishment of township. The following requirements must occur:

- For SDCL 8-1-29 to 8-1-32, *reestablishment* means organizing a township that has been dissolved. (SDCL 8-1-29)
- Must contain at least five resident voters. (SDCL 8-1-29)
- Any township may be reestablished subject to approval by the voters in any unorganized congressional township if (SDCL 8-1-30):
 - The *board of county commissioners* proposes that the township be reestablished; or
 - *Fifteen percent (15%) of the registered voters* residing in the affected township petition the board of county commissioners proposing that the township be reestablished
- If one of these conditions is met, the board of county commissioners shall hold a public hearing to consider the proposed reestablishment, subject to applicable public notices. (SDCL 8-1-31)
- Following the hearing, the proposed reestablishment shall be decided by the voters of the affected civil township on the date set for the township election by the board of county commissioners. If a *majority vote in favor*, the proposal shall be implemented. (SDCL 8-1-32)

In our interpretation, the unorganized townships that are allowed to “reestablish” themselves include: Central, Lesterville, Odessa and Ziskov. Each was organized at one time and thus qualifies for this procedure. The partial unorganized townships were never officially organized, including: Mission Hill South, Utica South and Ziskov South. These townships could follow the procedure for “initial” organization or they could “merge” with another already organized township. **Table 3** displays the registered voters in unorganized townships as of August 4, 2017.

Table 3. Registered Voters in Unorganized Townships (August 2017)

Township	Registered Voters
Central	158
Lesterville	81
Mission Hill (south)	487
Odessa	86
Utica (south)	1642
Ziskov (north & south)	118

Finance – Revenue

Land in unorganized townships is assessed a “secondary road tax” with 2016 levy rate at 0.644. An opt-out is also in place for unorganized townships (\$50,000; levy rate 0.103). The county uses this revenue to service roads for the unorganized townships. The levy and opt-out amounts are controlled by the county commissioners (**Table 4**). Currently, there are only three organized townships with higher levy rates than the unorganized townships.

Table 4. Unorganized Township Property Taxes for 2016 Payable in 2017 (all subject to the opt-out)

Unorganized Township		Valuation	Total Tax Levy	Property Tax	Miles
Central	95-56	\$52,782,431	0.747	\$39,428	29.0
Lesterville	95-57	\$47,342,372	0.747	\$35,365	47.0
“Mission Hill South”	93-55	\$75,391,872	0.747	\$56,318	10.0
Odessa	96-57	\$42,711,930	0.747	\$31,906	34.0
“Utica South”	93-56	\$136,445,927	0.747	\$101,925	13.0
Ziskov	94-57	\$51,716,286	0.747	\$38,632	39.0
“Ziskov South”	93-57	\$80,206,415	0.747	\$59,914	12.5
TOTAL		\$486,597,233	0.747	\$363,488	184.50

Organized townships set their own property tax rates and may also pass opt-outs. Currently, six of the nine organized townships have opt-outs in place. **Table 5** shows taxes for 2016 payable in 2017.

Table 5. Organized Township Property Taxes for 2016 Payable in 2017 (*denotes opt-out)

Organized Township		Valuation	Total Tax Levy	Property Tax	Miles
Gayville*	93/92-54	\$57,096,384	0.578	\$33,002	28.0
Jamesville	96-56	\$55,303,945	0.118	\$6,526	33.0
Marindahl*	95-54	\$45,611,778	0.950	\$43,331	33.0
Mayfield*	96-55	\$51,417,599	0.544	\$27,971	42.0
Mission Hill	94-55	\$66,474,181	0.536	\$35,630	36.0
Turkey Valley*	96-54	\$52,605,295	0.558	\$29,354	45.5
Utica*	94-56	\$64,013,233	1.140	\$72,975	32.5
Volin*	94-54	\$58,880,252	0.877	\$51,638	27.0
Walshtown	95-55	\$47,022,545	0.270	\$12,696	34.0
TOTAL		\$498,425,212	0.628	\$313,123	311.0

For the organized townships, *additional* reported revenue streams include: motor vehicle license fees, proration license fees, motor fuel tax, port-of-entry fees, bank franchise taxes, state highway fund, utilities, 10% game fees, mobile home fees and interest on bank accounts. Not every organized township receives each of these revenue streams, and not every township itemizes them on their Annual Statement to the county auditor.

For the unorganized townships, these revenue streams are allocated to the county, as they are the caretaker of all unorganized township roads. It is difficult to determine the exact amount that is received for every category. **Table 6** lists line-item highway department revenue for 2015 and 2016.

Table 6. County Highway Revenue for 2015 and 2016 (specific line items only; not a complete list)

	2015	2016	Average	Beneficiary
Bank Franchise Tax	\$1,729	\$2,491	\$2,110	
Motor Vehicle Licenses	\$1,558,488	\$1,382,247	\$1,470,368	All county
10% Game License Fee	\$0	\$0	\$0	
Prorate License Fees	\$77,562	\$245,458	\$161,510	
63 ¾ % Mobile Home	\$16,660	\$10,169	\$13,415	
Secondary Road MV Remittance	\$132,536	\$202,340*	\$167,438	All unorganized
Motor Fuel Tax	\$8,369	\$0	\$4,185	

In **Table 6**, the asterisk (*) denotes an over-allocation of funds was made. Senate Bill 1 did increase motor vehicle fees between 2015 and 2016, however it should not have been this large of an increase. The only revenue we feel comfortable “assigning” to the townships is the Secondary Road MV Remittance revenue. This amount is allocated to the county according to the number of unorganized township miles in their care. However, portions of the other revenues are most likely for townships too.

Finance – Expenditures

In 2015, the county highway department began keeping specific records of each unorganized township, giving only two full years of data to study. Prior, no specific records were kept for expenditures, making it difficult to fully understand “average” expenditures for unorganized townships. This data is included, but we caution that since there was no budget or baseline for each township, expenditures were likely high. **Table 7** displays the 2-year average revenue and expenditures for the unorganized townships.

Table 7. Unorganized Township 2-year Financial Yearly Averages for 2015 and 2016

Unorganized TWP	Property Tax Revenue	Opt-Out Revenue	Secondary Road MV Remittance	Expenditures	Difference
Central	\$31,713	\$5,424	\$26,318	\$68,670	\$(5,215)
Lesterville	\$28,315	\$4,865	\$42,654	\$72,400	\$3,434
Mission Hill South	\$48,236	\$7,747	\$9,075	\$105,026	\$(39,968)
Odessa	\$25,653	\$4,389	\$30,856	\$81,308	\$(20,410)
Utica South	\$88,369	\$14,021	\$11,798	\$161,559	\$(47,371)
Ziskov North	\$30,525	\$5,314	\$35,393	\$86,284	\$(15,052)
Ziskov South	\$51,934	\$8,242	\$11,344	\$44,130	\$27,390
Total	\$304,747	\$50,000	\$167,438	\$619,378	\$(97,193)

“Dust control” is a large expenditure in the unorganized township areas. At one time, this service was charged to the residents using these roads. The average cost for 2015 and 2016 was \$89,899, equating to 14.5% of the total expenditures. Locations where mag chloride is applied to unorganized township roads are listed in **Table 8**. Mr. Vavra indicated that traffic counts of 150-170 cars per day are tough to maintain without pavement.

Table 8. Mag Chloride Application in Unorganized Townships

Road	Township	Miles	2014 Daily Traffic Count
W 11 th St	Utica South	1	252
W 23 rd St	Utica South	2.5	223
433 rd Ave	Ziskov South	0.5	NA
434 th Ave	Ziskov/Utica South	2	236
Alumax Rd	Mission Hill South	1	114
Kaiser Rd	Utica South	1	235
Sister's Grove	Utica South	0.75	NA
Southwest Jim River Road	Mission Hill South	4	192
Timberline Dr	Utica South	1.5	NA
Willowdale	Mission Hill South	1.25	NA
Total		15.5	

Mag chloride (commonly referred to as “dust control”) application usually occurs once, early in the spring by a private contractor. During the following months, it is “reactivated” with water application, which occurs by rain or water truck every five to six weeks. To reduce costs, it was suggested that mag chloride applications might skip a year with similar results. Keep in mind that mag chloride application does reduce the need for grading. So any changes to this procedure must also include the additional cost for increased grading required.

A map of mag chloride application is located in the appendix along with the State’s traffic count, bus routes made available by the schools and mail routes obtained from the United States Postal Service website.

Organized townships have a long track record for creating budgets and spending their revenue accordingly. **Table 9** displays 5-year average revenue and expenditures. Where available, the property and opt-out revenue was separated from “other revenue”. Not all townships report this to the county auditor, so a three townships are listed as “not available” (NA).

Table 9. Organized Township 5-year Financial Yearly Averages (*denotes 4-years only)

Organized TWP	Property & Opt-Out Revenue	Other Revenue	Expenditures	Difference
Gayville	\$56,503	NA	\$58,648	\$(2,145)
Jamesville	\$5,422 (15%)	\$29,561 (85%)	\$38,435	\$(3,452)
Marindahl*	\$73,356	NA	\$49,440	\$23,916
Mayfield	\$25,085 (36%)	\$44,346 (64%)	\$56,201	\$13,230
Mission Hill	\$34,155 (50%)	\$34,389 (50%)	\$53,198	\$15,346
Turkey Valley	\$26,346 (40%)	\$39,566 (60%)	\$60,038	\$5,874
Utica	\$82,728	NA	\$70,665	\$12,064
Volin	\$37,584 (60%)	\$25,148 (40%)	\$49,716	\$13,016
Walshtown*	\$12,295 (29%)	\$30,839 (71%)	\$41,114	\$2,020

Taxing Authority in South Dakota Codified Law

Each year, governing bodies can only increase taxes collected by 3% or the index factor (SDCL 10-13-35), but they have other means to increase tax revenue:

- **Maximum rate of township levy** (SDCL 10-12-28). The total rate of the annual tax levy in civil townships may not exceed **\$3.000** per thousand dollars of taxable valuation.
- ~~**Tax levy for secondary road capital improvement fund** (SDCL 10-12-28.2). The voters of an organized civil township *at the annual township meeting* may authorize an annual property tax levy not to exceed **\$0.500** for the secondary road capital improvement fund for projects in addition to the maximum rate. **[NOT AVAILABLE to the county for unorganized townships.]**~~
- ~~**Township snow removal reserve fund** (SDCL 31-13-22). The board of township supervisors may establish this fund not exceeding **\$0.600** in addition to all other township tax levies. **[NOT AVAILABLE to the county for unorganized townships.]**~~
- **Excess tax levy** (SDCL 10-13-36). This “opt-out” must be approved by a two-thirds vote of the *governing body* on or before July fifteenth and *may be referred to a vote of the people* by the board or by a petition signed by five percent of the registered voters.
- **Annual front foot assessment for maintenance and repairs** (SDCL 31-13-51 and 52). The *township board or county commissioners* (for unorganized), prior to assessment, may levy annually for the purpose of maintaining or repairing street surfaces, a special front foot assessment not to exceed **\$2.000 per front foot** upon the real property fronting and abutting the roadway. “Front foot” shall mean the actual front of the premises as established by the buildings thereon, record title and use of the property regardless of the original plat thereof. (*Highly recommend a thorough investigation of SDCL 31-13-32 to 31-13-54 before considering this tax option.*)

Road Districts (31-13-15)

There are several road districts in the county. These districts are formed in order for residents to self-tax and service a road constructed in a residential district. Once formed, the property attached to the district *no longer pays the secondary road tax to the county* even though they may travel on township roads to reach their road district (SDCL 31-12-27).

There are eleven road districts in the county with a 2016 value of \$41,818,421. If the road districts were not in place, an additional \$26,931 would be paid to the county for secondary road tax (levy rate 0.644; 2016 payable 2017). Currently these districts collect \$93,945 for maintaining their roads, **Table 10**.

If an unorganized township chooses to organize, these road districts would not pay township taxes to the newly organized township.

Table 10. Road Districts in Yankton County for 2016 Payable 2017

Road District	TWP	Valuation	Road District Levy	Road District Tax
Marina Dell	93-56	\$12,107,959	3.152	\$38,164
Calumet Road	93-56	\$8,397,698	0.952	\$7,995
Curlie-Tootys	93-56	\$5,444,336	3.485	\$18,974
Cedar Hills	93-57	\$2,416,659	3.391	\$8,195
Sunset Road	not listed	\$2,673,873	2.749	\$7,350
Baycliffe Road	93-56	\$400,140	1.250	\$500
Crestview Road	93-57	\$3,112,763	1.564	\$4,868
Ridgeway Road	93-56	\$3,666,313	0.818	\$2,999
Nome Road	93-56	\$1,234,584	1.215	\$1,500
Marina Park Road	93-56	\$1,679,465	1.786	\$3,000
Oak Park Road	93-56	\$684,631	0.584	\$400
TOTAL		\$41,818,421	2.246	\$93,945

Recommendations

Based on our review, we believe the county would benefit if the unorganized townships became organized. We believe the following actions should be taken:

- **Promote and assist organization:**
 - Commissioners and members of the task force shall conduct meetings for each unorganized township to discuss:
 - findings of this report
 - the organizing process
 - advantages and disadvantages
 - Commissioners should not directly propose that the townships be reestablished. Instead, residents of the township should petition for organization via grass-roots effort.
 - Commissioners shall provide:
 - state statutes for organizing a township
 - contact information for organized township boards
 - contact information for the South Dakota Association of Towns and Townships
 - County employees shall assist where possible in educating the newly formed township board on taxing abilities, maintenance responsibilities and record keeping requirements.
- **Revenue and expenditures:**
 - First, county commissioners shall request the auditor to create line items in the budget for each unorganized township.
 - Revenue for each unorganized township shall include:
 - secondary road tax levy
 - each township’s portion of the \$50,000 opt-out
 - motor vehicle licenses allocated per mile of unorganized township road
 - Expenditures for each unorganized township shall include:
 - graveling and grading
 - snow removal

- mowing and spraying
 - culverts and bridges
 - repairs for flooding and washouts
 - shoulder reclamation
 - dust control (application of mag chloride)
 - signage
- Should spending in an unorganized township exceed actual revenue by more than 10%, the highway superintendent must request approval from the commissioners at their second November meeting before additional expenditures are made.
- Second, dust control is a large expenditure. The highway superintendent shall determine if it is feasible to decrease the number of applications to every other year to reduce overall cost while still achieving adequate dust control.
 - Third, commissioners have the option to increase the opt-out for secondary roads (next deadline July 15, 2018). After the completion of 2017, commissioners have three years of data to determine if this is a necessary step.
 - Fourth, commissioners shall evaluate the reduction in both highway department employees and equipment as townships organize. This action is warranted as township organization removes roads from county responsibility.
 - Lastly, for any area seeking road improvements to county or township roads, residents are encouraged to petition the commission to request using the up to \$2 per foot tax to fund improvements such as dust control, chip sealing, pavement overlay, and other projects.

Appendix

- **Unorganized Township Mag Chloride Application**

Reference: Karla Bossman, administrative assistant Yankton County highway department

- **Yankton County Traffic Counts**

Reference: <http://sddot.com/transportation/highways/traffic/docs/county/Yankton.pdf>)

- **Bus Routes**

Reference: emails from school districts; Scotland and Viborg-Hurley did not respond

- **Mail Routes**

Reference: <https://eddm.usps.com/eddm/customer/routeSearch.action>)







