

MINUTES OF THE MEETING
SENATE STATE ADMINISTRATION COMMITTEE
MARCH 16, 1977

The meeting was called to order by Senator Towe, Chairman, at 11:00 a.m. in the Governor's Reception Room of the Capitol Building. Committee members present were Senators Towe, Rasmussen, Jergeson, Blaylock, Brown, Roskie, Devine and Story.

The following bills were discussed: HB 726
 HJR 65
 HB 494
 HB 302
 HB 634

HOUSE BILL 726, HJR 65

Representative Brand, District 28, sponsor of the bill and the resolution, stated the purpose of both pieces of legislation is to transfer the old prison at Deer Lodge to the city of Deer Lodge. He presented a booklet to the committee stating the work that has been done by the community in anticipation of receiving the old prison (attached #1).

PROPOSERS

James Blodgett, representing Deer Lodge and Powell County Museum and Arts Foundation, stated they compiled the booklet (attached #1). He noted the prison would revert to the state if the guidelines for protection and preservation of the site are not adhered to. He urged support for the bill.

Leo Berry, State Land Commissioner, presented his testimony to the committee (attached #2).

There were no opponents to the bill and no further proposers and the hearing was closed.

HOUSE BILL 494

Representative Gerke, District 62, stated the bill is to provide for the sale of institutions no longer in use by the state. He further stated this bill was most specifically aimed at the sale of the former Children's Home in Twin Bridges but would apply to other sites as indicated.

PROPOSERS

Representative Keyser, District 81, supported the bill as the financial impact on the community is too great for them to absorb any longer.

Robert Eohn, Governor's Office, stated his support of the bill.

Leo Berry, State Land Commissioner, presented his testimony to the committee in support of the bill (attached #3).

John Anthony, Department of Community Affairs, urged support of the bill and presented material to the committee in support of the bill (attached #4).

Marie McAlear, Chairperson of the Citizens Committee for Utilization of the Children's Center, stated her support of the bill. She introduced members of the Junior and Senior classes of the Twin Bridges High School who attended the hearing as interested spectators.

Byron Byers, a member of the Citizens Committee, stated his support of the bill.

Don Kitt, principal of the High School, stated his support of the bill.

Larry Clark and Fawn Kaighn presented their written testimony in support of the bill to the committee. They are students at Twin Bridges High School. (attached #4)

There were no further proponents to the bill and no opponents and the hearing was closed.

HOUSE BILL 302

Representative Meloy, District 29, sponsor of the bill, stated the purpose of the bill is to close some loopholes in the open meeting laws. He stated some boards and agencies are taking advantage of loopholes although most are conforming to the intent of the bill quite well. He stated this is essentially a recodification bill but with some tightening of the restrictions. He reviewed the bill with the committee.

PROPOSERS

George Remington, Publisher of the Billings Gazette, presented his written testimony to the committee (attached #5).

Sam Gilully, Secretary-Manager of the Montana Press Association, presented his written testimony to the committee (attached #6).

Ron Semple, Publisher of the Independent Record in Helena, and Chairman of the Freedom of Information Committee of the Montana Press Association, urged support of the bill.

Bob Mc Giffert, representing himself, presented his written statement in support of the bill to the committee (attached #7).

Chad Smith, Montana School Board Association, spoke in support of the bill. He felt there should be some changes in the bill and hoped the committee would be cognizant of those areas.

Charlie Dell, representing Common Cause, strongly supported the bill.

Jacquelyn McGiffert, representing herself, stated she is a member of the Missoula City Council and Health Board, stated she supports the bill and added if you don't want public scrutiny, you shouldn't hold

Page 3
Minutes
March 16, 1977

hold public office.

Bill Merrick, Montana Broadcaster Association, presented his testimony in support of the bill (attached #8).

Marilyn Wessel, News Director, KBMN, Bozeman, presented her testimony in support of the bill (attached #9).

Steve Sebenor, News Director, KBOW, Butte, stated his support of the bill and urged the tape recorder provision be reinstated in the bill.

Jerry Holloran urged support of the bill.

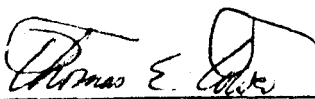
There being no further proponents and no opponents to the bill, the hearing was closed.

HOUSE BILL 634

Representative Scully, District 76, sponsor of the bill, stated the bill expands Gallatin and Park Counties to include portions of Yellowstone Park which are in the state but not in a county.

There being no proponents and and no opponents, after discussion by members of the committee, the hearing was closed.

There being no further business, the meeting was adjourned to reconvene March 16 upon adjournment of the Senate.



Thomas E. Towe, Chairman

ROLL CALL

State Administration COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/16/77

NAME	PRESENT	ABSENT	EXCUSED
Senator Thomas E. Towe, Chrm.			
Senator Pete Story, V. Chrm.			
Senator Bob Brown			
Senator A.T. "Tom" Rasmussen			
Senator George F. Roskie			
Senator John W. Devine			
Senator Greg Jergeson			
Senator Chet Blaylock			

Each day attach to minutes.

DATE 3/14/77

(check one)
SUPPORT | OPPOSE

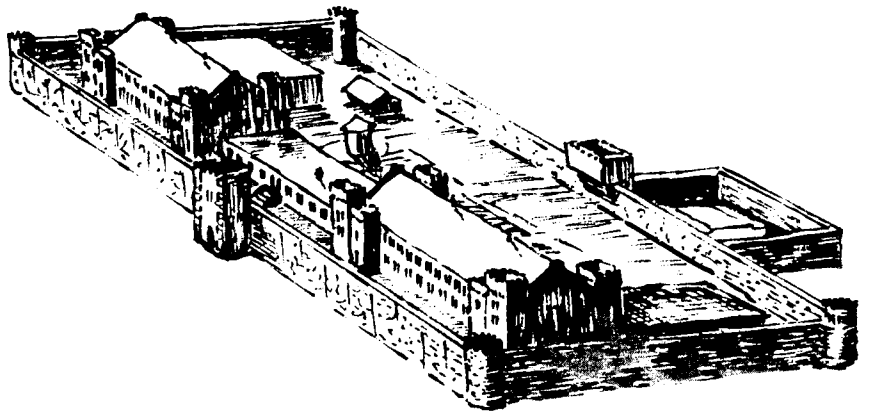
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

the
FUTURE

for

MONTANA'S

TERRITORIAL PRISON



PROPOSED BY

The City of Deer Lodge

ASSISTED BY

POWELL COUNTY MUSEUM AND ARTS FOUNDATION

TONY SNEBERGER, MAYOR
M. K. DANIELS, CITY ATTORNEY

J. B. KENDRICK, JR., CLERK

BARBARA P. MCOMBER, TREASURER

CITY OF DEER LODGE MONTANA

59722

COUNCILMEN:

December 30, 1976

WM. H. SPECK
RAYMOND J. JOVICK
KENNETH G. COLBO
LOUIS C. KIEFER
ROBERT F. BRAND
RICHARD F. LABBE
FRED MAGONE
FRANK C. PIERCE

TO: ALL MEMBERS OF THE 45TH MONTANA LEGISLATIVE SESSION

Greetings from the historic Deer Lodge Valley! As many of you might already know the City of Deer Lodge will be requesting legislation during the session to enable the state to transfer the old territorial prison site to the City of Deer Lodge. With the realization that most of you have many arduous tasks ahead, we have prepared this booklet to keep you informed of our intentions and the future we feel this site offers the entire state and its citizens.

We who live in Deer Lodge have always felt to be a close part of the prison. Our citizens over the last 106 years have experienced its growth, its decline and have shared both its hardships and prosperity. Many of our citizens have grown up in the shadow of its gray sandstone walls and realize the security, fears and dangers it represents. It is within this incessant growth and sharing that our bond to the old prison has been manifested. Through all of this our desires have been stimulated to retain and develop the site historically.

I have hopes that this booklet gives you a better understanding of our intentions and the role we feel we can play in the growth and future of the old territorial prison site.

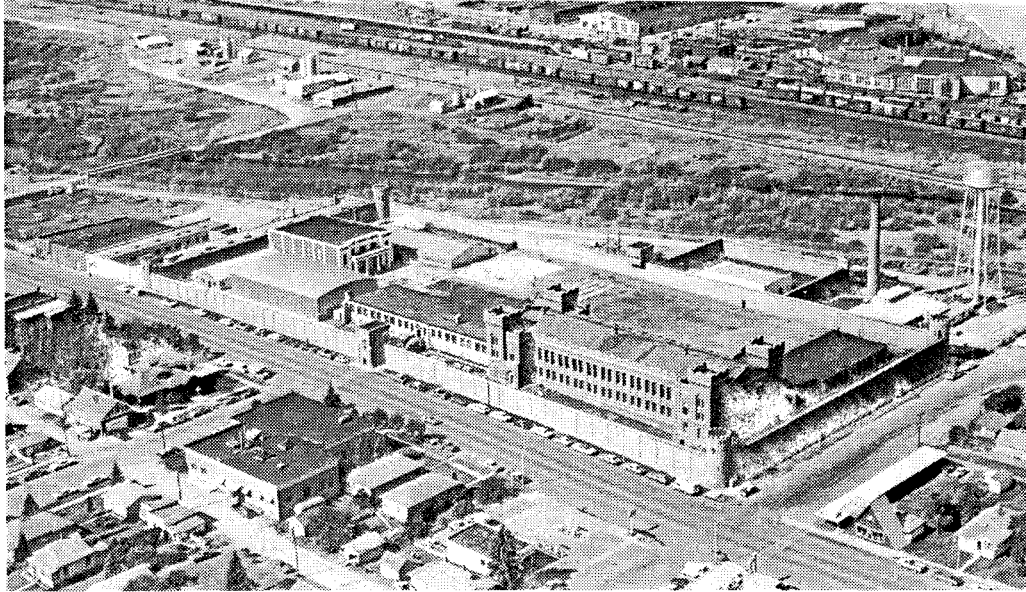
Sincerely yours,

CITY OF DEER LODGE


TONY SNEBERGER
Mayor

TS/JGB/js

THE PRESENT



DEER LODGE TOOK IMMEDIATE ACTION

On the same day that governor Thomas Judge announced to the state that Revenue Sharing Monies were being made available to build a new prison and it was evident that the old site would be vacated, Deer Lodge began its planning strategy.

In early 1974 a citizens group representing all civic groups and agencies of the city was formed and an initial plan of action resulted. This plan was presented by group representatives to the Deer Lodge city council and unanimous approval was obtained to submit necessary legislation to the 44th session for the city to obtain the property. The legislation was prepared and with the assistance of Representative Joe Brand presented before the House Administration Committee.

HOUSE JOINT RESOLUTION PASSED

Upon thorough investigation of the state's authority to transfer public lands, it was determined that the old prison site had been originally granted to the state by the 1889 Enabling Act. The Enabling Act imposed certain conditions on the land granted. Among these conditions was the requirement that the state not dispose of the land for less than full market value. With the intention of transfer other than that, it was evident that a federal waiver of those conditions must be obtained. The 44th

Montana Legislative Assembly adopted House Joint Resolution 61, which requested the United States Congress to do whatever was necessary to grant the land in question to the city of Deer Lodge.

FEDERAL LEGISLATION INTRODUCED

In 36 *opinions of the Attorney General*, No. 87, Attorney General Woodahl held that the state must adhere to the full market value requirement of the Enabling Act in the disposing of the Territorial Prison site at Deer Lodge, absent a congressional waiver.

After this decision and continued efforts and coordination by the Deer Lodge citizens group with Senator Mike Mansfield, the Senator introduced Senate Bill 3747 in August of 1976. The text of the bill reads as follows:

"A Bill to eliminate a restriction relating to certain land granted to the State of Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, that any requirement or limitation on the disposal of lands set forth in Section II of the Act of February 22, 1889 (25 stat. 676, as amended), are hereby declared inapplicable to any transfer by the State of Montana

to the City of Deer Lodge and associated lands granted to the state by Section 15 of that Act."

Although Senate Bill 3747 was not enacted before the adjournment of the 94th Congress, Senator Lee Metcalf is assisting its progress, and passage is expected early in the 95th Congress.

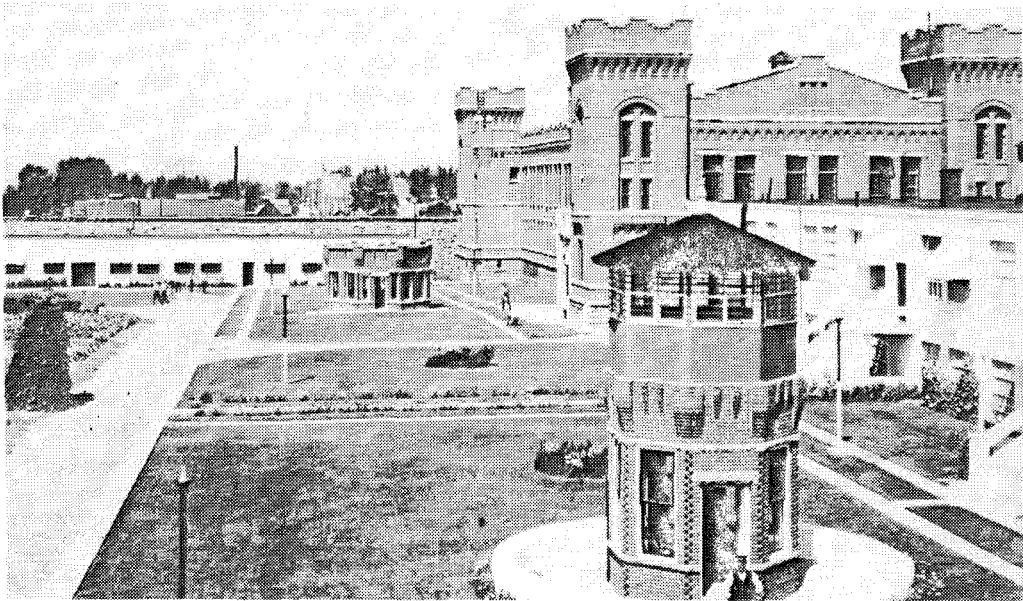
PRISON SITE ENTERED IN NATIONAL REGISTER OF HISTORIC PLACES

In March of 1975 a historical survey was conducted of the old prison site by the state office of Historic Preservation. From that survey a nomination form was completed and on December 11, 1975 was approved by the Governor's Historic Sites and Antiquities Advisory Council for nomination to the

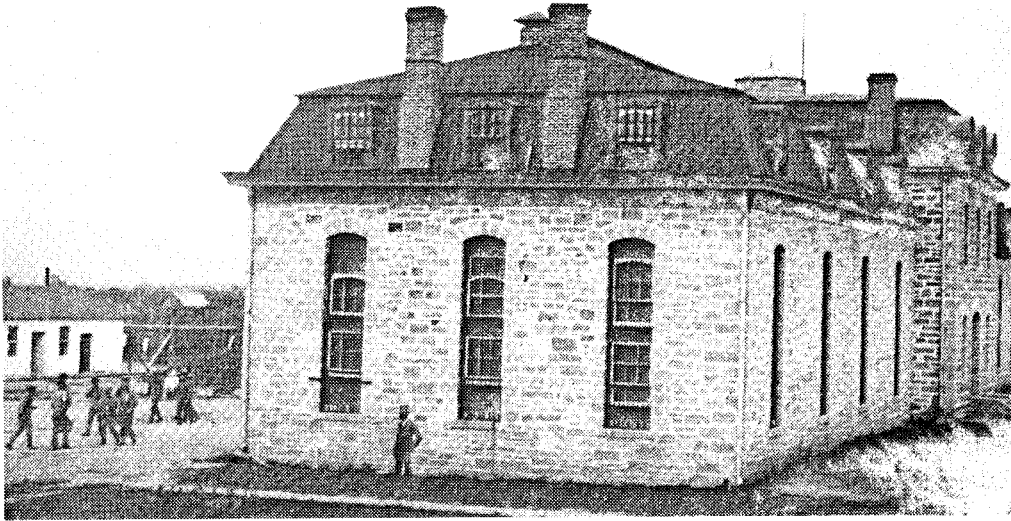
National Register of Historic Places.

The National Register of Historic Places is the official list of the nation's cultural resources deemed worthy of preservation. Listing in the National Register makes property owners eligible to be considered for Federal Grants for preservation efforts and provides protection through comment on the effect of undertakings on historic properties as stated in Section 106 of the National Historic Preservation Act of 1966 and executive order 11593.

Deer Lodge worked hard to obtain this status for the prison site before Legislation was offered to the state as it realized that the property must be protected and that if and when it did obtain ownership it would immediately be eligible for assistance in its preservation efforts.



THE PAST



THE PAST

In the year of 1867, the U.S. Congress passed a Territorial Prison Bill that would establish prisons in the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona and Dakota. The bill, without amendments, set aside and appropriated the net proceeds of the Internal Revenue of the Territories for the fiscal years of 1867 and 1868. Each amount allocated to the elected territories was not to exceed the sum of \$20,000 in the territory of Washington and \$40,000 in all others.

With \$40,000 to spend, a site for the new Montana territorial prison had to be selected. The young but enthusiastic Montana territorial legislature took this task into hand and the "Battle of Location" began. During the extraordinary session of the Third Montana Territorial Legislature, called by acting Governor Thomas Francis Meagher, the first bid was presented. Representative Smith of powerful Beaverhead county stood proudly at 2 P.M., February 28, 1867 and introduced House Bill #4 to locate the territorial penitentiary at Argenta. The Bill was read twice and referred to committee. On Monday March 9, 1867 House Bill #4 was taken up, rules suspended, read for the third time and passed. When the session ended it appeared to most supporters that Argenta was to be the new home of the "Pen".

Directly following this hasty activity, the Political friends of Deer Lodge County in Washington showed their muscle and their teeth. By early 1863 it was indisputably Deer Lodge County and its prosperous county seat Deer Lodge who had things "Penned-up". Many have said that in the same year prominent little Deer Lodge City had its choice between the first college or the territorial prison. They were known to choose the Prison because the conservative pioneer capitol really didn't "hanker" to the class of "pilgrims" that a college might attract. This story proved later to be without merit as Deer Lodge was also selected as the site for the first college in Montana.

Deer Lodge wasted no time insuring that a local construction superintendent, Dr. A. H. Mitchell, was named. After the first spring thaw of 1869 "Doc" Mitchell turned the first shovelful of earth on the 10 acre federal land grant site. This historic act was not without witness as the "New Northwest" reported a large group of citizens were in attendance. The report added facts of the historic event being reciprocated by the firing of two 100 gun salutes. No 100-gun salute would have been complete in old Deer Lodge city without some "local" passing an indiscriminate gallon crock jug of "corn" around to the willing crowd. Before the day ended over five 100-gun salutes were fired. This

event not only constituted the first turning of dirt on the prison site but also the first splash of liquor upon it. A notable first for any prison ground.

In June of 1870 the cornerstone was laid and the bricks began to pile. By October of 1870 the allocated funds were depleted and the building not so complete. The 14 cell, 80 foot by 40 foot three story monument stood alone, with no security fence, about one-quarter mile from the Deer Lodge town-site. The territory pleaded with Washington for additional funds to complete the prison. Washington held firm in their original commitments and decided to take over the site from the territory and complete it themselves.

On July 2, 1871, the new *Federal Penitentiary* at Deer Lodge opened with Federal Marshall Wm. Wheeler and James Gilchrist in charge. A contract was drawn with the territory in order that both federal and territorial prisoners would be housed at the site.

In May of 1873 a request by the Territory to control the institution was granted by the U.S., and C. B. Adriance became the territory's first functional warden. Warden Adriance and the territory lasted through fifteen and one-half months of operation when they succumbed to an alleged financial burden and gave it back to the Federal Government.

The Federal Government operated the facility as a U.S. Penitentiary until 1889 when Montana entered into statehood and the property granted to the new State by means of the February 22nd Enabling Act.

During the years of 1875 to 1889 only two major additions were made to the original three story building, those being north and south cell block wings to alleviate the growing population. Other than the wings, nothing was done by the government as they patiently waited for the new state to regain the operation. By 1890 most of the existing buildings were in extremely poor physical condition and the old board security fence erected in 1875 was slowly falling apart. All in all, the new state of Montana had taken on a hefty chore and had more than its hands full.

Being faced with this problem the new political machine began cranking out alternatives. How could they efficiently and effectively operate their new acquisition without depleting their already weeping budget? Within the search there arose an interesting twist to prison operation, kindled in the Southern United States. The states of Georgia, Mississippi and Florida operated portions of their prison system under contract. Whereas many individual prisoners were contracted out to county, city and private units. The contractor was responsible for the feeding, clothing, care and guarding of the convicts. Although not entirely the answer, Montana adopted the

concept and actually put the entire prison operation out to bid in the year of 1890. Any private contracting firm that desired could bid on the project on a cost per convict per day basis and they would, upon acceptance from the state, be responsible for all the necessities of their tenants.

Due to the fact that organized prison contracting firms were few and far between, only four firms sprang up to answer the call. The low bidder was a newly formed firm by the name of Conley and McTague. This firm bid 76c per day per convict and in the year of 1890 gained full control of the deteriorating fortress. One of the contractors, Frank Conley, was not new to the prison game. He had worked at the institution since 1886 as a guard and had some knowledge of its operation along with the many faults and possibilities of the new system. Archie McTague was his partner and also carried a law enforcement background by previous appointments of Deer Lodge County Sheriff and the Institutions Chief Official during the statehood to contract interim. This pair was to become a legend in Montana Penal History.

The firm immediately realized the many possibilities of an operation of this arrangement and began to plot their course. The first evident project to be accomplished was the rebuilding of the Security Wall. In 1892 construction began by the quarry of local sandstone within the county. The stone was carried by wagon and train to the site and each put into place entirely by convict labor and under the skillful direction of construction Superintendent James MacCalman. The wall was completed just 16 months later and still stands today as a monument to that effort.

Later expansion in 1896 added a 200-man cell block, again accomplished through use of convict labor. This massive project, completed in a period of a little over a year, gained national prominence as one of the most modern and skillfully built cell blocks in the nation. This fine example of early architecture stood solidly until it received a major structural crack during an earthquake in the late 1950's and was later torn down.

By 1907 the firm still had control of the prison and had steadily grown. The firm did well economically with the venture as it could be noted during that year that the contractors were now proud owners of over 10,000 acres of land, two ice houses, a sawmill, a brickplant, one of the largest herds of horses and equipment in the northwest and allegedly over one-half of the bustling city of Deer Lodge. After a major political change in the state in 1908, the contract system finally came to rest after eighteen years of progressive and profitable operation.

The end of this system did not go well, as usual, when it was discovered that the private contractors probably owned more than the state did. With this problem to face the State eased into the situation the best way they could by appointing Frank Conley as Warden and indicating that the remainder of problems would be worked out at a later date. Conley immediately broke contact with McTague on the prison venture and left him to continue the many other facets of their firm.

Frank Conley continued his remarkable tenure until 1921 when he was ousted by political adversary Joe Dixon, newly appointed Governor of the State of Montana.

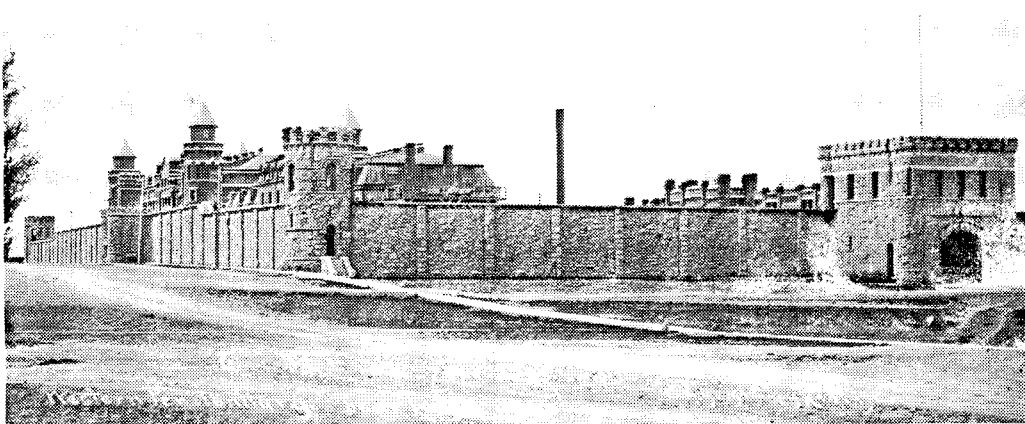
Although many of Conley's critics called him a profiteer, it can be noted to this date that no man in the history of Montana made as much visible progress as he. The walls and over 75% of the remaining buildings in the prison still in use were built under his tenure with the masterful skill of convict labor and Superintendent James MacCallman. Over 500 miles of road in the state were built by convict labor during the years of 1908 - 1921. Over fifteen large brick buildings were built in other state institutions and most are still in use today. The city of Deer Lodge utilized Conley's resource and expertise to its fullest as the citizens retained him as Mayor of the City from 1895 to 1929. The citizens of Deer Lodge profited from a leadership that within all probability will never be equaled.

Warden Frank Conley retired from public life in 1929 under the strain and personal shame of political pressure and lawsuits. He died less than ten years later a broken man. Conley's last words to friends insured that he would forever remain a part of the valley by having his and his wife's cremated ashes spread by aircraft on the top of beautiful Mount Powell overlooking the entire Deer Lodge valley.

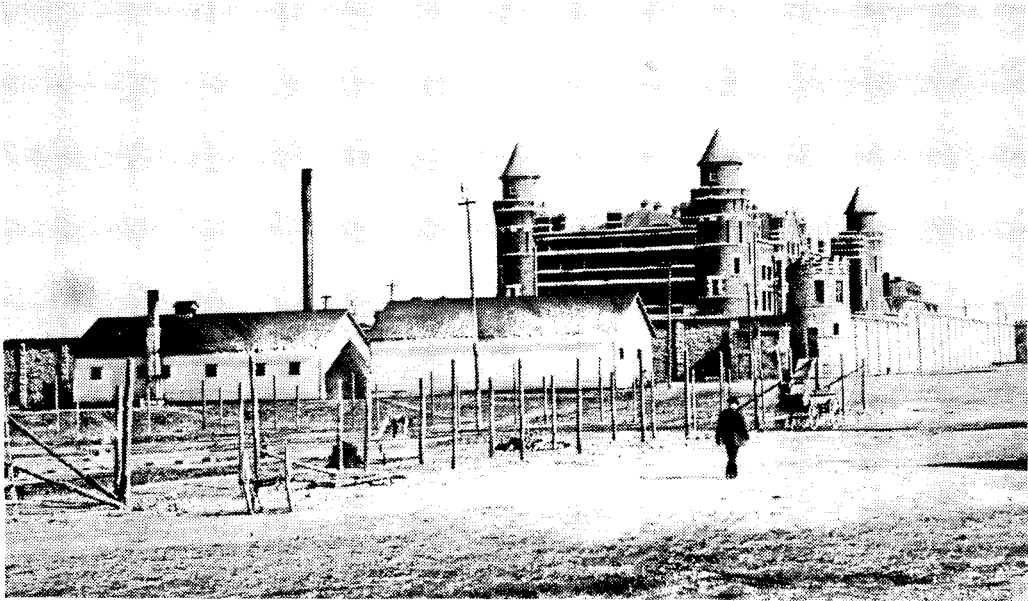
After Conley came Wardens M. W. Potter, J. W. Cole and long time Warden A. B. Middleton, a fine and progressive administrator. T. R. Bergstrom relieved Middleton in 1937 followed by Dudley Jones, John E. Henry and notables such as Lou Bodecker, F. O. Burrell, William Benson and Floyd Powell. Local native and pioneer son Ed Ellsworth Jr. succeeded Powell in February of 1962 and provided outstanding leadership to the Institution and community until 1969 when relieved by W. J. Estelle Jr.

Roger W. Crist is the present Warden and embarking in his tenure upon a historic move from the old prison site to a new institution.

The old walls contain a million stories of thousands of men who have passed through it. In 1959 another dedicated prison administrator lost his life. Deputy Warden Ted Rothe was killed by convicts during a three-day siege of the Old Bastille. This full-scale riot resulted in the necessity for the Montana National Guard and Highway Patrol to be called in and restore order.



RECENT DEVELOPMENTS



CITY COUNCIL TAKES ACTION

During the October 1976 meeting of the Deer Lodge City Council, plans for the conversion were stepped up. The council unanimously agreed to turn all operational planning for the old prison site over to the Powell County Museum and Arts Foundation. This Foundation has been established for over ten years and has gained a non-profit status from the U.S. Department of Revenue. The group is independent, has a broad charter and been working diligently for the past four years establishing a local museum and developing other local historic sites. The Foundation has been active with the prison effort since its inception and now will accept total responsibility for the acquisition of the prison property, future plans and development.

LOCAL BOARD FORMED

During the December 1976 meeting of the Powell County Museum and Arts Association the Board of Directors formed a local board designed to continue planning for the old facility. In the future this independent unit will act as the controlling and decisional board for the historical development of the old prison site.

The Board committee will initiate its efforts by developing, introducing, and supporting necessary legislation before the 45th Montana Legislature.

Board committee members appointed and acting are as follows:

KENNETH COLBO—President, Powell County Museum and Arts Foundation
FRANK SHAW—Realty and Insurance
JAMES HAVILAND—Pioneer Federal Savings and Loan Assoc.
ROBERT POLISH—President, Deer Lodge Chamber of Commerce
SUSAN MASAR—Housewife
GARY TAVENNER—Ranching, Construction
MARTIN OLSEN—Realtor
ROBERT BURGESS—Professional Designer
JIM BLODGETT—Prison Administration

COMMUNITY PULLS TOGETHER

One important aspect of the Deer Lodge effort to obtain the old prison site is the united opinion and effort being put forth by the entire community. Over the past three years every civic organization in the city has been continually apprised of the program and each has pledged its support.

One of the best indicators of this support was a community/merchant meeting that was held in the latter part of the Bicentennial Year. The local "old prison" committee presented this meeting with a financial hurdle that would have to be overcome

before initial acquisition and restoration efforts at the old prison site could become a reality. After this meeting and its presentation over \$75,000.00 in financial pledges were obtained. These pledges represented the most successful attempt to assist a community effort in the history of the City of Deer Lodge and most of all displayed Deer Lodge's seriousness and desire to obtain the old site.

ULTIMATE GOALS

First and foremost the city of Deer Lodge and its citizens want to insure, through acquisition that the old Territorial Prison site is developed to its historical capacity. We envision an attraction that adequately portrays the true significance of the site and the critical role it played in the development of our Territory and State.

It is our sincere feeling that the future and direction of the site is also that of our city. It is only through acquisition that we can insure this direction and defer the possibility of commercial exploitation.

FUNDING

Every effort will be made to obtain funding through grants to:

1. Protect the entire site from further deterioration.
2. Restore all buildings and equipment to original or near original condition.
3. Remodel and/or expand artifact display areas.
4. Hire an adequate staff to provide administration and security of the site.

PROGRAM FOR UTILIZATION

The city has planned to retain all areas and buildings within the surrounding security walls to be restored to and to display to visitors a functional prison. The overall project emphasizes restoration of one of Montana's largest, oldest and most significant historical sites. The entire site is planned to be visitor-oriented and restored to as original a condition as possible. These restoration efforts are programmed directly after acquisition and will include:

a. *Complete restoration of the Clark Theatre.*

This original 700 seat theatre donated to the state in 1918 by Senator Wm. Clark Jr., was gutted by fire in December 1975. Complete restoration is planned so as to adequately lend itself to the overall operation and attractiveness of the historical site and to serve as the centrex of activity within the site. Summer stock productions for the visitor would be available as well as servicing the needs of

the community for such a facility. This restoration would emphasize design originality and replace the 700 seat capacity it once contained.

b. *Hire a general labor force to:*

- (1) Remove from the site all non-original equipment (doors, locks, recent additions etc.) and replace original or near original equipment as available.
- (2) Insure maintenance of all existing equipment.
- (3) Re-install 1700 feet of security perimeter fence around the south end of the site running along the west border to the north that was removed by the state. The replacement fence will be designed to match the original fence identified in early photos of the area Circa 1920.
- (4) Provide a continual restoration and cleanup program as required.

c. *Revamp complete heating system*—designed to eliminate the need for a centralized heating plant and to provide service only to those units programmed for year-round use such as the theatre.

d. *Replacement and/or repair of all existing roof systems.* This step will be necessary to properly preserve the buildings and prevent further deterioration.

e. *New parking lot area.* With the realization of visitor participation an adequate and centralized parking lot will be required. This lot is planned for the south section of the site and will be designed so as to properly correspond with visitor traffic flow and convenience.

f. *Building addition to existing carpenter shop/garage building.* This area has been programmed as one of the primary artifacts historical display areas. It is outside the main prison wall and lends itself to display of non-related prison items. The existing building is 96 x 120 feet and the planned addition is 40 x 96 feet. Old brick would be used on the exterior so as not to destroy the original appearance of that unit.

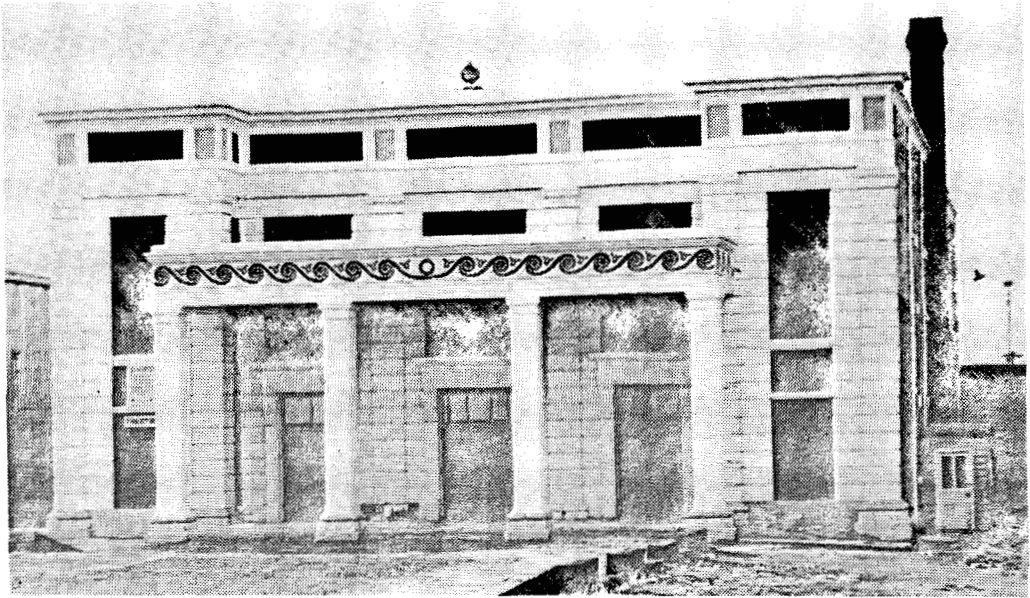
The city fully realizes the costs and additional work required in such planning and is prepared to submit grant requests through the Economic Development Administration and all other agencies available to complete these efforts.

WHEN AND HOW WILL IT BE OPERATED

The Powell County Museum and Arts Foundation and its appointed Board would manage the site for the city of Deer Lodge and make all major operational decisions after acquisition.

If funds from L.P.W. are made available, the city will wait until all mentioned restoration work is completed before total opening. The Historic Site could be functional under these conditions by the spring of 1978. If funds from L.P.W. are not obtained an earlier opening of the site would be necessary for financial survival. A nominal admissions charge must be requested but all admission would serve to provide an on-going restoration program. In either case all profits from admission or whatever source would be put back into the site for restoration, development, leasing or purchase of artifacts etc.

The city has negotiated the leasing of the Ed Towe antique Ford car collection. This collection represents a Montana citizen effort and one of the most attractive and complete collections of cars in the world. The anticipated location of the collection is that area outside of the main prison walls and mentioned as the old garage area. It is felt that this collection would lend itself to the success of the entire site but since it is of a non-prison related nature, would be placed in an area outside of the prison historic area. Deer Lodge is most excited about the acquisition of this collection but wants to make it clear to all legislators its location is being designed to complement itself and the entire prison site yet is not inside the walled structure which will be devoted to its entirety to prison and related artifacts.



SUMMARY

DEER LODGE IS A CITY WITH RESOURCES.

It is one of Montana's oldest and most significant landmarks. The recent establishment of the Grant-Kohrs Ranch historic site by the National Park Service adds credibility to this fact and lends itself prominently to our efforts. The town is located adjacent to Montana's major Interstate Highway and

half-way between Yellowstone and Glacier Parks.

Deer Lodge's plans are to develop the old Prison site to a capacity that will complement the needs and desires of one of Montana's major industries—the tourist. Our plan is just not a plan for Deer Lodge alone but one for all of Montana. **WE URGE YOUR SUPPORT.**

(Copyright Pending)

NAME:

Jim Blodgett

DATE: 3-16-77

ADDRESS:

804 College

PHONE:

846-1429

REPRESENTING WHOM?

Powell Co. Museum + Arts Foundation
+ City of Deer Lodge

APPEARING ON WHICH PROPOSAL:

HB726, HJR 65

DO YOU:

SUPPORT?

☒

AMEND?

OPPOSE?

COMMENTS:

I HAVE INFORMATIONAL BOOKLETS
TO DISTRIBUTE TO COMMITTEE MEMBERS
RE: HB726. I WOULD ALSO LIKE
TO MAKE COMMENTS AND BE AVAILABLE
TO ANSWER ANY QUESTIONS WHICH
COMMITTEE MEMBERS MIGHT HAVE

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HB 726--HJR 65

The Department of State Lands neither opposes nor supports this bill and this resolution. It submits this testimony strictly to attempt to provide the Committee with some background information regarding the applicable law and with the facts of the situation.

HB 726 directs the Board to transfer the Old Prison to the City of Deer Lodge by warranty deed for the sum of \$1. The State Constitution requires any transfer of public lands of the State to be pursuant to general law. HB 726 appears to be a special law rather than a general law. Thus, any transfer pursuant to HB 726 would be subject to challenge. This would not be a desirable situation for anyone, least of all the City of Deer Lodge. The Department feels that HJR 65 is the more appropriate measure because it states the Legislature's intent but cites a general statute, Section 81-803, for the transfer.

The Department notes that HB 494, also being considered by this Committee today, would be a general law if enacted. The "special law" objection to HB 726 might be curable by referencing HB 494 in 726, contingent on 494 being enacted into law.

One final technical note: line 13 of HB 726 should be amended by deleting the words "by warranty deed." This should be done regardless of anything else because the State transfers land by patent rather than by warranty deed.

HB 494

The Department of State Lands supports this bill. According to recent Attorney General's opinions, institutional lands no longer used for institutional purposes are subject to the jurisdiction of the Board of Land Commissioners. The statutes which are currently in the books regarding the Board's authority to sell state lands provide procedures which are very ill suited for dealing with former institutions. For instance, the chapter which deals with sale of state lands, Chapter 9 of Title 81, R.C.M. 1947, provides that the lands must be sold at public auction after notice to the highest bidder. In many cases, the state will want to be able to choose its purchaser for the good of the community in which the former institution is located. Public auction precludes the state from having any choice in the matter of who will be the purchaser. Also, the statutes require that lands within three miles of any town or city must be subdivided into 5-acre plots before sale and sold alternately. This again precludes many options.

The bill is not designed for any one particular institution. At the present time, the Board of Land Commissioners is faced with responsibility for dealing with a former children's center, the old prison (if and when it is no longer used for prison purposes), and the state fairgrounds near Helena.

This bill does not require the Board to dispose of the property; it simply provides a means for disposing of former institutions if the Board, after consulting the legislature, determines that sale or disposition is in the state's best interests.

NAME _____ BILL NO. _____

ADDRESS _____ DATE _____

WHOM DO YOU REPRESENT _____

SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME _____ Bill No. _____
ADDRESS _____ DATE _____
WHOM DO YOU REPRESENT _____
SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I agree. We talk about how the
 school system M.C.C. has provided
 our students could help filling the
 need of our nation. B. Agos could
 help create summer jobs for
 many young people so that
 when B. Agos needs more
 money in order to support
 their school system. As a result
 many important classes are
 being dropped due to
 a skill short. Funds, classes
 that include speech, and
 metal trades, band etc.

164
NAME James Kaighn Bill No. 494
ADDRESS P.O. Box 78 Twin Bridges, Mont 59154 DATE 3/16/11
WHOM DO YOU REPRESENT School - myself
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

I am a senior at T.B. High school
Comments: I represent ~~Twin Bridges~~ Students

*being the institutions grounds of ~~Twin~~ will affect
aid the State of Montana, but also the economy of
Twin Bridges and the school.*

*This will open up many ^{opportunities} ~~jobs~~ to the people who
lost them ^{job} through the closing of Center and also
provide the students with jobs which are
in greatly demand. ^{Need} It is quite obvious, not all
in Twin Bridges are in favor of the sale and
on behalf of the students myself I urge a
dispass on this bill.*

NAME Russell Edwards Bill No. 494
ADDRESS Twin Bridges, Montana DATE 3/16/77
WHOM DO YOU REPRESENT Local Com for Utilization of Mont Childrens
SUPPORT X OPPOSE AMEND Center

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

#5

TO: COMMITTEE ON STATE ADMINISTRATION, MONTANA STATE SENATE
FROM: GEORGE D. REMINGTON
RE: HOUSE BILL 302

Mr. Chairman, Members of the Committee:

My name is George Remington. I am publisher of The Billings Gazette and first vice president of The Montana Press Association.

I am appearing in support of House Bill 302.

This bill, which passed the House of Representatives by the substantial margin of 78 to 18, enhances Montana's Open Meeting Law by giving the public better access to meetings of public agencies. I believe it also will help restore public confidence in government if deliberations are conducted and decisions made in the open rather than in back rooms of governmental office buildings.

House Bill 302 amends the present law by deleting the provision that requires open meetings only when "any action is taken." Surely an informed public should be aware of deliberations that resulted in the action. The Legislature, in committees and on the floor, conducts its deliberations in public. Executive agencies should do likewise.

Another important feature of this bill would require agencies of state government to give a 72-hour notice of meetings. What good is a public meeting if the public is not made aware of it?

Also beneficial is a requirement that minutes must be kept of open meetings, and contents of the minutes are specified. This assures a public record, even though the public or the press is not in attendance at a meeting.

In keeping with the spirit of the State Constitution, the presiding officer retains the authority to close a meeting if he determines that "the demands of individual privacy clearly exceed the merits of public disclosure."

However, House Bill 302 amends the present law to allow the individual concerned to waive his right of privacy if he or she wishes the matter to be heard in open session. This is a protection against star-chamber proceedings by public agencies.

There is a provision in this bill to permit closing a meeting to discuss strategy in collective bargaining or litigation. I have no argument with this. It seems only fair as long as the other side in collective bargaining or litigation can develop its strategy in privacy.

I am sure this committee agrees that an informed and enlightened public promotes more responsible and accountable government and for that reason will give its approval to House Bill 302.

Montana Press Association and

Montana Advertising Services, Inc.

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ANACONDA LEADER

FIRST VICE PRESIDENT:
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SECRETARY: LARRY BOWLER,
DANIELS COUNTY LEADER

March 7, 1977

Statement on HB 302

My name is Sam Gilluly and I am Secretary-Manager of the Montana Press Association an organization of 77 newspapers in Montana.

HB 302 will improve the people's right-to-know and thus provide more open government.

What it does is really what has been done by you as legislators in the last few years. I refer to the first legislative session I covered in 1961, as compared with this session and those in recent years. You have made your proceedings much more open and accessible to the public.

I can recall the time when it was sometimes difficult to find out when a committee was meeting or even, sometimes, where it was meeting. I can also recall so-called executive sessions that were actually cover-ups.

In Montana, the problem of open meetings is a continuing and serious one both for the press and the public. This legislation should and will help improve the situation.

One other witness representing the Montana Press Association was unable to be here because he was called for jury duty in Great Falls this morning. He is Mr. William James, Editor of the Great Falls Tribune. Mr. James expressed his thoughts on HB 302 (and on another bill) in his column Sunday morning. I am attaching a clipping of his statement.

I ask for your support and approval of HB 302.

Letter FROM the Publisher

The public has the right to know

Two bills concerning the right of the public to obtain information it wouldn't get if there weren't a free press are scheduled for Senate committee hearings this week.

HB 302, sponsored by Rep. Mike Meloy, D-Helena, would revise the Montana open meeting law. The bill would strengthen the right of the press to cover meetings of interest to the public.

THE BILL, supported in House hearings by the Montana Broadcasters Association as well as the Montana Press Association, passed the House by a 78 to 18 margin. A Senate committee hearing is scheduled on the bill Monday morning.

The bill is of vital interest to the public because it allows the press, acting as a representative of the public, to report what government agencies and committees are doing.

A survey conducted by the Montana Press Association in 1971 revealed that it was common in Montana for many government branches to try to hide information that belonged to the public. Until the press started screaming that state laws requiring open records and open meetings were being ignored, city, county and school meetings frequently were secret.

ANOTHER IMPORTANT BILL, HB 116, sponsored by Rep. Dorothy Bradley, D-Butte, also was passed by the House and is scheduled for a Senate committee hearing Thursday morning.

That bill strengthens the state's present shield law which says newsmen do not have to disclose the source of their information for stories. HB 116 would expand the shield law by saying that if a reporter discloses some information, he would not have to disclose it all.

A shield law is considered of major importance by the press. Many cases of corruption in government would never have been disclosed to the public if people giving tips about the corruption had not known reporters would protect their sources. In recent years, numerous reporters have gone to jail to protect that principle.

AN EXCELLENT explanation of why a free press is needed to inform the public was presented a few years ago by U.S. Sen. Lowell Weicker Jr., R-Conn. Talking about a bill he introduced to protect the free flow of information to the public by allowing the press to protect sources, Weicker said:

"This legislation is not a newsman's privilege law—though that's what it may be called by some—because it's not for newsmen. It's for the American public."

If newsmen are forced to reveal their sources, Weicker said, there is every danger that some of those sources will dry up. "That will infringe upon your right to hear the full story," he added. "That is what we are protecting. We are protecting a constitutional right—not somebody's privilege."

Weicker continued that it is the public interest to see that the work of America is out in the open. "The news media, with their unique status, are virtually the only ombudsman the public has. It is the role of the journalist to probe, to dig, to exhume suppressed information, to expose dishonesty and corruption, to highlight good. The free flow of news from many sources through many people is the best guarantee that nobody steals America."

William D. James

NAME: ROBERT C. MCGIFFERT DATE: 3/16/76

ADDRESS: 132 KING ST, MISSOULA

PHONE: 549-8672

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: HB 302

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Statement attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

James P. McInerney

My interest in this bill is partly an ex-newspaperman's interest, forged in many ^{confrontations} battles with local officials over secret meetings disguised as committee conferences or barbecues or cocktail parties, and I am happy to line up with the Press Association ^{and the Broadcasters Association} and to endorse the views expressed by Sam Gilluly and Ron Semple and George Remington ^{and Buck Casdell}

But ~~it's~~ ^{it's} also a citizen's interest, rooted in concern over the growing power ^{and complexity} of government and the increasingly difficult problem of keeping informed about what ^{government's} ~~its~~ agents ~~are doing~~ ^{are doing} ~~my agents, actually~~ are doing.

The press is naturally and properly the ~~primary~~ most noticeable advocate of stronger access laws at all levels, but it is not merely mouthing a shibboleth when it says that it is really defending the people's right to know.

Secrecy is as old as government and there's hardly a courthouse or city hall or school administration building anywhere in the country that can't provide horror stories about public servants ^{trying} ~~trying~~ to keep the details of their public service ^{hidden} from the public they serve.

The battle for openness will never be won, but it will surely be lost if we don't keep fighting it. And in Montana we may have to fight just a little harder than elsewhere because of the well-intentioned but insidiously corrosive language in which the 1972 Constitution ^{where} ~~this it did~~ ^{it provided} ~~of course, by providing~~ for public exclusion from meetings and records whenever the demand for individual privacy clearly exceeds the merits of public disclosure.

The bill before you won't stop shenanigans like these, but
it will help.

NAME:

Jacqueline S. Giffert

DATE:

3/16/77

ADDRESS:

432 King Mission

PHONE:

549-8672

REPRESENTING WHOM?

self

APPEARING ON WHICH PROPOSAL:

HB 302

DO YOU: SUPPORT?

☒

AMEND?

OPPOSE?

COMMENTS:

As a member of the Missoula City Council and the Missoula City-County Board of Health, I support the strongest possible open meeting clause. In my experience, public officials ~~who~~ who would prefer to conduct business as discreetly as possible choose that course mostly through fear of possible embarrassment. But I feel that if you don't want public scrutiny, you shouldn't hold public office. Lastly, I find that those officials who are most wary of full coverage ^{often} see that coverage ^{simply} ~~is~~ as enlightening the paper or the reporter rather than the public. Had someone when ~~an~~ officials dislike a reporter ~~even a matter of personal animosity~~, they see submitting the reporter as merely that. Not as keeping citizens from knowing what's going on. ^{the more} I find that ~~when~~ you think of your business as the public's business, the easier and more natural it is to keep everything open.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

48

montana broadcasters association

March 7, 1977

STATEMENT TO THE SENATE COMMITTEE
ON STATE ADMINISTRATION

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS WILLIAM A. MERRICK. I AM A REGISTERED LOBBYIST FOR THE MONTANA BROADCASTERS ASSOCIATION. MEMBERSHIP OF THIS ASSOCIATION INCLUDES 75% OF THE RADIO AND TELEVISION STATIONS IN MONTANA....48 STATIONS IN ALL.

THE IMPROVEMENTS TO THE PRESENT OPEN MEETING LAW SET OUT IN THIS BILL BEFORE YOUR COMMITTEE ARE NEEDED TO IMPROVE ACCESS TO NEWS PERSONNEL AS A LINK TO THE PUBLIC.

BROADCAST NEWS PEOPLE HAVE HAD PROBLEMS IN REPORTING MEETINGS IN MONTANA. UNANNOUNCED OR RUMP SESSIONS HAVE BEEN USED TO DISCUSS THE ISSUES AND AFTERWARD TOKEN MEETINGS ARE USED TO COMPLY WITH PRESENT LAW. THIS METHOD KEEPS THE REAL FACTS FROM GETTING REPORTED IN MOST CASES.

IF THE PUBLIC THAT MUST ULTIMATELY STAND IN JUDGEMENT OF GOVERNMENT ARE KEPT IN THE DARK, WE HAVE LOST OUR DEMOCRATIC FORM OF GOVERNMENT. BROADCAST NEWS PEOPLE ARE CHARGED WITH THE RESPONSIBILITY OF BEING THE EYES AND EARS OF THE PUBLIC. HB302 WILL IMPROVE THESE CHANNELS OF COMMUNICATION BETWEEN THE CITIZENS OF MONTANA AND THEIR GOVERNMENT.

WE STRONGLY FAVOR THE PASSAGE OF HB 302.

I WOULD LIKE TO SUGGEST THAT THE PORTION OF THIS BILL THAT WAS AMENDED OUT IN THE HOUSE PROCEEDINGS BE REINSTATED. THIS IS THE PORTION WHICH REFERS TO PERMITTING TAPE RECORDING OF OPEN MEETINGS. I WOULD ALSO LIKE TO SUGGEST A FOUR WORD AMENDMENT ON PAGE 4, LINE 6, IN WHICH THE FOUR WORDS "BY RADIO OR TELEVISION" BE INSERTED AFTER THE WORD "GIVEN". THIS WOULD NOT CHANGE THE SECTION BUT WOULD CLARIFY IT FOR PEOPLE WHO READ THE BILL IN THE FUTURE.

9

MY NAME IS MARILYN WESSEL AND I AM THE NEWS DIRECTOR AT KRMH RADIO IN BOZEMAN. I STRONGLY SUPPORT THE AMENDED OPEN MEETING LAW BEFORE YOU.

THE PREVIOUS BILL WHICH WE HAD ALL SUPPOSED TO BE VERY DEFECTIVE DOES HAVE A SIGNIFICANT LOOPHOLE WHICH THIS VERSION DOES NOT AVOID.

LET ME GIVE YOU AN EXAMPLE OF HOW THAT LOOPHOLE HAS BEEN USED. ON JANUARY 19 OF THIS YEAR, THE BOZEMAN CITY COMMISSION CHOSE TO EXCLUDE THE PUBLIC AND THE MEDIA FROM A CRITICAL INFORMATION MEETING INVOLVING SEVERAL MILLION DOLLARS IN FEDERAL AND LOCAL TAX MONEY FOR A WASTEWATER TREATMENT PLANT IN GALLATIN COUNTY.

THE PUBLIC REASON WAS THAT NO ACTION WOULD BE TAKEN AT THE MEETING AND AS SPECIFIED IN THE OLD LAW, IT WAS LEGAL TO CLOSE THE SESSION. PRIVATELY OFFICIALS SAID THE TREATMENT PLANT HAD BEEN A HOTLY CONTESTED ISSUE FOR MORE THAN TWO YEARS AND THEY WERE AFRAID PUBLIC PARTICIPATION WOULD OPEN UP OLD WOUNDS.

THE OTHER OF THE SECRET MEETING WAS THAT ONE OF THE PARTICIPATING SCIENTISTS CALLED IN AFTERWARDS AND EXPRESSED DELAY AT THE REASONS FOR CLOSING THE MEETING. HE SAID HE THOUGHT IT WAS CRITICAL THAT THE PUBLIC UNDERSTAND THE TECHNICAL SIDE OF SUCH COSTLY ISSUES AND HE ASKED FOR A RADIO FORUM TO EXPLAIN WHAT HAD GONE ON.

UNFORTUNATELY THAT IS NOT AN ISOLATED INCIDENT. OUR CITY COMMISSION ALSO USES THE SAME LOOPHOLE TO JUSTIFY WEEKLY PRIVATE LUNCHEONS PRECEEDING THE REGULAR MEETING AT WHICH THEY DISCUSS CRITICAL AGENDA ITEMS.

TO THE EXTENT THAT THE BILL BEFORE YOU CAN ELIMINATE THAT LOOPHOLE WHICH I BELIEVE VIOLATES THE SPIRIT OF THE LAW, I SUPPORT IT---WITH ONE RESERVATION.

PLEASE CONSIDER SERIOUSLY RESTORING THE SECTION WHICH ALLOWS BROADCAST REPORTERS TO USE THEIR TAPE RECORDERS IN PUBLIC MEETINGS. TO USE A RECORDER IS A TOOL OF THE TRADE AS WELL AS A NEWS PAPER REPORTERS NOTEBOOK AND FAR MORE ACCURATE.

Thank you.

March 16, 1977
Testimony for the
Senate Committee on
Administration

•Butte

NEWSPAPERS
GET THINGS
DONE



The Montana Standard

25 WEST GRANITE ST. P.O. BOX 627 BUTTE MONTANA 59701

PHONE 406-784-1101

BERT GASKILL
Editor

16 March, 1977

To: Members of the Montana Senate
Re: Open meeting law

The Senate should join the House in approval of HB302, the revised open meeting law.

It appears to be a strengthening of the public's right to know, and that is our only concern.

We have used the present law on many occasions to open doors at meetings that members of public bodies have tried to keep closed.

All of our reporters carry copies of the present law. Reading the law, when needed, has resulted generally in opening proposed closed sessions.

We respect the right of privacy for the individual.

But, we believe there can be no blanket law on privacy. Each proposed closure of any hearing on the basis of privacy must be weighed carefully. HB302 apparently will give the presiding officer this responsibility.

Therefore, we assume the public's rights will be uppermost in the decision, and will hope there are few, if any, closed meetings.

We respectfully request passage of HB302 in the Senate, and urge that it become law.

Bert Gaskill