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MIDWINTER CONFERENCE

GREAT FALLS BEST WESTERN HERITAGE INN

***THIS YEAR'S MIDWINTER CONFERENCE IS BEING SPONSORED,
IN PART, BY THE MONTANA DEPARTMENT OF COMMERCE.***

MONDAY, FEBRUARY 13, 2006

- 10:00 am Board of Directors Meeting
- 1:00 pm All MACo Committees meet
- 3:30 pm Hard Rock Mining Counties
Oil, Gas, and Coal Counties
Urban Counties
- 5:00 p.m. MACo JPIA, JPA and
HCT Trustees Dinner Meeting

TUESDAY, FEBRUARY 14, 2006

- 7:00 am Reservation Counties

METH CRISIS IN AMERICA

- 8:15 am **NACo Initiative
Responding to the Meth Epidemic**
NACo President Bill Hansell
Umatilla County, Oregon
Jim Mulder, Executive Director
Association of Minnesota Counties

METH CRISIS IN MONTANA

- 10:30 am **Montana Meth Project**
- 11:15 am **Court Appointed Special
Advocates (CASA)**
- 1:15 pm **Why Counties Should
Invest in Treatment Courts**
- 2:15 pm **Meth Clean-Up Legis-
lation**
- 3:30 pm **Joint JPIA/JPA
Membership Meeting**
1. By-Law Changes
 2. Update on the building
 3. In-house Claims Service

- 4:30 pm Coalition of Forest
Counties

Six Counties-Fort Peck Lake

WEDNESDAY, FEBRUARY 15, 2006

- 8:00 am Treasurers Meeting
- 8:00 am **Election 2006**
Brad Johnson, Secretary of State
- 8:30 am Clerk and Recorders
Meet
- 8:30 am **Energy Performance
Contracting**
- 9:15 am **Chevron Energy Solutions**
- 10:30 am **D.E.S
Happenings and Changes**
- 11:30 am **MACo - Your Associa-
tion**
1. MACo's Future and Vision
 2. Sponsorships, Affiliate and
Associate Memberships

Lunch with NACo President Bill Hansell

- 1:00 pm **MACo - Your Associa-
tion**
3. Endorsements – The Value to
Your County, Your Employees
 - a. Deferred Compensation with
Nationwide Retirement Solutions
 - b. US Communities Purchasing

COMMISSIONER CERTIFICATION CURRICULUM

**2:30 pm Wednesday--3:30 Thursday
Agenda outline is on the next page...**

COMMISSIONER CERTIFICATION CURRICULUM

WEDNESDAY, FEBRUARY 15, 2006

2:30 pm **Elective – Course 501.1
Conducting Lawful Meetings**
Presenter: Jon Ellingson, Assistant Attorney General

3:30 pm **Elective – Course 506.3
County Roads and Bridges**
Presenter: Steve Jenkins, LTAP, MSU-Bozeman

THURSDAY, FEBRUARY 16, 2006

8:00 am **Course 401
Effective Relations With Other Governments
Community Councils**
Presenters: Mike Murray, Lewis & Clark County
Rollie Fisher, Community Council

8:30 am **Inter-local Agreements**
Presenter: Jim Cashell, Gallatin County Sheriff

9:15 am **Special District Board Governance**
Presenter: Jane Jelinski, Local Government Center

10:30 am **Course 402
Courthouse Relations**
Presenter: Jane Jelinski, Local Government Center

1:30 pm **Course 403
Grant Funding Opportunities**
Presenters:
Jim Edgcomb, Treasure State Endowment Program
Gus Byrom, Community Development Block Grants
Harold Blattie and Sheryl Wood, MACo

MARK YOUR CALENDAR

February 2 Smart Growth County meeting; MACo
February 9 Noxious Weed Awareness; MACo
February 13-17 MACo Midwinter Meeting; Great Falls
February 20 **President's Day Holiday**
February 27-March 1 Forest Communities and
Wildfires; Helena Colonial Inn

Status of Model Regulations by Myra L. Shults

After the 2005 Legislature made fairly significant procedural changes to the Montana Subdivision and Platting Act (SB 116 and SB 290) and SB 255 made significant changes to the land use provisions of Title 67 (Aeronautics), interested parties have been working on regulations to implement these bills.

Model Subdivision Regulations

Initially the Land Use Clinic at the law school undertook to revise the Department of Commerce model subdivision regulations to include the provisions of SB 116 and SB 290. However, as this process progressed, those working on the new model noticed provisions in the former model which needed to be changed. Law students, their professors, attorneys, planners and others interested have devoted hundreds of hours to this project so the resulting model will be relatively easy for the counties to customize, prior to October 1, 2006. When the model is completed (hopefully early spring), it will be posted on the MACo website.

Model Airport Affected Area Regulations

Montana Aeronautics, the FAA and several airport engineers have been assisting with these regulations. A draft was circulated at the FAA ADO seminar in October. We had hoped to have a final model the first of January, but that deadline has been extended to early February. As soon as the model is finalized, it will be posted on the MACo website. This document is a model and contains a number of alternatives. Which ever airport uses the model will have to make a number of decisions about the wording and will need to work with its own airport engineer (and the person who will be the Enforcement Officer) to craft a set of regulations which works for that particular airport.

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COUNTY PROCESS FOR SPECIAL MILL LEVY ELECTIONS

By Harold Blattie, MACo Executive Director

Many counties are considering placing special mill levy elections on the June ballot. The authority to exceed a taxing jurisdiction's overall tax levy cap is found at 15-10-420 (2) MCA. A governmental entity may apply the levy calculated pursuant to subsection (1)(a) (Floating mill cap), plus any additional levies authorized by the voters, to all property in the governmental unit, including newly taxable property.

The election must be conducted as provided in 15-10-425 MCA, which imposes specific requirements:

- 1) The governing body shall pass a resolution of intent, shall amend its self-governing charter or must receive a petition to:
 - o Impose a new levy
 - o Increase a mill levy
 - o Exceed a statutory mill levy provided for in 15-10-420 (Floating Mill Cap)

The Resolution MUST include:

- (a) the specific purpose for which the additional money will be used;
 - (b) the specific amount to be raised;
 - (c) the approximate number of mills required; and
 - (d) the durational limit, if any, on the levy. *NOTE: May be "perpetual" or "until terminated by the governing body". Voters may be more inclined to support a levy that has a stated duration, rather than in perpetuity.*
- 2) Notice of the election must be prepared by the governing body and given as provided by law (Title 13 – General Election Laws) *NOTE: Please consult with your election administrator for specific deadlines.*
 - 3) The FORM OF THE BALLOT must:
 - Reflect the content of the resolution or charter amendment. *NOTE: This requirement is extremely important.*

MACo recommends that the ballot language contain items a - d above.

- o State the impact of homes with values of \$100,000 and \$200,000, in terms of actual dollars, that would be imposed if the levy passes.
- o MAY also include the impact on homes with any other value.

NOTE: Both the resolution and the ballot have specific requirements.

The resolution must state the **specific purpose**. We have seen language as specific as "repair the grandstand at the fairground" and as vague as "general operations and maintenance of the fairgrounds".

The resolution must also state the **specific amount and the approximate number of mills**. For example, the language must state that the election is "to levy \$50,000 annually for 10 years, which will require approximately 3.5 mills." You cannot specify the number of mills and an approximate amount, such as the election is for "3.5 mills which would raise approximately \$50,000 annually for 10 years."

The ballot must reflect the content found in the resolution (see a-d above)

We urge you to provide extensive public notice and participation. If the voters have a clear understanding of the need, they are generally more inclined to support a special levy.

There also are situations where the governing body of a special purpose taxing jurisdiction, other than the county commission, is authorized to place the question on the ballot. If you have specific questions about any particular entity in your county, please contact MACo. If the authority rests with a special purpose taxing jurisdiction, rather than the commission, we encourage county officers to work with them to provide guidance, because that governing body may have little understanding of the requirements.

Above all, work with your County Attorney or Civil Counsel to assure your compliance with the statutory requirements.

HUGS Save Big on Capital Projects

**PART TWO -- continued from January Newsletter
(MIDWINTER CONFERENCE PRESENTATION ON WEDNESDAY)**

With HB 212, there is even more good news for public institutions. Through Montana DEQ's Air, Energy and Pollution Prevention Bureau, institutions seeking a performance contract can select an Energy Service Company (ESCO) from a pre-qualified list, avoiding the need for the costly and time-consuming Request for Qualification (RFQ) process.

After selection, the ESCO works closely with the institution to ensure the best possible selection of building improvements and acts as a single point of contact and single point of accountability. In the pre-audit phase, the institution describes the facilities such as the number of buildings, location and square footage and submits two years of past utility bills. Through the full audit phase, the ESCO selects appropriate energy-conservation measures (ECMs), determines the cost, the expected savings and develops a proposal including the scope of work and all the financial details. Once the institution is satisfied that the proposed ECMs will meet its needs and financial objectives, the work begins.

Throughout implementation of the project, the ESCO takes full accountability for all aspects of the project - including the engineering, construction, and commissioning. From an owner's perspective, this makes it easy to manage and it avoids discrepancies between engineers and contractors. Once construction is complete, the ESCO stays with the project to measure and verify energy savings and system performance. If

the systems don't perform up to expectations, the ESCO must pay the savings shortfall and/or fix the performance problem. Taking ownership of the project's performance often differs from traditional contracting methods and has earned ESCO's the title of "Performance Contractor".



Since performance contracting debuted in Colorado in 1995, public buildings there have completed \$34.5 million in improvements, with resulting annual energy savings of \$3.9 million. By July 2003, projects valued at an additional \$54.5 million were underway. In mid-2003 Colorado Governor Bill Owens issued an executive order requiring all state agencies to investigate the feasibility of performance contracting for their buildings. One of the biggest projects in Colorado is a \$9 million-dollar efficiency upgrade for Colorado's Capitol Building and several nearby state office buildings. Annual energy savings from those projects were projected at \$700,000.

Montana's state buildings and universities are in need of new legislation to allow them to fully participate in this program. However, that statute may not be in place until after the 2007 legislative session.

To learn more about performance contracting and the energy conservation measures available to your local government, school district or hospital, contact Chris Racicot in Helena at ChrisRacicot@msn.com.

This two-part article is a collaborative effort by: Steve Raabe, Denver Post Business Writer; John McGowan, Board of Contributors, Energy User News; Paul Zasada, Chevron Energy Solutions; Shirley J. Hansen, Executive VP, Kiona International; Wesley McDaniel, VP of Energy Solutions, TAC Americas; Erin Ziegler, Risk Management Consultant; Chris Racicot, Energy Consultant, Coldwater Strategies.

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HELP AMERICA VOTE ACT GRANTS AND COMMITTEE

The Montana Advocacy Program (MAP) and the Montana Secretary of State's office are working together to improve accessibility to polling places prior to the June primary election. Every polling place in Montana will be required to have at least one specialized voting machine that will enable people with disabilities to vote independently. An important part of this process is a grant program to help Montana counties pay for accessibility improvements.

Counties are currently completing surveys to determine the accessibility of each polling place. A grant of up to \$5,000 is available for each polling place on a first-come, first-served basis.

A Grant Review Committee will review applications to determine if funding is justified. The members include:

Dan Burke, MT Association for the Blind
Pam Castleberry, Association of Clerks and Recorders

Rep. Carol Lambert, State Independent Living Council

Bill Neisess, MAP Disability Advisory
Betty Lund, Ravalli County Commissioner

MAP anticipates that there will be three sets of applications over the next three months, with monthly processing of the grant applications.

Early applications include sidewalk access, ramps and handrails, automatic doors, bathroom remodeling, signing and elevator emergency phones. Most of the proposals include cost sharing.



COUNTY PHOTO ID CARDS



...got yours yet?

Sheridan County and Treasure County are the most recent counties to have photo identification cards made for their employees.

Seventeen counties now have cards for some or all of their employees.

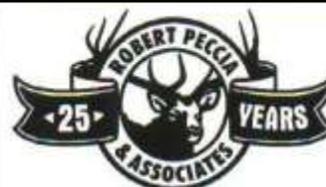
If your county is interested in the photo ID project, contact Oline Barta at 444-4360 or maco@maco.cog.mt.us

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ATTORNEY GENERAL OPINION

Full text is available at
www.doj.mt.gov/resources/opinions2005/51-011.pdf

Volume 51 No. 11

- HELD: 1. A city council must provide an agenda item for public comment on non-agenda matters only for issues that are of significant interest to the public. Public notice is required for any meeting of the council.
2. A city council must provide an agenda item for public comment on non-agenda matters of significant interest to the public even when the council meets in informal work sessions where no action may be taken.
3. The right of the public to comment at a meeting of a city council on non-agenda items extends to matters that may involve an interest in individual privacy. The presiding officer retains the power to close the meeting to other members of the public upon a determination that the right of individual privacy clearly outweighs the merits of public disclosure.
4. Montana Code Annotated Title 2, Chapter 3 applies to all advisory boards, commissions and committees of the city council subject to the limitation that such entities need not permit public comment on matters that are not of significant interest to the public.
5. Only an item that is not of significant public interest or is otherwise exempt from the public participation requirements of MCA § 2-3-103 may be added to the city council agenda and

Wedding Bells in Counties: ADA Requirements

Submitted by Jack Holstrom
from an article by Phil Hohenlohe,
MAP Attorney

Cascade County has agreed to provide sign language interpreters when performing wedding ceremonies for those who are hearing impaired. This agreement between Montana Advocacy Program (MAP) and the County was reached on behalf of John and Janice Simon, a couple who were married in Great Falls last year. Although Janice has severe hearing loss and requires a sign language interpreter, the County refused to provide one at the Simons' wedding ceremony, even after the Simons explained to the Justice of the Peace that they had a legal right to have an interpreter.

After the Simons called MAP and explained the circumstance, attorney Phil Hohenlohe agreed to represent the couple. The Simons first sought written assurances from the County that it would provide sign language interpreters in the future. When the County failed to provide such assurances, the Simons filed a complaint of discrimination with the Montana Human Rights Bureau.

The Simons relied on the Montana Human Rights Act and the Governmental Code of Fair Practices, which provide that people with disabilities have a right to equal access to government services. **If a person with a disability needs a sign language interpreter or other reasonable accommodation in order to benefit from such services, the government must provide the accommodation.**

Near the conclusion of the Human Rights Bureau's investigative process, the County and the Simons agreed to a settlement which the Bureau approved in September 2005. The agreement requires that Justices of the Peace performing wedding ceremonies provide qualified sign language interpreters free of charge when needed to ensure effective communication. The County also agreed to pay \$11,000 to John and Janice Simon, and pay MAP \$4,000 for fees and costs.

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COUNTY NEWS

COUNTY OFFICIALS

ROSEBUD COUNTY Sheriff Tim Fulton has taken a job with BNSF Railway and will resign from his elected position. He said he will stay on as sheriff until March 1.

TETON COUNTY Superintendent of Schools John Maloney stepped down with one year remaining in his term.

MADISON COUNTY Commissioner David Schulz was appointed to the Montana Noxious Weed Advisory Committee as a MACo representative.

PLANNING

YELLOWSTONE COUNTY is re-evaluating the interlocal agreement between the city and county for land use planning, in place since 1995. One suggestion is to move the county-only function into the Public Works Department.

GALLATIN COUNTY is considering county-wide zoning, housing density guidelines and neighborhood planning.

IMPACT FUNDS

RICHLAND COUNTY had close to 400 oil/gas drills in the last three months, with a possibility of 1,000 more. Impact funding is essential to the county for maintaining its infrastructure, particularly roads.

RAVALLI COUNTY hired a Maryland consultant to conduct an impact fee study, outlining how impact fees would offset the cost of new developments on roads, schools and other infrastructure.

CARBON COUNTY fire districts suggested impact fees to pay for additional service required for new developments. The fire chief sug-



PLEASE LET MACo KNOW THE NAME OF YOUR 2006 COUNTY COMMISSION CHAIR if you haven't already done this. We have about half of the names so far.

gested that the fees could be used only for capital equipment.

ENFORCEMENT

GALLATIN COUNTY turned down two subdivision proposals because of protests based on possible problems with water availability and road congestion.

FLATHEAD COUNTY denied a controversial gravel pit expansion. The controversy involved owners re-instating grandfathered use, following documented non-use by previous owners.

RAVALLI COUNTY took action against the construction of a building which violated voluntary zoning district regulations, specifically the setback requirements for new construction. Also at issue were the potential lease for commercial use and potential false statements on a wastewater application

GALLATIN COUNTY dismissed a community decay violation against a meat-processing business which had been in business long before development occurred around the business. The County's "Code of the West" was used as reference.

OIL AND GAS LEASE SALE

The March 7 quarterly oil and gas lease sale for potential development includes tracts in **Carbon, Daniels, Gallatin, Glacier, Golden Valley, Hill, Liberty, Park, Phillips, Pondera, Powder River, Richland, Stillwater, Sweet Grass, Teton, Toole, Valley, Wheatland, and Yellowstone Counties.**

TAX INCREMENT FINANCE DISTRICTS

(sections from an article in the Kalispell Daily Interlake)

"This program is intended to encourage economic development by reducing the amount of taxes that business firms pay on investment for development. The taxable value of these improvements is cut in half for five years. The value then gradually increases for another four years, until the full taxable value is reached in the tenth year.

How much tax revenue do the county, cities and local school districts lose? Based on figures from the MT Department of Revenue, it is estimated that the tax breaks cost Flathead County about \$110,000 per year, with even more cost to the local school districts.

The basic assumption is that by having the tax breaks, taxable value will increase in the long run. But in some areas, the taxable values haven't risen substantially, despite all the growth, in part because of state and other local tax breaks for larger corporations. It is difficult to determine the benefit for taxpayers in general.

The Legislature talks about giving tax breaks to promote job creation, but company work forces haven't changed much. Some businesses see this as a way to retain people, rather than laying them off in order to improve the efficiency of the business. Is this about creating jobs and growing businesses and, consequently, the tax values, or is it a way of passing the burden on to residential property taxpayers?"

KAERCHER and BLATTIE ATTEND NATIONAL CONFERENCE

MACo President Doug Kaercher and Executive Director Harold Blattie attended the National Association of Counties Presidents and Executives meeting in Washington D.C. The meeting was sponsored by the National Council of County Association Executives (NCCAE) and had nearly 100 participants.

The meeting was an opportunity for State Presidents and Association Executives to discuss issues important to counties, learn about NACo services and hear from important national leaders. Speakers included:

Bill Hoagland, Budget Counsel
Senate Majority Leader
Jim Mikaszewski,
Pentagon Correspondent, NBC
Senator Charles Grassly, Chair
Senate Committee on Finance
The Honorable Antonin Scalia,
United States Supreme Court.



The group also attended a White House Briefing which included speakers such as Deputy Assistant to the President

Ruben Barrales (Office of Intergovernmental Affairs), United States Attorney General Alberto Gonzales, and John Walters, Office of National Drug Control.

In another session, a number of NACo staff spoke in depth about service and programs offered by NACo and NACo's value to state associations and counties. They included:

NACo Executive Director Larry Nakke,
NACo Legislative Director Ed Rosado and
Enterprise Services Director Lisa Cole.

Drug & Alcohol Testing & Consortium Management

Lane & Associates is a "Third Party Administrator" of the Department of Transportation's 49 CFR Part 40 and 382 Drug and Alcohol Testing Program. We offer on-site testing throughout Montana. We can implement and manage the entire testing program for your county, city, schools or special districts. This includes testing for DOT, OSHA, federal grant and contract employees, safety sensitive, school employees and students.

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NACo INFORMATION



P.I.L.T. and NACo Efforts

ISSUE: Since 1995, no Congress has ever appropriated more than 2/3 of the amount authorized by the PILT Act. County taxpayers have been left to fend for themselves, subsidizing public services on federal land with local property taxes.

BACKGROUND: The PILT program was conceived in 1976 to offset costs incurred by counties for services provided to federal employees and families, and to the users of the public lands. These include education, solid waste disposal, law enforcement, search and rescue, health care, environmental compliance, fire fighting, parks and recreation and other important services.

Annual PILT funding levels remained static for many years. For nearly two decades, counties watched the value of their PILT receipts drop due to inflation. In 1995, NACo was successful in securing a new authorization for the program, which raised the ceiling for PILT payments from \$105 million to over \$300 million. The authorization is subject to annual appropriations and the political pressure of allocating scarce resources.

For FY 05, Congress appropriated \$227 million. This payment is far short of the approximately \$311 million authorized and substantially short of the amount that would be generated, were the same lands privately held and on county tax rolls. The national average PILT payment amounted to a mere 37¢ per acre; whereas, if these lands were taxed, they would return about \$1.48 per acre--a \$1.11 shortfall.

The \$227 million funding level for FY 05 is a \$2 million increase over FY 04 and \$126 million more than when NACo began its efforts to increase funding. The House has approved a funding level of \$242 million for FY 06.

NACo POLICY: NACo supports full finding of the PILT program, to the authorized levels and beyond. NACo calls for an increase of \$15 million over the FY 05 enacted level, for a total of \$242 million in FY 06.

HILL COUNTY WINS RADON TEST KITS

Hill County, Montana is one of ten counties throughout the United States selected to win 200 free radon test kits through the National Association of Counties' (NACo) County Radon Outreach Program. Radon is the leading cause of lung cancer among non-smokers and the second leading cause of lung cancer death. According to the EPA, radon is responsible for about 21,000 lung cancer deaths annually and about 2,900 of these deaths occur among people who have never smoked.

Hill County, categorized as Radon Zone 1 Highest Priority by the Environmental Protection Agency (EPA), submitted a plan for outreach activities to educate citizens on the harmful health effects of radon exposure.

Over 35 counties submitted applications to win the free radon test kits, and although every application was strong with a number of excellent outreach and follow-up activities, resources did not allow for every county in this first year of the program.

Two other Montana counties applied:

- ◆ MSU Extension in Custer County
- ◆ Ravalli County.

For more information on the Radon Outreach Program for counties, contact Kelly M. Zonderwyk at NACo:

kzonderwyk@naco.org



The National Association of Counties (NACo), in partnership with Nationwide Retirement Solutions (NRS) and state associations of counties, provides county employees with a Section 457 Deferred Compensation Program.

Since its inception in 1980, NACo's 457 Deferred Compensation Program has grown to become the largest supplemental retirement income program available to county employees. The program assets exceed \$6.0 billion.

STATE CRIME LAB ACCREDITED

The Montana State Crime Lab, located in Missoula, has been formally accredited through the American Society of Crime Laboratory Directors / Lab Accreditation Board (ASCLD / LAB).

“Montana has an outstanding lab and a talented staff, and the Montana lab has distinguished itself by meeting ASCLD \ LAB’s stringent standards,” said Montana Attorney General Mike McGrath. “It is a significant achievement, and one we’re very proud of.”

The accreditation process has taken more than three years. Accreditation is granted for five years, provided the lab continues to meet ASCLD / LAB standards. Approximately half of the forensic labs in the nation are accredited. Accreditation is mandatory for labs to receive some federal funding.

The State Crime Lab provides scientific and technical support to Montana’s criminal justice community. The Lab processes more than 5,500 cases each year.

More about Montana’s lab:

www.doj.mt.gov/department/forensicsciencedivision

MOTOR BOAT FACILITY GRANTS

\$150,000 is available statewide for improvement or development of public motor boating sites that are owned/administered by Montana counties. The maximum grant per local government entity is \$35,000 and may provide up to 80% of the total costs. A project sponsor must have the total project costs committed at the time of application and in-kind costs such as agency work force or volunteer services may be included. Permitting and engineering are reimbursable up to 15% of the total project amount.

Typical motor boating projects involve ramps, latrine facilities, boat trailer parking areas, docks, and related improvement that directly benefit motor boat users.

The deadline for grant applications is **February 24.**

The complete application is available at <http://fwp.mt.gov>, using “Parks and Recreation” and “Grant Programs” or by phoning 444-3750.

MACo NEWS

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