

EDNA TOWNSHIP BOARD MEETING MAY 17, 2011

Report of 4/19/2011 Board Meeting

Present:	James Nigg, Chair	William Norris, Supervisor	Dennis Sazama, Supervisor
	Carol Nelson, Clerk	Karen Marthaler, Treasurer	
Others:	Linda Nigg	Odell Nelson	Mark Faleide
	Nikki Losee	Connie Sanders	Lyle Smith
	Dan McKinnon	Marlene McKinnon	Jim Friederichs
	Gary Anderson	Joanne Anderson	Cheryl Boche
	Joel Boche	Kenneth Brewster	Karen Rohrich
	Bill Rohrich	Todd Baumgartner	Jim Baumgartner
	Joe Dahlen	Al Diederichs	Tom Benke
	Scott Benke	Ray Sazama	Herman Moenkedick
	Kevin Lehmkuhl	Ardell Wiegandt	Marcia Wiegandt
	Rick Birkland	Al Franchuk	Rick Sonnenberg
	Torey Sonnenberg	Doug Ackling	

1. James Nigg opened the board meeting at 8:00 p.m. with the Pledge of Allegiance.
2. Approval of Agenda; Norris made the motion to approve the agenda with the following changes.
 - a. add Wolf Lake to #10
 - b. postpone until May items 9, 16, 17. Sazama 2nd the motion.Motion approved 3/0.
3. Call for Bounty none at this meeting.
4. Devil's Lake concerns
Jackim Trail and Devil's Lake Road are private roads, owned by the residents. Nigg has spoken with Kyle Hartnett, MN Association of Townships attorney, repeatedly this week, for pertinent answers to road questions. Township records show Edna Township has never taken over these roads and has not maintained these roads on a regular basis. Townships have no legal rights to maintain private roads.

Questions were asked:

- | | |
|--|---|
| Q. Is most of Devil's Lake Road privately owned. | A. township records show that Edna Twp has not been asked to take ownership of Devil's Lake Road. |
| Q. Where is the cartway in this? | A. Devil's Lake Road begins where the pavement on Jackim road ends. The cartway is not a maintained road. A recent developer had wanted to get rid of the cartway. This request was refused at a high level than Township government. |
| Q. What is the Twp doing? | A. Supervisor/Chair Nigg has emailed O.T. Cty Commissioner Doug Huebsch about high water in Edna Twp. |
| Q. Why does Jackim Trail have pavement? | A. Jackim Trail was paved by the Twp through an agreement with those residents. Apparently, there was some land traded for road space in order to make the paving happen. |
| Q. What are some options for us? | |

A. **Petition Edna Twp**

1. to bring Devil's Lake Road up to Edna Twp. requirements.
Residents would create a petition asking Edna Twp to take over this road, and assess the cost back to them. Edna Twp. requires roads have a road top surface of 24 feet plus two feet of shoulder on each side. There is room to create an Edna Twp acceptable road, but creating it would cost hundreds of thousands of dollars; permits to fill wetlands, permits to move the road from one side of the corridor to the middle, and fill to raise the road to a level where the ditches are three feet below the crown of the road. The residents are assessed the preparation costs. When possible, Edna Twp has paid one half the cost of the asphalt surface. The residents pay the other half. These costs may be financed over 5 years, through Otter Tail County. Once the road is brought up to specs, Edna Twp. takes it over and maintains the road.
- or
2. to have Devil's Lake Road designated a Dedicated Road.
This would not create a 24 foot wide road, with shoulders. The road width of actual use is currently is 18 feet wide. It would be kept at this width, but would be repaired and maintained by Edna Twp.

Dedication by Use MN Association of Townships

"When any road or portion of a road has been used and kept in repair and worked for at least six years continuously as a public highway by a road authority, it shall be deemed dedicated to the public to the width of actual use and be and remain, until lawfully vacated, a public highway whether it has ever been established as a public highway or not." Minn. Stat. § **160.05, subd. 1**. This statute serves as the legal foundation for a large percentage of town roads in this state. Furthermore, the statute operates to create a road regardless of whether the board intended to do so. Interpretation of the statute has focused on three key elements: (1) use by the public; (2) kept in repair and worked (i.e., maintenance); and (3) continually over at least six years. The standard of proof used by the courts to determine if these factors are satisfied is a preponderance of the evidence.

2. (continued) If Edna Twp were to become the owner of Devil's lake Road, it is recommended they would meet with an engineer first to determine the required needs of this road. A guess estimate is \$50,000 for establishing an acceptable road. There may be a need for permits, silt fence, plans, culverts, etc.

The petition needs be signed by a minimum of thirty per cent of the residents who own or occupy property on the lake or within 3 miles of the lake. Petitions are filed with the town clerk and then presented to the town board. Minn. Stat. § 164.07, subd. 2. Once presented and found sufficient, the board has 30 days to set, though not necessarily hold, a hearing on the proposed establishment. A unique feature of the procedure is that it requires the petitioner to provide for the delivery of personal service of notice of the hearing on all affected landowners and to post the notice. If the petition relates to a road within a plat, the petitioner should be told to also mail notice to all the owners in the plat that were not hand delivered notice. Boards should take it upon themselves to also publish notice of the hearing at least once in its official newspaper. Affidavits of notice need to be developed and delivered to the board at the hearing for each form of notice given.

5. Road Maintenance Agreement

The Supervisors would like to extend the contract we have now, for one more year, at the same prices. Sonnenberg's will agree to this. The Supervisors have been pleased with the work done and the performance reviews of Sonnenberg's work. This possibility will be checked for legality with a MAT attorney. Sazama made the motion 'to extend the contract we have now for one more year at the same prices if legal'. Norris 2nd.

Roll Call Vote: Nigg – yes Norris – yes Sazama - yes Motion passed.

6. Wolf Lake Road – Mr. Tom Benke lives on the road. The road is 1500 feet from one end to the other. T. Benke is willing to donate dirt for fill, to raise the road 1 foot. This could amount to 1500 to 2000 yards of dirt. This will take down the dirt hill that now attracts snow build up on that corner. There may be a chance to get dirt from Lyle Diederich's property.

If Edna Twp closes the road, over 1000 feet of road, 4 feet deep would wash away. This has happened in the past. Norris made the motion to pursue permits for raising Wolf Lake road, to get quotes from 2 or more vendors for the work, get costs quoted by the yard.' Sazama 2nd. Motion approved 3/0. The Board will contact the necessary agencies for permits; DNR, Land & Resource Mgmt, MNPC,

7. Clerk's Report

Copies of the report were given to each Board member. No corrections or additions were needed. Norris made the motion to approve the report. Sazama 2nd. Motion approved 3/0

8. Treasurer's Report

Each Board member had a copy in hand. As of March 15, 2011, \$37,186.58 had been paid in claims. There is a working cash balance of \$35,258.33. Norris made the motion to approve. Sazama 2nd. Report approved 3/0. The Supervisors have arranged a \$70,000.00 line of available credit with Farmer's State Bank in Dent. This will be used if necessary.

9. Crack Sealing

a. The roads needing crack sealing have been identified. S & N Crack Sealing of Perham turned a quote. However, they have asked Edna Twp to dissolve that quote. They had grossly underbid. Norris made the motion 'to pull the quote from S & N Crack Sealing to Edna Twp. without prejudice.' Nigg 2nd. The motion to pull that quote was approved 3/0.

b. Crack sealing needs to be done ASAP. The roads that are expected to go under water, may not be crack sealed at this time. Norris made the motion to have roads crack sealed using T3 rubberized sealant and getting the maximum amount of T3 into the cracks up to a cost of \$10,000.00. Sazama 2nd. Motion approved 3/0.

10. James Forney and Henry Knoll are requesting Edna Twp give them a disclaimer for improvements they are making on their property. Land & Resource Management needs this information. Nigg made the motion to approve, Norris 2nd. Approved 3/0.

11. Norris made the motion to approve the claims for April. Sazama 2nd. Claims are approved and \$7009.61 will be paid.

At 9:55, Norris made the motion to adjourn. Sazama 2nd. Motion approved 3/0. Meeting was adjourned.

Respectfully Submitted
Carol Nelson Clerk

CLAIMS PAID APRIL 2011

E.O.T. Focus	legal ad/ road warnings	\$54.35
S & N Seal Coating	crack sealing	\$625.00
Sonnenberg Excavating	building 2 berms	\$2122.50
Sonnenberg Road Maintenance	snowplowing 3/2, 3/6, 3/12, 3/23	\$4661.00

O.T. Cty Treasurer	coated salt & sand	\$703.59
Carol Nelson	Salary & meetings	\$308.71
Dennis Sazama	Meetings & road inspections	\$157.16
James Nigg	Meetings & road inspections	\$196.11
P.E.R.A.	Contributions by officers (1/2) & Twp.(1/2)	\$203.40
Karen Marthaler	Salary & meetings	<u>\$238.55</u>
		\$9270.37