DISTRICTS 8, 9 & 12 MEETING MINUTES

JUNE 9, 2023 | DISTRICT 12 HOSTED | BEAVERHEAD COUNTY FAIRGROUNDS, DILLON, MT

COUNTIES IN ATTENDANCE

District 8	District 9	District 12
X Broadwater	___ Gallatin	___ Anaconda-Deer Lodge
X Jefferson	___ Meagher	X Beaverhead
X Lewis & Clark	X Park	___ Butte-Silver Bow
		___ Granite
		X Madison
		___ Powell

CALL TO ORDER & PLEDGE

Chair Rice called the meeting to order and led the group in the Pledge of Allegiance.

ROLL CALL

Deputy Director Jason Rittal called the roll. All members were present in District 8. Districts 9 and 12 did not have a quorum. Guests included Representative Bob Keenan from House District (HD) 10, Representative Tom Walsh from HD 71, Representative Tom Welch from HD 72, Amanda Casey, Caitlin Avey, and Zach Ringsak from Senator Tester's Office, and Lima Mayor David Olson.

DISTRICT BUSINESS

Minutes – 2022

Chair Rice called for a motion to consider approval of the minutes from last year's meeting. Park County Commissioner Berg moved to approve, which was seconded by Jefferson County Commissioner Kirsch. There was no discussion, and the motion carried unanimously.

Next Meeting Location – 2024

Park County moved that Gallatin County host the 2024 meeting—Commissioner Berg said he'd follow up with them. *(Update: Gallatin County agreed.)*

District Chair & Vice Chair Elections – District 12

District 12 did not have a quorum present. Chair Rice said he would follow up with the counties in District 12 to confirm their acceptance of the current Chair and Vice Chair serving until the next District meeting. *(Update: Commissioner Rice will serve as Chair, and Commissioner Mannix reported that would like to step down as Vice Chair—Commissioner Allhands volunteered to serve in his place.)*

MACo Officer Nominations – 2nd Vice President & Fiscal Officer

Chair Rice called for nominations of MACo's 2nd Vice President and Fiscal Officer. Staff announced that the current Fiscal Officer, Beaverhead County Commissioner Mike McGinley, did not intend to run again and provided details about the office. The position holds a seat on MACo's Executive Committee, is a 2-year term, and chairs MACo's Tax, Budget & Finance Committee, which conducts the preliminary review of the budget prior

to the Board of Directors meeting in June. The Fiscal Officer also reports to the membership at MACo's conferences. Staff concluded by informing the members that Custer County Commissioner Jason Strouf was nominated at previous district meetings.

Chair Rice asked if there were any nominations for MACo's Fiscal officer, of which there were none from Districts 8, 9, or 12.

Chair Rice asked if there were any nominations for MACo's 2nd Vice President. Staff announced that Roosevelt County Commissioner Gordon Oelkers was nominated at previous district meetings and commented that this year's 2nd VP would serve during a non-legislative year. President Zylawy then explained the progression through the ranks and how it serves as a training period for new leadership.

There being no nominations, Staff concluded the discussion by letting everyone know that nominations would remain open until the closing business session at the Annual Conference in September.

MACo President's & Officers' Reports

President Zylawy spoke about MACo's position at the Legislature and expressed his gratitude for being asked to serve. He concluded by thanking MACo Staff for all their work.

MACo Updates & FY 2024 Budget

Staffing, Programs & Services

Director Bryson updated the group on MACo operations including new staff positions and programs that were created based on consistent member feedback received from our annual survey:

1. Nancy Everson was hired as MACo's new Governmental Finance Director. She's available to help counties with anything having to do with the public budget process/financial planning, will travel to assist members, and will also be conducting regional budget training. Director Everson also created a finance officers' group, and Director Bryson requested that they are allowed to come to the conferences for networking and relationship development. DebtBook is a new service offering that Director Everson will be managing—it will help with lease agreements/calculations that are GASB compliant, long-term service contracts for things like software.
2. MACo has been providing cybersecurity and threat assessments for a few years via a grant program managed by Art Pembroke. This service is now being managed by Karli King, MACo's new IT Manager, whose role is expanded to also provide in-house services for MACo as well as manage a new MACo program designed to provide tech support for counties: Member Cybersecurity & Technologies (MCT).
3. Gregory Bonilla, lead counsel and head of MACo's County Litigation Group, was recently appointed to a judicial position. Cathy Watson and DeeAnn Cooney retired, and Mark Higgins is reducing his hours. To address the changes, Mitch Young took over Mr. Bonilla's position; Dan Yonkin was hired as an investigator for the Group and will also be doing some paralegal work; and two more litigators were brought in, both who had interned with the Association previously: Molly McCarty and Jennifer Morgan.
4. MACo and the Montana League of Cities & Towns are exploring options similar to Idaho's model for local off-system road and non-federal county road and bridge infrastructure funding—their Legislature created an entity to help get funding to the counties.

MACo's Senior Public Safety Loss Control Specialist, Dan O'Malley, spoke about the benefits of body scanners in detention centers as well as Lexipol's legally defendable electronic policy manuals, which are updated continuously as laws change. He also informed the group that MACo would be hiring a full-time peer review specialist—previously part-time—which will help reduce liability in county jails.

Director Bryson wrapped up the association updates by letting everyone know that MACo's publication, *So, you want to be a county commissioner*, is being updated and will be posted on the website as well electronically distributed when completed.

FY 2024 Proposed Budget

Director Bryson summarized MACo's FY 2024 preliminary budget, which the Board of Directors will review for final adoption at the end of the month. The budget document shows that MACo is structurally out of balance—using unallocated reserves as seed money for the new IT and budget services. The increase is driven by two things: the new personnel and a 6.5% proposed cost of living increase. However, the association intends to generate funding through the IT service, and the budget position will transition into the CFO role when the current CFO retires. Director Bryson concluded by encouraging anyone with questions about the budget to please come to him.

MACO LEGISLATIVE REPORT & DISCUSSION

Director Bryson, Deputy Director Rittal, General Counsel Alley, and Communications Director Siaperas reported on laws that were recently created/changed during the 2023 Legislative Session that impact counties.

MACo Bills

- → HB 176, Revising county utility permitting laws (Steven Galloway, HD 24) – Revises local permitting laws for broadband infrastructure in rights-of-way, so it's now legal.
- → HB 262, Revise local government financial reporting and audit requirements (Jerry Schillinger, HD 37) – This was the "audit bill" that intended to address issues that have been compiling, i.e., increased GAAP (Generally Accepted Accounting Principles) requirements, continuous staffing issues at accounting firms due to the specialized requirements needed to conduct a local government audit, and the Local Government Services Bureau focusing more on compliance than assistance. The bill was heavily amended, and in the end, counties with less than 10,000 must comply with "GAAP Light." However, Montana auditors won't allow counties to do it due to GASB telling them they can't, so MACo is taking "GAAP Light" nationwide to get every state to adopt it.
- → HB 299, Revise resolution and ordinance requirements re: land use regulation enforcement (Jedediah Hinkle, HD 67) – Cleanup bill that clarifies a local government can enforce their land use regulations.
- → HB 453, Clarifying the authority of the human rights bureau and appeals process (Bill Mercer, HD 46) – Some legislators had questions along with concerns about unintended consequences, and unfortunately, due to the hearing occurring during transmittal week, it died because things are moving too fast to make clarifications.
- → SB 98, Revise the jurisdiction area of municipal health boards (Keith Regier, SD 3) – Clarifies that the city has jurisdiction in the city and the county has jurisdiction in the county.
- → SB 143, Allow for a referendum to terminate citizen initiated zoning district (John Esp, SD 30) – Adds a referendum and clarifies protest process for part I zoning districts.
- → SB 173, Revise county road abandonment process laws (Kenneth Bogner, SD 19) – Clarifies that abandonment of counties roads by commissioners requires completion of the petition process, and commissioners cannot be petitioner.
- → SB 174, Allow counties funding for broadband infrastructure (Wendy McKamey, SD 12) – Allows counties to partner with providers and apply for broadband funding.

→ SB 220, Include public infrastructure and county-owned parks in municipal annexation (Carl Glimm, SD 2) – If the city annexes, everything goes with the annex.

→ SB 229, Reimburse counties for actual witness costs (Barry Usher, SD 20) – Provides $150,000 annually for expert witness fees for the prosecution—intended to help offset the cost to counties.

→ SB 442, Allow marijuana tax revenue to be used for county road maintenance (Mike Lang, SD 17) – This bill was born from a MACo resolution; its purpose was to redirect marijuana tax revenue to county roads to address the impacts of the increased use of public lands. Out of compromise, it ended up with several funding redirections, but the 20% intended for rural county roads remained. The bill was questionably vetoed on the final day. HB 868, which contained SB 442's appropriation, was also vetoed. MACo has filed a suit against the disputed veto of SB 442. Staff encouraged members to reach out to their legislators and respectfully request they vote to overturn the veto.

Property Tax

→ HB 189, Revise property tax assistance program (George Nikolakakos, HD 26) – Changed the first $200,000 of market value to $350,000 and increased income levels.

→ HB 222, Revise income tax rates for net-long term capital gains (Tom Welch, HD 72) – Provides for a property tax rebate, $500 for 2022 and another $500 for 2023, or actual if less.

→ HB 587, Generally revise school finance laws related to property taxes (Llew Jones, HD 18) – 95 mills to special revenue account versus general fund; if funds exceed formula needs, money goes to offset local levy for TRS.

→ HB 830, Optional alternative property tax payment schedule for primary residences (George Nikolakakos, HD 26) – Allows for partial payments on property taxes for primary residence only and must be requested by homeowner by September 30th. One-seventh must be paid on or before 5 p.m. on the last day of each month beginning on November 30th and ending on May 31st provided that the full amount of the taxes payable is made by 5 p.m. on May 31 of each year.

→ SB 332, Require property tax increase information to be included in budget discussions (Greg Hertz, SD 6) – Preliminary budget and final budget most show the amount of increase on homes $100K, $300K, $600K. A sample resolution and spreadsheet/calculator will be available on MACo's website.

→ SB 511, Revise government entity limitations on property tax increases (Daniel Zolnikov, SD 22) – This was the primary property tax cap bill, but in the end, the bill didn't pass. Provisions included the average rate of inflation not to exceed 4%, total 4.75%; 50% newly taxable, and allowed carryover mills. It appears that Ballot Initiative 2 was born out of SB 511's failure to pass.

Land Use

→ HB 211, Revise the local subdivision review process (Larry Brewster, HD 44) – Any number of phases in a phased subdivision can be submitted for final plat within the first 5 years after approval without further public hearing before the governing body.

→ SB 130, Allow for a county consolidated land use board (Forrest Mandeville, SD 29) – All land use boards in a jurisdiction, such as planning board, zoning commissioner, and board of adjustments, may be consolidated in one board.

→ SB 131, Revise exempt subdivision review timelines (Forrest Mandeville, SD 29) – Approval or denial of a complete and sufficient application for an exemption to subdivision must now be completed in 20 business days.

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→ SB 158, Revise family transfer law (Jason W Ellsworth, SD 43) – Family Transfers are now permitted within platted subdivisions.

→ SB 170, Allow for administrative minor subdivision process (Forrest Mandeville, SD 29) – If a minor subdivision is within a zoning district and has a will-serve letter for water and sewer, it may be approved administratively by the subdivision administrator, subject to appeals to the governing body.

Election Administration

→ HB 172, Revise laws related to post-election audits (David Bedey, HD 86) – Commissioners can now add a down ballot race to the audit (came from MACo's election workgroup).

→ HB 173, Revise laws related to security of vote tabulating machines (David Bedey, HD 86) – Makes it clear that election systems cannot have modems (came from MACo's election workgroup).

→ HB 196, Revise election laws related to the counting of votes (Lyn Hellegaard, HD 97) – Must now count without adjournment on Tuesday night until all ballots that can be legally tabulated are tabulated except pending unresolved resolution board ballots, provisional ballots, or military overseas ballot AND the SOS' office must be updated every 3 hours.

→ HB 335, Generally revise election laws related to absentee ballot list procedures (David Bedey, HD 86) – Requires notices be sent before an absentee voter is placed on the inactive list after the voter's ballot is returned as undeliverable.

→ HB 536, Revise laws related to write-in candidates (Julie Dooling, HD 70) – Requires all write-in candidates to file a declaration of intent (bill originated from the MT Association of Clerk & Recorders/Election Administrators, i.e. MACR).

→ SB 197, Revise and extend post-election audit process (Mike Cuffe, SD 1) – The random sample audit doubled from 5% to 10% of the precincts in each county or a minimum of two.

→ SB 117, Prohibiting use of certain funds for conducting an election (Shelley Vance, SD 34) – Clarifies that counties can only use county funds for elections, i.e., no grants from outside organizations.

→ SB 254, Generally revise election laws (Kenneth Bogner, SD 19) – Audits are now required for hand-count counties.

→ The Joint Select Committee on Election Security was created by the Legislature to review election security and develop legislation they deemed necessary. The committee worked hard and helped get facts on the record. Some members on the SAVA Interim Committee intend to continue looking into "cast vote records" (SB 481) and "hash validation" (SB 482), both of which failed due to Sine Die.

Roads & Transportation

→ HB 76, Generally revise transportation laws (Jerry Schillinger, HD 37) – Repealed BaRSAA, it goes back to a formulary distribution; still get the funding, just not two different road payment mechanisms.

→ HB 486, Generally revise county road access laws (Paul Green, HD 41) – Allows for an individual to petition to remove encroachment.

→ HB 938, Generally revise encroachment permit law, (Joshua Kassmier, HD 27) – Board of county commissioners may issue encroachment permits on request pursuant to MCA 7-14-2134(5).

→ SB 47, Revise commercial drivers license laws to comply with federal requirements (Theresa Manzella, SD 44) – CDL compliance (Montana was last to be compliant with federal rules).

→ SB 288, Eliminate sunset on junk vehicle statute (Mike Cuffe, SD 1) – Eliminates the sunset on the junk vehicle program, so counties can continue to utilize 20% for mobile homes and recreational vehicles.

Infrastructure Funding

→ HB 355, Appropriate funds for local government infrastructure projects (John Fitzpatrick, HD 77) –$20 million appropriated to the Department of Commerce to distribute as grants to cities and towns for eligible projects ($15 million for those with less than 10,000 population and $5 million for those with more than 10,000 population); for maintaining or repairing existing infrastructure, including drinking water systems, wastewater treatment systems, fire suppression systems if independent of the drinking water systems, streets, roads, bridges, landfills, street lights, airports, and public grounds and buildings.

→ SB 536, Provide funding for local government road maintenance (Greg Hertz, SD 6) – $100 million total appropriated to "local road and bridge" state special revenue account for the Department of Transportation; $20 million of the allocation is specifically for distribution to cities and towns with a population of less than 10,000 for streets and alleys; the remaining $80 million is for off-system bridges, secondary highways, urban highways, and state matching for discretionary grants for roads and bridges.

Health & Mental Health

→ HB 2, General Appropriations Act (Llew Jones, HD 18) – The State's budget bill included reimbursement rate increases for providers.

→ HB 872, Provide funding for behavioral health system for future generations (Bob Keenan, HD 10) – Representative Keenan was present and spoke to the group about mental health, specifically HB 872. The bill passed, providing $300 million to rebuild the behavioral health system as well as the developmental disabilities system. An RFP will be created for a group to assess Montana's current situation and its needs. The bill also creates a commission that needs to learn about the issues in Montana's local communities and will make recommendations to the Executive Branch. As chair, Representative Keenan requested that Counties help by educating members of the commission and assist in developing potential solutions.

→ SB 296, Revise nursing home and/or assisted living funding (Becky Beard, SD 40) – Vetoed, expecting a line-item veto in HB 2 as well.

Public Safety & Law Enforcement

→ HB 174, Requiring certain costs paid to detention centers to be based on actual costs (Kerri Seekins-Crowe, HD 43) – Jail reimbursement rate increased from current rate of $69.93 to the greater of the daily per inmate provider rate for crossroads correctional facility less 10% (so 90%) OR $82.

→ HB 597, Generally revising laws related to reallocation of 911 fees (Neil Duram, HD 2) – Diverts 18% of the 25% 9-1-1 grant account to Department of Justice for procurement of the NextGen network, as the current network is failing.

→ SB 294, Establish the end of watch trust (Barry Usher, SD 20) – Provides payments for health insurance benefits when an officer is catastrophically injured or dies in the line of duty; $10 million in trust; COBRA Coverage for 4 months.

Public Notice & Recordings

→ HB 890, Require certain govt boards to provide audio/video recordings of public meetings (Brad Barker, HD 58) – The governing board of the county as well as first and second class cities and school district boards and local boards of health must record audio and video of their meetings and make the

recordings publicly available via links posted on the entity's website—or social media page if they don't have a website—within 5 days of the meeting.

→ SB 5, Remove requirement for a county to publish public notice in an adjacent county (Mary Ann Dunwell, SD 42) – If the county does not have a qualified newspaper, publication must be made by posting the notice in three public places in the county, designated by resolution of the governing body, one of which may be the county's website if the county has an active website.

MACo staff departed to embark on the journey to their next destination. The Montana Department of Transportation and with their Consulting Team took over to talk about the Federal Lands Access Program and STIP as well as the off-system bridge study and implementation plan.

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