



EX PARTE COMMUNICATIONS CONTROVERSY

With Lewis and Clark County Commission opening discussion on one-to-one communication with individual citizens, an age-old question of open government vs. elected officials' abilities to learn about issues continues.

Lewis and Clark County has had formal policy preventing any contact outside of a public setting between the commissioners and people with decisions before the commission. Commissioners have not taken calls from interested citizens who want to air their opinions and cannot talk about those decisions with another commissioner unless they are in a public meeting. Defined as **ex parte** communications, any oral or written conversations that take place outside of the normal public process, with no public notice or notice to the other side of the issue, violate the restriction.

On the one hand, it seems that being polite and interested in citizen opinion would mean allowing the commissioners to hear from interested individuals outside of public hearings. With increased contact, questions can be answered earlier, concerns can be addressed and delays can be avoided. Commissioners could do research and ask questions of people outside of courthouse staff.

On the other hand, such personal contact smacks of back-room politics, with deals made behind the scenes, and public hearings being mere formalities, as if decisions had already been made beforehand.

Commission hearings are considered **quasi judicial**, a gathering during which commissioners take evidence from opposing parties and make decisions based on the evidence presented.

During a recent hearing in Lewis and Clark County, which proposed to allow ex parte communication for quasi judicial topics, the County Commission heard both sides. "We are at a huge disadvantage in Lewis and Clark County when we can't talk to people about what's going on," said Helena Regional Airport Manager Ron Mercer. "I bristle at the idea that there is some right of government to control my ability to contact government officials," said attorney Jim Sewell, representing three real estate associations. "The real question is one of freedom of speech and the right to talk to your elected officials," he said. Representing MACo's insurance programs, attorney Norman Grosfield said, "This isn't the good ol' boys crew any more, when people could go in and meet with the commissioners and get things done. You have to be concerned about litigation."

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Attorney Steve Brown said, "When someone says they can explain something to you in private but can't do it in public, your nose should start twitching. I understand your concern about being isolated, but I think it's something you have to live with and respect."

There appears to be few if any formal policies in place around Montana. Some county attorneys indicate that ex parte meetings happen all the time.

Cascade County Chief Civil Deputy Attorney Dirk Sandefur doesn't believe there's a legal standard for a formal ban. "If I could forbid it, I would; but as it is, I strongly discourage it. I tell the commissioners they need to avoid the appearance of impropriety and if they can't do that, I want them to disclose the contact and make public the nature of the conversation."

Yellowstone County Deputy Attorney Mark English said that commissioners engage in ex parte contact all the time, much to the consternation of his office. "They eat lunch with people; they visit sites; and the public doesn't know what's going on."

Flathead County Attorney Thomas Esch tells commissioners that ex parte communications may violate the State's open meeting law. "But they say they have an obligation to speak with their constituents about matters that concern them. They want to be open and accessible to the people who elected them."

Gallatin County Attorney Marty Lambert felt that from a practical standpoint, ex parte contact allows issues to proceed in a more timely fashion. "My commissioners are always available, at least as individuals. Everybody knows that while the door may be open to him, the door is open to me, too."

FROM EXECUTIVE DIRECTOR
GORDON MORRIS

In October 2001, the MACo Executive Committee and Vern Petersen, Chair of MACo Transportation Committee, met with Montana Department of Transportation (MDT) Deputy Director Jim Currie and Transportation Planning Division Administrator Pat Saindon to discuss MACo's ability to undertake a statewide Global Positioning System (GPS) project. For this proposal, MACo would contract to record all non-state maintained roads—specifically county roads. MACo would employ ten two-person crews-- driver and data collector. Response to this proposal was cautious and was weighed with current county efforts such as 911. While MACo would be the "prime contractor," the actual work would be done by counties as subcontractors with MACo. Ten counties would be selected from MACo districts to head up projects in each district, working with the other counties.

There have been two meetings with interested counties. A draft Memorandum of Understanding (MOU) has been prepared between MDT and MACo. A second draft agreement has been presented to identify the county participants and their respective responsibilities. On January 18th, the following counties indicated their support and commitment to the project: Rosebud, Flathead, Fergus, Stillwater, Madison, Glacier, McCone, Beaverhead, Lewis & Clark, Hill and Missoula. There were several counties that were absent from the meeting but may wish to participate: Toole, Cascade, Valley, Fallon and Sanders. Some counties reserved their support until they could further evaluate the project: Park, Ravalli and Yellowstone.

To illustrate, let's consider MACo District 12. Madison and Beaverhead would head the effort to gather the data in the six counties of the district. Madison and Beaverhead would each employ data collectors, both of whom would attend a two-day MDT workshop. They would agree to their respective

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MARK YOUR CALENDAR

February

5 Waste water and GIS; MACo Conference Room; 9:30 am
8 Association of Planners; MACo Conference Room; 11:00
11-15 **MACo Midwinter Meeting; Kalispell**
15 District Court Council
20 Growth Policy Forum
21 Dept. Revenue Stakeholders; Capitol 152; 10:00 am
21 State Drought Committee; Metcalf Bldg.; 9:30 am

March

1-5 NACo Legislative Conference, Washington DC
7 Montana Geographic Information Council; TBA

MACo CALENDAR CORRECTIONS

APRIL Road Supervisors' Conference
April 2 - 5

SEPTEMBER MACo Annual Conference
September 22-25
...no need to travel from Big Sky to
Glendive on Sunday night. All four
days will be held at Big Sky.

responsibilities for the other counties in the district. The other four counties would contract to provide drivers. The head counties would provide the vehicle, the equipment and the data collector. The data-collecting county would be reimbursed at a rate of \$11.10 per mile of road, to cover all costs associated with the project (ie salaries and per diem for data collector and driver, gas, etc.). In District 12 there are an estimated 3,132 miles of non-state maintained roads, excluding Forest Service roads. Assuming an average speed for rural and urban driving of 30 miles per hour, it would take approximately 104 hours of driving time, with transit time from the workplace to the starting point requiring perhaps another 40 to 50 hours. This equates to three or four weeks to complete the job.

We are working to finalize the MOU between MACo and MDT, as well as the memorandum between MACo and the lead counties. A training workshop would be in March 2002, with counties beginning the projects and completing January 31, 2003.

I would urge everyone to carefully evaluate the project in terms of transportation data that could be seamlessly integrated with other data. (I am repeating what I have been told, not what I know.)

NOTE: Midwinter Meeting is just around the corner and a full agenda is planned. I hope to see you all in Kalispell. I acknowledge that you are asked to make a considerable commitment of time to be there for the full week, but I am confident that you will find it worth your while. Till then, "Happy trails to each of you," as Roy and Dale would say.

NEW STILLWATER COUNTY COMMISSIONER

Larry Gee of Rapelje has been appointed as Stillwater County Commissioner to replace Harold Blattie. Gee will serve until the November election is certified and will complete the remaining four years of the term.

Gee is a Stillwater County native, who returned to his hometown following a 30-year career with Goodyear Tire and Rubber Company. Gee said, "The biggest thing is to help the County" and added that he'd prefer not just to represent his district, but the county as well.

The County Commission selected Gee from the names submitted by the County Republican Central Committee. "We thought Larry had a lot of experience working with the public and is knowledgeable on local issues," Commissioner Chuck Egan noted.

FROM ASSISTANT DIRECTOR HAROLD BLATTIE

It is wonderful to have the opportunity to serve you in my new capacity of MACo Assistant Director. I have an unwavering conviction that MACo is an invaluable asset to counties. I will continue my commitment to you, by providing information and assistance that will help you make better-informed decisions.

The first order of business upon my arrival on January 3rd was for Executive Director Morris and me to begin defining and clarifying the scope of my duties and responsibilities. We determined that Gordon will staff several committees, I will staff several committees and both of us will staff others. The intent here is that I expand my knowledge in several areas and to utilize my experience and knowledge in others. This will be an ongoing process, subject to change as the need arises.

I will not be doing the newsletter as that responsibility has been transferred to MACo Publications Officer, Marie McAlear. Consequently, I will have time to serve as additional staff for both the MACo/JPIA and MACo/JPA Pools. Having been a trustee of both pools, I have a good understanding of the operations and the issues they face. I plan to be a resource to both the trustees and staff as they strive to provide excellent coverage at fair rates.

MACo will also be expanding outreach efforts with both county-related associations and with outside organizations that have mutual interests and issues. Positions that they may take on issues can impact county abilities to provide services to your residents. It is best to engage these groups in the early stages of policy development to help assure an outcome that does not compromise our abilities and responsibilities.

I look forward to the challenges ahead and welcome your comments and suggestions. You can contact me at the MACo office or by e-mail at:

blattie@maco.cog.mt.us

CONGRESS AND PILT

Congress funded the PILT (payment in lieu of taxes) program with \$10 million over last year's level. This is the highest annual appropriation in the 25-year history of the program. However, with the recession, military and homeland defense spending needs and tax cuts, the previous budget surplus will no longer be available for future increases.

This increase occurred because of an amendment shepherded through Congress by former Montana Representative Pat Williams. At the time he was serving, PILT was funded at \$106 Million. He successfully re-worded legislation to state, "For expenses necessary to implement the Act of October 20, 1976 as amended, \$210,000,000..." which nearly doubled the county-by-county awards.

FOREST SERVICE PAYMENTS AND PILT

This may come as a surprise, but some counties that receive both federal PILT funds and US Forest Service payments may see their PILT payments drop as a result of the increased payments they are receiving from the US Forest Service. Paul Beddoe, NACo Associate Director for Public Lands, explained that since PILT was always impacted by basing fund distribution on forest harvest revenues, it was always assumed that forest service payments would also impact PILT payments.

It was not clear, however, whether Title II or Title III distributions would reduce PILT funds. By September 2001, counties receiving forest service funds had to determine whether to allocate 15-20% of their county-wide distribution to Title II (community-directed forest and watershed projects) and /or Title III (county-directed forest and watershed projects). No one suggested that this decision would impact PILT revenue.until now.

PILT payments will be reduced for most counties electing Title III. The reduction is based on the share of Title I (road money) and your Title III projects. Title II allocations and the school share of Title I do not reduce PILT payments. The PILT formula is complex and the impacts will vary by county.

According to the information reported in the December issue of MACo News, the following counties chose to receive Title III funds and may have their PILT funds affected:

Beaverhead	Meagher
Flathead	Mineral
Jefferson	Missoula
Lake	Park
Lewis & Clark	Powell
Lincoln	Sanders
Madison	Teton

It is too late to change Title II and Title III allocations for this year. For more information, the BLM PILT website is at <http://www.blm.gov/pilt>

INSURANCE INSIGHTS

By Greg Jackson
MACo Insurance Marketing



PROPERTY/LIABILITY POOL REALIZES SURPLUS

The JPIA Board of Trustees was presented the actuarial report and the audit for FY 2000-2001 at their meeting in November in Bigfork. Both reports confirmed that the financial status of the JPIA Trust remains positive and solvent. In fact, as of July 1, 2001, the JPIA Trust had a \$1,015,641 positive net asset or surplus. The positive trend can be attributed to many factors including the overall management, marketing and risk management of the program.

In fact, the MACo/JPIA (P&C Trust) and the MACo/JPA (Workers' Compensation Trust) self-insurance programs are known as two of the best-managed public entity pools, nationally.

COVERAGE FOR JOINT BOARDS

Counties and cities may form joint boards comprised of county and city appointees and perhaps a jointly-appointed member or a member at large. Examples are city/county airport board, city/county health board, city/county planning board, city/county library board. If the joint board is sued for actions by their agents (employees) or for an administrative act, is there coverage for the board? If so, who provides the coverage—city or county?

It depends.

In most cases, if a joint board is named in a complaint or lawsuit and the individual board members are named, the JPIA will provide coverage / defense for the county's appointee, if the county is a JPIA member. The city appointee may or may not be provided coverage and defense by the city's carrier. A member at large, if jointly appointed, may not be covered.

If just the board is named, i.e. City/County Airport Board, and the individual board members are not named, then there is a question if any coverage exists because the Board is considered a separate entity and not exclusive to either the county or city. At least from the JPIA perspective there would probably be defense afforded to the County appointee. However, that is not clear.

Don't Panic. The JPIA and the MMIA (League of Cities and Towns pool program) have agreed to jointly analyze and consider providing coverage to joint boards by endorsing each policy to provide coverage to the board on a shared pro-rata basis. The endorsed coverage would be consistent and intended to provide coverage for the joint boards members, all of them, no matter who is involved. We will keep JPIA members informed of our progress.

Offices of Public Assistance Management Structure Reviews

By Karlene Grossberg, Bureau Chief

The Human and Community Services Division of DPHHS has contracted with T. Gary Curtis to review and evaluate the management structure, county combinations, and client access in seventeen eastern Montana counties in Region I. Mr. Curtis will be meeting with county directors, county commissioners and Office of Public Assistance staff over the next several weeks to learn their ideas and thoughts about whether organizational structure changes could be made to improve the efficiency and effectiveness of the offices.

With the retirements of two county directors, Sue Matthews and Linda Nybakken, the Department has the opportunity to review the management and staffing structure as part of its decisions on these positions. Reviewing travel distances for current county combinations, lines of commerce for clients, staffing levels and numbers of staff supervised, and budgetary restrictions will all be a part of the evaluation.

A similar, but less complex, situation has occurred in Region IV's public assistance service network. Patty Guiberson, Director for Silver Bow, Beaverhead and Jefferson Counties, and Jim Fay, director for Deer Lodge, Powell and Granite Counties, have both taken different positions within DPHHS. These two vacancies provided the opportunity to align the management structure and service delivery areas more closely with other providers such as Job Service and HRDC. The Department proposed to the county commissions in each of these counties a change in the service area (or county combination) to be supervised by county directors. As a result, Jefferson County was placed under the supervision of the Lewis and Clark County Director, Rod Brown, who also supervises Broadwater County. The remaining counties of Silver Bow, Beaverhead, Deer Lodge, Powell and Granite Counties will be supervised by a new county director position that is currently being advertised. Two county commissioners representing these counties will participate on the hiring panel with two Department staff.

The Department is making an effort to equalize staffing and management ratios across the State, while assuring that excellent services continue for public assistance recipients. Each time a vacancy occurs, it is evaluated to determine if the position needs to be changed, filled as is, or moved to another higher-caseload area. When management retirements or vacancies occur, the department also evaluates the positions using additional criteria other than caseload growth or decline. Mr. Curtis and the Department look forward to comments and input from county commissioners. It is anticipated that if changes are to be made, a plan will be ready for review in

MACo HEALTH AND HUMAN SERVICES COMMITTEE "THE YEAR IN REVIEW"

By Bill Kennedy, Committee Chair, Yellowstone County

Year 2001 went racing by and the Health and Human Services Committee has been on the go. In January, the legislators started many hours of negotiations to make changes for counties. The curfew bill was lost, then pulled back from the fire and the bill was signed into law by the Governor. Doug Kaercher, Hill County Commissioner, worked hard on this bill and now counties have the same curfew hours as the municipalities. The Welfare Restructuring Bill (SB339) took all session. DPHHS spoke against the 5-year average and FY 2000 average for capping our costs but supported controlling the welfare department. We negotiated through the House and Senate. Senator Dale Berry worked hard on our behalf. In the last week SB339 was to be married in language to HB124, to give the cap and have past expenses owed to the state taken off the books. But DPHHS added language to eliminate this portion and the marriage language did not happen. Now we are making the best of a bill we were snookered on. Also, the legislature had a gate-keeping bill to restructure commitments from counties to the state hospital, but this was defeated. A prescription drug bill was defeated, but new chemical dependency dollars were gained.

In all, the legislature did not give counties a lot of support for health and human services. Mental health, senior issues, prescription drugs, commitments and recovering all of SB339 that we started with will be factors for our 2003 legislature.

I attended the NACo Health Steering Committee meetings at the Legislative Conference in Washington

DC and also the Annual NACo Convention in Philadelphia in July. The hot topics were the farm bill / food stamps and the reauthorization of welfare reform. These and the new changes in HICFA, now CMS (Medicare and Medicaid), will be watched closely. Health issues, prescription drugs and rural counties' ability to run rural hospitals, nursing homes and mental health programs were items discussed. Next year, proposals will be voted on at the Legislative Conference in Washington, DC in February/March.

The Health and Human Services Committee had a public meeting on food stamps and Standard Utility Allowance in September and followed up with a resolution at our Annual Convention in Glendive. At our last Committee meeting of the year, we looked over the draft of the county welfare agreement. Each county should already have a draft copy for review.

Our next issues will be creating a task force to craft legislation for transportation for insanity commitments, gate keeping, flexibility of county funding and the use of local services. Tom Bennett serves on a committee reviewing fees for restaurant inspections; Doug Kaercher serves on the DPHHS Advisory Board; Peggy Beltrone sits on the Mental Health Oversight Committee; Janet Kelly and I are on the state Welfare Advisory Board; and Don Rieger and I will serve on the appeals committee for SB339.

Please let us know if any health and human services issues need to be addressed and remember, we always have seats at the table for commissioners to join us.

Board of Directors Member District 6



Joy Schanz
Commissioner
Golden Valley County
1998 to present

Prior Occupation	Currently a farmer / rancher
Favorite Part of the Job	Working with the dedicated staff of Golden Valley County
Least Favorite Part	Angry taxpayers
Personal	Married to Larry for 30 years; enjoys reading, sewing, crocheting
Motto	"Quitters never win and winners never quit."

COUNTY NEWS

WEED MANAGEMENT

SWEET GRASS COUNTY has developed the first weed management agreement between the County and Montana Rail Link. The document is considered a model for railroad weed management agreements.

ONLINE TAX PAYMENTS

BEAVERHEAD COUNTY residents can now pay their real estate and personal property taxes via Internet, telephone or mail. The County has signed an agreement offering taxpayers credit card payment services with Officials Payment Corporation.

COAL BED METHANE DRILLING

GALLATIN COUNTY, on a tie vote, defeated a proposed ban on coal bed methane drilling in the Bozeman Pass area. Now they are considering an ordinance that would regulate all oil and gas drilling, including coal bed methane, for the entire county.

COMMUNICATIONS TOWER

BIG HORN COUNTY is protesting a radio tower which was built in an unzoned area near the airport, where there are concerns for flight safety.

SEWER / WATER SERVICES

MISSOULA COUNTY's plan to create a district to extend the sewer system into an area targeted for future growth, contiguous to the City of Missoula, met with opposition during two protest periods. However, after certification of all protests, insufficient protest was received. No action has been taken, pending receipt of further information requested by the Commissioners.

WORKFORCE TRAINING

FLATHEAD COUNTY was the site of one of only six demonstration sites nationwide for Phase 1 of a program to focus on business problems and solutions

LEWIS & CLARK and GALLATIN COUNTIES share one of only four Phase II sites to expand the successful programs from Phase I.

ROADS

PARK COUNTY proposed policy to require landowners be responsible for installing, cleaning and maintaining cattle guards and culverts. The Commission did pass policy that snow plowing and sanding would take place only between 4 am and 10 pm on weekdays. Late nights, weekend and holiday work will be done on an emergency basis.

CARTER COUNTY began the process to declare as county roads those which have been traditionally used and maintained as such. In many cases, written easements for the roads do not exist or have not been updated since the 1920's.

PARKS AND RECREATION

YELLOWSTONE COUNTY and Billings are considering combining the two boards which oversee the development and maintenance of parks.

GALLATIN COUNTY has agreed to use some of its Community Transportation Enhancement Project (CTEP) funds for a bike trail in Gallatin Gateway. The project had been delayed for two years because of cost estimate increases.

FLATHEAD COUNTY has been concerned about the winter maintenance of up to 70 miles of trails and bike paths crisscrossing the county. Many were built using federal funds, which require that they be passable and safe all year round.

NATIVE AMERICAN COUNCIL

CASCADE COUNTY formed a Native American Council to better communicate with over 4,500 Native Americans living in the County.

PAY FOR MILITARY SERVICE

YELLOWSTONE COUNTY employees who are called up for military duty will continue to receive their level of county pay. The County will make up the difference between what an employee earns in military pay and the county salary.

COUNTY SUPERINTENDENT OF SCHOOLS POSITION

LAKE, RICHLAND and LEWIS & CLARK COUNTIES agreed to leave the County Superintendent of Schools position as an elected office, rather than contracting for the service through the County Treasurer's office.

JEFFERSON COUNTY agreed to decrease the elected Superintendent position from full time to part time.

PLANNING & PLANNING BOARDS

GALLATIN COUNTY and Bozeman signed an urban growth area plan. The goal is to have land close to the city develop with city-standard infrastructure.

FLATHEAD COUNTY withdrew from their city-county planning board and eliminated the joint planning jurisdiction. Controversy during the past two years has centered around the city's support for planning regulations and the county's support for private property rights and lifting regulations.

PARK COUNTY met with the Livingston City Council to discuss disbanding the City-County Planning Board.

ANIMAL SHELTER

LINCOLN COUNTY Animal Shelter has received allegations of brutality and cruelty to animals in its care. The Commissioners invited a California-based animal welfare organization to investigate the claims.

JAILS

STILLWATER COUNTY, with no jail facilities, made adjustments when the Yellowstone County Detention Facility could no longer provide spaces to other counties. The County assigned different punishments to non-violent offenders, such as release on bond, house arrest with electronic monitoring, or sequestering in group homes.

BIG HORN, CARBON, MUSSELSHELL, STILLWATER, SWEET GRASS and YELLOWSTONE COUNTIES are discussing the possibility of developing a regional jail.

TOM SWINDLE
TOS and Associates
conducting a MACo audit.



2002 MILEAGE RATE ADJUSTMENT

2-18-503 MCA allows Montana public officials and employees to be reimbursed at the federal rate of 36.5¢ per mile for the first 1,000 miles per month. Any mileage over 1,000 miles each month is to be reimbursed at 33.5¢ per mile.

When a public employee is authorized to drive a privately owned vehicle, even though a government-owned or leased vehicle is available, a rate of 3¢ less than the federal rate is allowed. Therefore, reimbursement rate under this circumstance is 33.5¢ per mile.

NEW AERIAL PHOTOS OF STATE ON NRIS WEBSITE

Over ¾ of state can now be viewed

Montana's Natural Resource Information System (NRIS) announced its website now offers over 1,100 newly acquired United States Geological Survey (USGS) aerial photos of Montana.

These Digital Orthophoto Quarter Quads (DOQQs) are spatially referenced, high-resolution aerial photos that can be used as base layers for GIS mapping applications or in Internet map applications for display and analysis. Duane Anderson, Manager of the GIS and Information Systems Development Section at NRIS, said, "These aerial photos are extremely useful in fighting wildfires, because firefighters can count on their accuracy to help them see roads, structures, and bodies of water." Anderson added that the DOQQs have many other uses in other professions, such as helping realtors find vacant lots or get a virtual aerial view of well locations on Montana's landscape.

This latest acquisition brings the NRIS inventory of aerial photos to a total of 9,316 -- over 77% of the state can be viewed! Anderson concluded by saying, "As more data become available from USGS, NRIS will acquire, process, and post them on our website until we have entire statewide coverage available for public use."

The data can be accessed free of charge from the NRIS web site at: <http://nris.state.mt.us>. For more information, contact Anderson by calling (406) 444-5356 or e-mailing duanderson@state.mt.us.

ENHANCED WELL DATA OFFERED ON NRIS WEBSITE

The Montana Natural Resource Information System (NRIS), in cooperation with the Groundwater Information Center (GWIC) of the Montana Bureau of Mines and Geology, has announced a new enhancement of the GWIC wells coverage display on the NRIS website.

NRIS Director Jim Hill said, "We've added flags and data links to wells in the GWIC database which have water quality data associated with them. In the past, all wells were displayed using a single color, with links provided to the individual well logs at the GWIC. With the new enhancement, wells are displayed in two colors -- those without any water quality data, and those with water quality data."

For each well with water quality data, a hyperlink is provided which takes visitors to the GWIC's online 'one page' water quality summary report for that well.

Visit <http://nris.state.mt.us> and click on the "What's New" link.

NRIS was established in 1985 by the Legislature. As a division of the State Library, it acts as a clearinghouse for natural resource information. For information, contact Hill by calling (406) 444-5355 or e-mailing jimhill@state.mt.us.

NACo WATER INFORMATION KIT

NACo has developed and is currently distributing the Source Water Information Kit for Local Government Officials (Source Water Kit). This activity is a deliverable under NACo's Source Water (Drinking Water) Protection Project. The goal of the project is to reach out directly to county officials to elevate their awareness and knowledge of drinking water protection and assist them in undertaking drinking water assessment and protection programs.

The Source Water Kit includes brochures, technical documents, case studies and other information that informs county officials of the tools, techniques, and strategies to assist them in protecting local drinking water supplies.

The kits have been distributed to members of the

- * NACo Board
 - * Rural Action Caucus
 - * Environment, Energy, and Land Use Committee
 - * Agriculture and Rural Affairs Committee
 - * EPA state and regional offices
 - * approximately 70 individuals who requested copies.
- (They were made aware of the kit through articles in County News or displays at NACo's national conferences.)

NACo is working with the state associations of counties to distribute the remainder of the kits to some of the rural counties in the state that may not have had an opportunity to receive one yet. In addition, NACo is in the process of producing 1,000 more copies of the kit. The kits will be either in hard copy, as before, or in CD Rom. NACo will be sending all state associations additional copies in the near future.

MACo has yet to receive copies.

REMINDER!

**Please submit the name of your 2002 County
Commission Chair to the MACo office.**

Attorney General OPINIONS

Volume 49 No. 14

Question: May an elementary school which has not been operated for three consecutive years, and which is in an elementary district that has been abandoned pursuant to MCA 20-6-209, be reopened at the request of the abandoned district pursuant to MCA 20-6-502?

Held: An elementary school district that has not operated a school for three consecutive school years has been abandoned pursuant to MCA 20-6-209 and may not petition to reopen the school under MCA 20-6-502.

Requested by: Richard A. Malagisi
Sweet Grass County Attorney

Volume 49 No. 15

Question: Does the appointment of a legislator as a member of the Board of Review, under MCA 30-16-302, conflict with Article V, Section 9 of the Montana Constitution and MCA 5-2-104, and if so, can a non-voting legislator be appointed?

Held: 1. The President of the Senate and Speaker of the House are prohibited by Article V, Section 9 of the Montana Constitution and by MCA 5-2-104 from appointing a legislator as a member of the Board of Review as provided by MCA 30-16-302.

2. Designating a legislator as a nonvoting member does not circumvent this prohibition.

3. Under MCA 30-16-301, the President and the Speaker can appoint a non-legislator as a member of the Board.

Requested by: Kurt G. Alme
Department of Revenue Director

TWO PROJECTS OF MONTANA CONSENSUS COUNCIL

NATURAL RESOURCES LEADERSHIP INSTITUTE

Policy debates over natural resources, land use and other public issues often leave resource managers and decision makers at a loss as to how to address conflicting demands. Citizens, too, are frustrated, whether the debate centers on natural resource industries or on conservation. Thousands of acres hang in administrative limbo.

This project, which is just starting for 2002, is seeking sponsors (MACo has been invited.), and is designed for citizens and officials who have a stake in the use and conservation of Montana's natural resources. The objectives are four-fold:

1. To foster a common understanding of key natural resource issues facing the state
2. To examine a variety of strategies to shape natural resource policy and to refine skills on when to use what strategy
3. To strengthen working relationships among citizens and organizations
4. To develop leaders who see beyond single disciplines and sectors, and possess the necessary skills to help Montanans shape public policies that integrate concerns for our economy, environment, and way of life.

The program is structured around three seminars and a leadership action plan. Seminars began in January and will occur once a month for three months, usually located at institutions of higher learning around the state. Each session includes a mix of presentations on a particular natural resource, the social and political context of the natural resource management, and strategies to shape effective policy. Participants complete sets of readings prior to each session and will prepare the leadership action plan.

CITIZENS JURY ON MONTANA'S TAX SYSTEM

This project is sponsored by Montana Citizens Partnership and coordinated by the Consensus Council and the Jefferson Center. The effort is to engage citizens in a public dialogue concerning the types of taxes which fund government services (schools, cities, counties and state).

Generally a citizens jury is a randomly selected and demographically diverse panel of 18 to 20 citizens that meets for five days to carefully examine an important public issue.

The Citizens Jury on Montana's Tax System is focusing on what types of taxes should finance government services and how, if at all, the mix of taxes can be changed to improve the state's economy. To date, the Jury has heard information from a variety of expert witnesses on the current tax structure and how we compare to other states. Jurors will develop recommendations for the Montana tax system to be shared with decision makers and the public.

The citizens jury process has included forming an advisory committee, conducting a telephone survey, selecting a citizen jury, inviting expert witnesses to present a variety of perspectives and opinions, and conducting hearings. The telephone survey was conducted in the first part of November and the citizens jury was chosen at the end of that month. In January expert witnesses were invited. The Jury conducted hearings at the end of January. The recommendations from this effort are to be completed mid-February.

Representing MACo, Executive Director Gordon Morris served on Montana Citizens Partnership, the sponsor for the project. Gary Fjelstad, Rosebud County Commissioner and MACo Past President, served on the Advisory Committee, which provided advice on the Jury's goals, demographics for jury composition, the agenda and witness selection.

Programs on Public Dispute Resolution

The Montana Consensus Council and the Professional Development Center are pleased to announce a new **Program on Public Dispute Resolution**. The program consists of four integrated courses.

- **Facilitation and Mediation Skills for Multi-Party Public Disputes** (March 7, 2002) – This one-day class will focus on the skills required to successfully facilitate and mediate multi-party public disputes. We will use a series of simulations to give students practice in facilitation and mediation. Through coaching and feedback by experienced facilitators of public disputes, we will help students understand their strengths and areas for improvement.
- **Collaborative Problem Solving and Consensus Building** (April 18-19, 2002) – This two-day class is designed for citizens and public officials. It focuses on the role of collaboration and consensus building in public participation and public decision making, and gives students a framework and set of analytical tools for determining when collaboration may be appropriate, how to design and manage an effective process, and how to effectively participate in such a process.
- **Public Participation Strategies** (September 17, 2002) – This one-day class is designed for public officials that want to learn more about the most effective approaches to public participation. We will examine the legal and other reasons to conduct public participation, and identify what works and why. Participants will examine public participation strategies to develop growth policy plans and implement the Montana Environmental Policy Act.
- **Negotiation Skills for Multi-Party Public Disputes** (October 17, 2002) – This one-day class will provide participants the basic framework for mutual gains negotiation. Topics will include assessing your best alternative to a negotiated agreement; distinguishing interests from positions; making first offers; creating and claiming value; developing and using objective criteria; following-through. *We strongly recommend you attend "Collaborative Problem Solving and Consensus Building" before this session.*

- Approved for **graduate credits** through the Masters in Public Administration program of the University of Montana and Montana State University. (You must register and pay the cost of University credits yourself.)
- Approved for **Continuing Legal Education credits** through the State Bar of Montana
- Approved for **Teacher's Renewal credits** through the Office of Public Instruction
- **Endorsed by Dr. Larry Susskind**, Director of the MIT-Harvard Public Disputes Program and President of the Consensus Building Institute.

This series will take place with instruction by nationally recognized leaders in Public Dispute Resolution. The lead instructor is **Matthew McKinney**, Executive Director of the Montana Consensus Council. Matt has facilitated and mediated many public policy forums, helping citizens and officials build agreement on natural resource issues and taught many seminars and university courses.

Doug Nethercut is the Executive Director of the Jefferson Center, a not-for-profit organization based in Minneapolis. The Center strengthens the democratic process by providing decision makers with tools to generate thoughtful citizen input on matters of public significance.

Patrick Field is vice-president of the Consensus Building Institute, based in Cambridge, Massachusetts. Patrick has provided training to public and private organizations throughout North America. He co-authored, with Dr. Larry Susskind, *Dealing with an Angry Public*.

Nedra Chandler is staff to the Consensus Council. As a geographer and mediator with 14 years experience, she has taught annual seminars and courses in negotiations, multi-party consensus building and public involvement in Montana and the Pacific Northwest.

Kathy van Hook is staff to the Consensus Council and a workplace mediator. A former labor mediator, Kathy has taught more than 30 courses in interest-based bargaining, negotiations, and facilitation.

Each session runs from 8:30 a.m. – 4:30 p.m.

Cost of each one-day course is \$105

Cost of the two-day course is \$175

(Locations to be announced)

You may register by any of these methods –

- **complete and mail a form**
- **call (406) 444-3985**
- **Outlook message to "PDC registration"**
- **e-mail to pdcc01@state.mt.us**

LAW SEMINARS

State Bar of Montana presents a series of seminars :

March 1	Employment Law	Helena
March 15	Ethics	Butte
May 10	Family Law	Great Falls
May 17	General Practice	Miles City

All seminars require registration. Contact Gino Little at 447-2206 or glittle@montanabar.org. Continuing Legal Education (CLE) credits are assigned to each seminar. Pamphlets for the Employment Law Seminar are available at the MACo office.

NACo INFORMATION AND REPORTS

National County Government Week April 7 - 13, 2002

National County Government Week (NCGW) is an annual celebration of county government. First held in 1991, the goal of County Government Week is to raise public awareness and understanding about the roles and responsibilities of the nation's counties.

More than 1,000 counties annually participate in NCGW by holding a variety of programs and events. These include tours of county facilities, presentations in schools, meetings with business and community leaders, recognition programs for volunteers, briefings on projects, and adoption of proclamations.

Our goal is to improve the public's understanding of what county governments do. This goal may be accomplished in a variety of ways. Here are a couple::

Get set to issue a proclamation

A sample proclamation is below. This proclamation may be tailored to emphasize your county's unique strengths and accomplishments.

Contact the media

After deciding what events or activities will be held, let the media know. Send them a notice about a month before National County Government Week begins, alerting them of your plans. You also might want to set up meetings, so that you can have a chance to sit down with media decision-makers and tell them what your county is doing for National County Government Week. After the events, you also could send a news release, explaining how the events went.

SAMPLE PROCLAMATION

*National County Government Week
April 7 - 13, 2002*

Whereas, counties are the first to respond to emergency situations and are responsible for planning for the future; and

Whereas, county officials keep citizens protected through planning, co-operation and dedication of professionals who are able to mobilize and respond quickly and effectively; and

Whereas, there are 3,066 counties in the United States, collectively responsible for the well being of more than 230 million residents; and

Whereas, counties have a long history of serving and providing for the American people and counties will continue to safeguard our way of life, remaining vigilant protectors of our citizens; and

Whereas, county governments are the citizen's local government voice, providing solutions that bring communities together;

Therefore, in recognition of the leadership, innovation and valuable service provided by our nation's counties, (name of county and state) hereby proclaims April 7 - 13, 2002 as National County Government Week.

Dear Fellow County Official,

This year, more than ever before, our citizens need to know that their county governments are working hard to protect and safeguard their way of life. "Counties Secure America" is the theme for National County Government Week 2002. County leaders have the responsibility, not only to ensure that people are safe, but also to calm fears and help America's communities get back to life as normal. Your 2002 County Government Week program can help you do that. Counties are first responders in most emergencies because they are often times responsible for:

- Extinguishing fires
- Enforcing the law
- Rescuing survivors
- Caring for the injured in county hospitals
- Rerouting traffic and setting up roadblocks
- Organizing evacuations
- Notifying citizens of impending events
- Operating emergency shelters

During this time of unprecedented national unity, there is an overwhelming desire among our citizens to participate, to take part in and to do their share to protect the fundamentals of the American way of life. Encourage your citizens to make a commitment to work at the polls. There is no greater expression of freedom and liberty than our electoral process.

NACo will celebrate NCGW in a number of different ways. We will highlight the recommendations and best practices arising from our Homeland Security Task Force and promote our Expand Democracy campaign to recruit poll workers across the country. We will also hold the 3rd Annual Acts of Caring Awards ceremony April 6, on Capitol Hill. These awards recognize the top county volunteer programs in the country.

First celebrated in 1991, NCGW was initiated to raise public awareness about counties. Urban and rural counties, counties from different regions and encompassing varied constituencies, all represent diverse and vibrant communities. National County Government Week helps our citizens better understand how their county responds to their needs.

There are many ways to celebrate county government. The NACo booklet provides ideas for a variety of different programs, and we look forward to hearing about your innovative projects. Your county is one of more than 1,000 counties that work each year to help citizens better understand the valuable services that counties provide.

Thank you for your participation in National County Government Week.

Javier Gonzales, NACo President
Commissioner, Santa Fe County, NM

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