

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 7, 1985

The tenth meeting of the Local Government Committee was called to order at 1:00 p.m. on February 7, 1985 by Chairman Dave Fuller in Room 405 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 180: Senator Fred Van Valkenburg, District #30, is the sponsor of this bill. The bill was introduced to change the name of the county preliminary budget to the county proposed budget; change the dates for preparation of a county proposed budget; increase the number of times it must be published; and delete the requirement that it must be transmitted to the Departments of Commerce and Revenue.

PROPOSERS

Joanne Peres, President of the Montana Association of Clerk and Recorders, spoke in favor of the bill. She said that the budget process is in a constant state of flux from June to August and actual cash on hand cannot be figured properly until after June 30. This bill would give plenty of time for budget preparation prior to August.

Don Dooley, representing the Department of Commerce, spoke in favor of the bill. He said the preliminary budget is a planning tool but is often done without using final figures because of the deadline.

OPPOSERS

There were no opposers to SB 180.

Questions from the Committee were called for. There were no questions from the Committee on SB 180.

ACTION TAKEN ON SENATE BILL 180: Senator Pinsoneault moved the Committee recommend a DO PASS on SB 180. The motion passed unanimously.

CONSIDERATION OF SENATE BILL 181: Senator Jack Haffey, District #33, is the sponsor of this bill. The bill was introduced at the request of the Lieutenant Governor's Office. The bill was introduced to generally revise and clarify provisions relating to local government study commissions; provide procedures for handling tie votes and write-in candidates for election to a study commission; provide for appointment of ex officio members; clarify provisions relating to vacancies in office; and provide that recommendations for service consolidations and transfers may be made to the electorate. Senator Haffey submitted proposed amendments to the bill. They are attached as Exhibit A to these minutes.

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PROPONENTS

Larry Akey, Chief Deputy to the Secretary of State, spoke in favor of the bill. He said they had a large number of calls during the last election about the lack of clarity in the statute regarding local government study commissions.

Marie Macalear, Madison County Commissioner, spoke in favor of the bill. She said, after doing research on these statutes, the needs for local government study commissions became obvious.

OPPONENTS

There were no opponents to SB 181.

Questions from the Committee were called for.

Senator Mohar brought up that the proposed amendment number two was incorrect. It was noted and corrected.

The hearing was closed on SB 181.

ACTION TAKEN ON SENATE BILL 181: Senator Eck moved the Committee adopt the proposed amendments to SB 181 as corrected. The motion passed unanimously.

Senator Eck then moved the Committee recommend a DO PASS as amended on SB 181. The motion passed unanimously.

CONSIDERATION OF SENATE BILL 204: Senator Joe Mazurek, District #23, is the sponsor of this bill. The bill was introduced to include county park and recreational complex funding with funding for certain county cultural, social, and recreational facilities; provide that the two mill property tax funding for such parks and facilities must be initiated by petition and approved by the electorate; and provide an exception for currently levied taxes.

Senator Maxurek explained that he was not aware of the requirement in the bill to have the two mill property tax funding initiated by petition and approved by vote. He said he would be willing to work on an amendment to make the two mill levy permissive or vote it in. He submitted proposed amendments to the bill, which are attached as Exhibit B to these minutes.

PROPONENTS

Robert Ryan, member of the legislative committee for the Lewis and Clark County Park Commission, spoke in favor of the bill. His written testimony is attached as Exhibit C to these minutes.

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Linda Stoll Anderson, Lewis and Clark County Commissioner, spoke in favor of the bill. Her written testimony is attached as Exhibit D to these minutes.

Bob Murdo, member of the Lewis and Clark County Parks Board, spoke in favor of the bill. He distributed a 1984 County Parks Board Survey and sections of the Montana Code which are attached as Exhibit E to these minutes. He explained the different methods that various counties now use to maintain parks.

Gordon Morris, representing the Montana Association of Counties, spoke in favor of the bill. He stated the levy in the bill should be identified as a "county only levy"; that parks should be funded out of county levies only. He would be willing to work on preparing an amendment to that effect.

Charlie Poole, representing the Lewis and Clark County Parks Board, spoke in favor of the bill. He said ninety percent of the situations they deal with relate to maintenance.

Dave Conklin, representing the Lewis and Clark County Parks Board, spoke in favor of the bill. He said, whether the levy in the bill is permissive or voted, the funding needs to be obtained to keep county park programs going. He stated a lot of county parks are now funded with federal funds and those funds are drying up. They are reluctant to develop any additional parks because of the problem of finding maintenance funds.

OPPONENTS

There were no opponents to SB 204.

Questions from the Committee were called for.

Senator Eck asked Senator Mazurek if they couldn't just give the counties the authority to provide the mill levies rather than have it go to a vote. Senator Mazurek explained that this is the problem with the bill and he will work on amending it.

Senator Mohar expressed his concern that different towns would be taxed and then unable to use the parks that are not in their area. Senator Mazurek said that most parks are used only by city residents because the parks are on the edge of town.

Senator Crippen asked if parks were a part of the general mill levy bill proposed by Senator Halligan. Mr. Morris said they are included in that bill.

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Senator McCallum stated that, if Senator Halligan's bill were adopted, the county commissioners would be able to budget as many mills as they want (up to the fifteen mill level) for parks.

The hearing was closed on SB 204.

FURTHER CONSIDERATION OF SENATE BILL 88: Karen Renne explained the amendments to SB 88 that would require the money contributed by the State, to be returned to the State and, the remainder to go to the subsequent pension fund. The proposed amendments are attached as Exhibit F to these minutes.

Senator Fuller and other senators asked that the bill be amended so that the money contributed by the city would go to the city general fund rather than to the subsequent pension fund.

ACTION TAKEN ON SENATE BILL 88: Senator Crippen moved the proposed amendments as corrected be adopted. The motion passed unanimously.

Senator McCallum suggested that a line be added to direct the State Auditor to find out exactly how much money was contributed by the State.

Senator Eck moved the new amendment as suggested by Senator McCallum be adopted. The motion passed unanimously.

Senator Eck moved the Committee recommend a DO PASS as amended on SB 88. The motion passed unanimously.

FURTHER CONSIDERATION OF SENATE BILL 130: Senator Fuller proposed an amendment to include sheriffs' standard notices in the bill. Karen Renne will prepare the proposed amendment.

Senator Regan moved the Committee adopt a proposed amendment to include an effective date of July 1, 1985, in the bill. The motion passed unanimously.

ACTION TAKEN ON SENATE BILL 127: Senator Regan moved the Committee recommend a DO PASS as amended on SB 127. The motion failed with Senators Mohar, Regan, Crippen, and Eck voting yes and Senators Pinsoneault, Story, McCallum, Hirsch, Fuller, and Harding voting no. The bill was therefore killed. Senator Story will carry the Adverse Committee Report.

FURTHER CONSIDERATION OF SENATE BILL 116: Senator Fuller suggested Karen Renne look into what other county salary bills there are and suggested looking into the possibility of doing one bill regarding base county salaries that would consolidate all of the other bills.

The meeting adjourned at 2:30 p.m.


Senator Dave Fuller, Chairman

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

49th
LEGISLATIVE SESSION -- 1985

Date 02-07-85

SENATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
13 Senator Crippen, Bruce	✓		
18 Senator Eck, Dorothy	✓		
11 Senator Harding, Ethel	✓		
47 Senator Hirsch, Les	✓		
4 Senator McCallum, George	✓		
28 Senator Mohar, John (V.Chair)	✓		
44 Senator Pinsoneault, Dick	✓		
19 Senator Regan, Pat	✓		
21 Senator Story, Pete	✓		
43 Senator Fuller, Dave (Chair)	✓		

Each day attach to minutes.

DATE 02-07-85

COMMITTEE ON LOCAL GOVERNMENT

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

Page 1 of 2 Pages

February 7

85

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on

SENATE BILL

having had under consideration

No.

88

FIRST

WHITE

reading copy ()

color

PERMITTING TRANSFER OF MONEY IN POLICE RETIREMENT FUND TO CITY GENERAL FUND

Respectfully report as follows: That

SENATE BILL

No. 88

be amended as follows:

1. Title, line 4.
Following: "ENTITLED: "AN ACT"
Strike: "PERMITTING"
Insert: "REQUIRING"
2. Title, line 5.
Following: "FUND"
Insert: ", TO PAY THE STATE'S PRIOR CONTRIBUTIONS TO
THE GENERAL FUND,"
3. Title, line 6.
Following: "TRANSFER"
Insert: "ANY"
Following: "MONEY"
Strike: "CONTAINED"
Insert: "REMAINING"
4. Page 1, line 18.
Following: "(2)"
Strike: "If"
Insert: "When"
Following: "city"
Insert: "or town"

~~XXXXXX~~

DO NOT PASS

~~XXXXXXXX~~

DO NOT PASS

TEXT CONTINUED NEXT PAGE

Chairman.

February 7

85

19.....

5. Page 1, line 20.
Following: "and"
Strike: "if"
Insert: "when"
6. Page 1, lines 22 and 23.
Following: "city"
Strike: "may"
Insert: "or town shall"
Following: "and"
Strike: remainder of line 22 through "it" in line 23
Insert: "pay to the state auditor, for deposit in the
general fund, an amount proportional to the prior
contributions made by the state under 19-10-305,
as determined by the state auditor. Any remaining
money in the fund must be transferred"

AND AS AMENDEDDO PASS.....
Senator Dave Puffler, Chairman

STANDING COMMITTEE REPORT

February 7

19 35

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

SENATE BILL

127

having had under consideration.....

No.....

FIRST

WHITE

reading copy ()
color

ALLOCATING PART OF FOREST RESERVE MONEY FOR CITY OR TOWN STREETS

SENATE BILL

127

Respectfully report as follows: That.....

No.....

be amended as follows:

1. Page 1, line 19.
Following: "receiving"
Insert: full payment of the

AND AS AMENDED

XXXXX
DO PASS

DO NOT PASS

Senator Dave Fuller

Chairman.

STANDING COMMITTEE REPORT

February 7

85

19.....

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

SENATE BILL

having had under consideration..... No. **180**

FIRST

WHITE

reading copy ()
color

**COUNTY PROPOSED BUDGET - TERMINOLOGY, PUBLICATION, AND
PREPARATION DATES**

SENATE BILL

Respectfully report as follows: That..... No. **180**

DO PASS

~~XXXXXXX~~
~~DO NOT PASS~~

.....
Senator Dave Fuller

Chairman.

STANDING COMMITTEE REPORT

February 7

1985

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on

SENATE BILL

having had under consideration

No. 181

FIRST

reading copy (WHITE)
color

LOCAL GOVERNMENT STUDY COMMISSIONS - REVISION AND CLARIFICATION

SENATE BILL

181

Respectfully report as follows: That

No.

be amended as follows:

1. Title, line 13.
Following: "7-3-187,"
Insert: "7-3-190,"
2. Page 6, line 25.
Following: "file"
Strike: "one copy"
Insert: "two copies"
3. Page 7, line 1.
Following: "commerce"
Insert: ", one of which the Department shall forward to
the State Library"
4. Page 7, line 14.
Following: line 13
Insert: "Section 6. Section 7-3-190, MCA, is amended to read:

"7-3-190. Supplementary reports. A study commission may prepare separate reports in addition to its final report. These reports may recommend consolidation of services and functions and indicate potential areas for interlocal agreements. Such reports shall be submitted to all appropriate governing bodies for reaction within one year."

AND AS AMENDED

DO PASS

Renumber: subsequent section

~~XXXXXXXXXX~~
~~DO NOT PASS~~

Senator Dave Fuller

Chairman.

Passed 2/6

PROPOSED AMENDMENTS TO SB 181

1. Page 6, line 25.
Following: "file"
Strike: "one copy"
Insert: "two copies"
2. Page 7, line ~~1~~ *2*. ~~Following line 1~~
Strike: ~~"administration"~~
Insert: "commerce, one of which the department shall forward to
the state library"
3. Page 7, line 14.
Following: line 13
Insert: "Section 6. Section 7-3-190, MCA, is amended to read:
"7-3-190. **Supplementary reports.** A study commission may prepare
separate reports in addition to its final report. These reports may recommend
consolidation of services and functions and indicate potential areas for
interlocal agreements.
such reports shall be submitted to
all appropriate governing bodies for reaction within one year." "
Renumber: subsequent sections.

2. Page 7, lines 1 and 2.

Following: "Commerce" in line 1

Insert: ", one of which the
department shall forward to
the state library."

LOCAL GOVERNMENT COMMITTEE

FEBRUARY 7, 1985

EXHIBIT B

SENATOR MAZUREK'S PROPOSED AMENDMENTS TO SB 204:

1. Page 1, line 25.

Following: "parks"

Insert: ", cultural facilities,"

2. Page 3, line 11.

Following: "center,"

Insert: "cultural facility,"

LOCAL GOVERNMENT COMMITTEE
FEBRUARY 7, 1985
EXHIBIT C

ROBERT RYAN



TO: SENATE LOCAL GOVERNMENT COMMITTEE
FROM: L. & C. CO. PARKS LEGISLATIVE COMMITTEE
RE: S.B.204 FUNDING AUTHORITY FOR COUNTY PARKS

Mr. Chairman, members of the committee,

My name is Robert Ryan and I am a member of the legislative committee for the Lewis and Clark County Park Commission.

The purpose of S.B.204 is to clarify the existing park laws and to provide a tool by which on a county option, as the need arises, for a means to finance the Operation and Maintenance of County parks. In the past the existing law pretty much left it up to the opinion of the individual County Attorneys whether it was legal to impose a mill levy for this purpose.

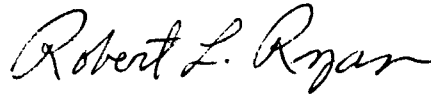
Then on April 25th 1984 on a request from the County Attorney of Yellowstone County the Attorney Generals office issued an opinion, # 49, that under the existing laws a mill levy was not legal to fund the Operation and Maintenance of county parks. Revenues from the sale of land, cash donations, and money in lieu of park land dedication from subdivisions were restricted and could only be used to buy additional park lands or for initial development of parks. These funds could not be used for the Operation and Maintenance of these parks.

He did find however that under existing laws County Commissioners could fund Operation and Maintenance out of the general fund. During the thirteen years that I served on the Lewis and Clark County Board of Park Commissioners I had the pleasure of working with thirteen different County Commissioners over this period and not one would fund county parks out of the General Fund. The reason being, the many other things with higher priority that must be funded from the General Fund. By the time these obligations were met there just was never any monies for park funding. Many many times during my tenure on the Park Board people would come to the Board requesting that a park be developed in their area, and just could not except as taxpayers why

there were no funds available for development and maintenance of such parks. As a result their requests had to have limited development money from Revenue Sharing Funds, but no monies for long term maintenance, or refused by the Board.

Senate Bill # 204 would give a County Parks Board the means to take the question of funding for County Parks to the electors of a County and they would decide whether they wanted to fund a County Parks Program.

Thank you for your consideration on this matter.

A handwritten signature in cursive script that reads "Robert L. Ryan". The signature is written in dark ink and is positioned above the printed name.

Mr. Robert L. Ryan

COUNTY GOVERNMENT - County park board funding and administration of finances;

PARKS - Funding from county general fund;

PARKS - Separation of restricted and unrestricted county park revenues;

PUBLIC FUNDS - Interest credited to county general fund;

PUBLIC FUNDS - Separation of restricted and unrestricted county park revenues;

TAXATION AND REVENUE - Authority to levy special tax for county park fund;

MONTANA CODE ANNOTATED - Sections 7-6-204, 7-6-2311 to 7-6-2321, 7-6-2501, 7-6-2511, 7-6-2512, 7-16-2102, 7-16-2108, 7-16-2205, 7-16-2301, 7-16-2302, 7-16-2321, 7-16-2324, 7-16-2327, 7-16-2328, 7-16-2329, 76-3-606.

- HELD: 1. A county park board does not have the authority to levy a special tax for park purposes.
2. The funding for the county park board's obligations is derived from the county general fund as well as from other specific sources as enumerated by sections 7-16-2328, 7-16-2324 and 76-3-606, MCA.
3. Revenues from sale of lands and cash donations are restricted in use and should be separated from unrestricted revenues within the park fund through acceptable accounting procedures.
4. Interest earned from the deposit or investment of the park fund must be credited to the county general fund.

25 April 1984

Harold P. Hanser, Esq.
Yellowstone County Attorney
Yellowstone County Courthouse
Billings MT 59101

Dear Mr. Hanser:

(2)

You have requested my opinion on several questions relating to the funding and management of finances of county park boards, as follows:

1. Is a county park board, formed pursuant to Title 7, chapter 16, part 23, MCA, limited in its spending authority to the proceeds arising from "the sale of hay, trees, or plants or from the use of or leasing of lands and facilities," or may such board submit an annual budget request in excess of such nontax revenues, funding the excess with a special ad valorem tax mill levy? If a mill levy is authorized, is there any limit to the number of mills which may be levied for park purposes?
2. Are the general fund and park board fund methods of funding county park operations mutually exclusive, or may they be utilized in combination?
3. In order to effectively administer the mandates of sections 76-3-606(2) and 7-16-2324(4), MCA, may either a board of county commissioners or a county park board create a separate fund apart from the park board operating fund, to account for revenues whose use is restricted to "the purchase of additional lands or for the initial development of parks and playgrounds"?
4. Assuming that the restricted cash in lieu of dedication and land sale revenue can be invested, must the interest earned be used only for the purchase or initial development of parks, or could the interest be used to fund the park board's operations?

A county park board created pursuant to Title 7, chapter 16, part 23, MCA, is a department of county government with powers specifically provided by statute. § 7-16-2301, MCA. The park board consists of the county commissioners and six other persons. § 7-16-2302, MCA. The park board is authorized to pay all obligations arising from the performance of its statutory duties and may also incur an indebtedness on behalf of the county. §§ 7-16-2321, 7-16-2327, MCA.

You wish to know whether the county park board is authorized to levy a separate tax to finance its obligations. The relevant statutes provide:

All money raised by tax for park purposes or received by the board of park commissioners from the sale of hay, trees, or plants or from the use of or leasing of lands and facilities shall be paid into the county treasury. The county treasurer shall keep all such money in a separate fund to be known as the park fund. [§ 7-16-2328, MCA.]

3

The board of park commissioners shall have no power to incur liability on behalf of the county in excess of money on hand in or taxes actually levied for said park fund.
[§ 7-16-2329, MCA.]

(Emphasis added.)

Before a governing body may impose a tax, it must have clear and specific authority providing for the imposition of that tax. Burlington Northern v. Flathead County, 176 Mont. 9, 575 P.2d 912 (1978). Tax statutes are strictly construed against the taxing authorities and in favor of the taxpayer. Id. Usually the Legislature expressly and specifically gives authority for special tax levies and sets specific mill limits on such special taxes. See, e.g., §§ 7-6-2511, 7-6-2512, 7-16-2102, 7-16-2108, 7-16-2205, MCA. While the Legislature need not use the words "authorized to levy a tax," it must do more than merely refer to a special fund. Burlington Northern v. Flathead County, supra. In Burlington Northern, the Montana Supreme Court held that a special tax was authorized by statutes which directed the county superintendent to determine the retirement fund levy requirement and to "fix and set" the retirement fund levy. The park board law does not meet the degree of specificity required by Montana law to authorize the imposition of a separate tax. The statutes in question merely allow the county treasurer to establish a separate fund for park purposes.

While a separate tax for park purposes has not been authorized by the Legislature, it is clear that the Legislature did not intend to limit the park fund to the money raised by sale of hay, trees or plants or by lease of lands and facilities. Such a construction would render meaningless the references in sections 7-16-2328 to 2329, MCA, to moneys raised by tax for park purposes. It is presumed that the Legislature does not pass meaningless legislation, and statutes relating to the same subject are to be harmonized, giving effect to each. Crist v. Segna, 38 St. Rptr. 150, 622 P.2d 1028 (1981). The park board law must be read together with the county budget law, Title 7, chapter 6, part 23, MCA. As a department of county government, the county park board must file estimates of probable revenues from sources other than taxation and of all expenditures required for the next fiscal year. § 7-6-2311, MCA. Based upon this information from all departments, the county commissioners prepare the budget, determine the amount to be raised by tax for each fund, and fix the general tax levy. §§ 7-6-2311 to 2321, MCA. Since a specific separate tax levy is not authorized for the park fund, additional money must be appropriated from the county general fund authorized by section 7-6-2501, MCA, if the revenue from sources other than taxation is insufficient to meet the necessary expenditures.

Your third and fourth questions concern the administration of certain restricted revenues raised from sale of park lands and from cash donations in lieu of dedication of land for park purposes pursuant to sections 7-16-2324 and 76-3-606, MCA. Revenues from these sources are restricted in use to the sole purpose of the purchase of additional lands or the initial development of parks and playgrounds. §§ 7-16-2324(4)

(4)

and 76-3-606(2), MCA. While these revenues are a part of the park fund, they should be separated from unrestricted park fund revenues, either through separate bank accounts or through acceptable accounting procedures, so that the restricted revenues are used solely for the authorized purpose. The interest earned from the deposit or investment of the restricted and unrestricted portions of the park fund must be credited to the general county fund in accordance with section 7-6-204(1), MCA.

THEREFORE, IT IS MY OPINION:

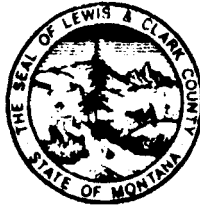
- ✓ 1. A county park board does not have the authority to levy a special tax for park purposes.
2. The funding for the county park board's obligations is derived from the county general fund as well as from other specific sources as enumerated by sections 7-16-2328, 7-16-2324 and 76-3-606, MCA.
3. Revenues from sale of lands and cash donations are restricted in use and should be separated from unrestricted revenues within the park fund through acceptable accounting procedures.
4. Interest earned from the deposit or investment of the park fund must be credited to the county general fund.

Very truly yours,


MIKE GREELY
Attorney General

MG/PS/sh

Mike McGrath
County Attorney



Courthouse
228 Broadway
Helena, Montana 59601
Telephone 406/443-1010

LEWIS AND CLARK COUNTY

Office of the County Attorney

January 11, 1984

Mr. Bob Ryan
County Buildings Supervisor
Courthouse
Helena, MT 59601

Dear Bob:

You have asked my opinion on whether a recreation center as listed in Section 7-16-2102, MCA can include a complex similar to Ryan Park, where facilities are provided for softball, football, running and other outdoor sports and recreational pursuits.

Section 7-16-2102, MCA provides that the Board of County Commissioners may levy up to 2 mills each year for the purpose of maintaining, operating and equipping a county-owned civic center, youth center or recreation center. The statute does not define the term "recreation center." It is my opinion that the term can include a complex like Ryan Park.

The question you present requires application of an established rule of statutory construction. Legislative intent must first be determined from the plain meaning of the words used in the statute. Dunfy v. Anaconda Company, 151 Mont. 76, 438 P.2d 660 (1968). Both the terms "recreation" and "center" are defined in Funk and Wagnall's Standard College Dictionary. That volume defines recreation as "any pleasurable exercise or occupation; recreation of body or mind; diversion; amusement." The pertinent definition of center provides: "a place or point at which activity is concentrated or toward which people seem to converge." Taking those definitions at face value it appears to me that Ryan Park qualifies as a recreation center. Thus, the provisions of Section 7-16-2102, MCA allowing for a levy up to 2 mills for operation and maintenance of a recreation center could be applied, at the discretion of the Board of County Commissioners, to the operation and maintenance of Ryan Park.

Very truly yours,

MIKE McGRATH
County Attorney

MM/sj

c Board of County Commissioners

County parks director resigns in frustration

By BILL SKIDMORE
IR Staff Writer

Bob Ryan, the moving force behind park development in the county for more than a decade, has resigned his job as county park supervisor in frustration.

He said the frustration involved the county's continuing lack of money for park development — and especially the County Commission's refusal to levy a two-mill tax for parks.

Ironically, his resignation may spark an initiative drive to get such a tax on the ballot.

Ryan's letter of resignation, given to the Board of Park Commissioners Wednesday evening, said the board "has lost its purpose due to the present commission's feeling toward funding tax



Ryan: fed up

moneys for capital improvements to parks." He said funds automatically received from subdivision developers for park land simply aren't enough to do the job.

Ryan called for the petition drive to get the question of tax levies for parks on the ballot. Ryan said it is his "firm belief" that voters would support it.

County Commissioner Linda Anderson said she doesn't object to the idea of an initiative to find out how county residents might respond to the concept. "I don't think anybody disagrees with that," she said.

But, she said, there was no way the commission was going to impose a new tax by itself when the only person asking for it was Ryan himself.

"It needs more support than that," she said. "There's been no groundswell of public support, and no concrete proposals," she said. "You don't just want to levy two mills without knowing what you do with it."

(More on PARKS, page 8A)

Parks

Continued from Page 1A

One of the last straws for Ryan came after he obtained an opinion from County Attorney Mike McGrath recently that said the County Commission could legally impose the two-mill tax. The law says such a levy is allowed for a "county-owned civic center, youth center or recreational center," and McGrath found that a park would fit under the definition of "recreational center."

Legal or not, Anderson and fellow Commissioner Bob Decker — both of whom also sit on the parks commission — wouldn't buy it. But, Anderson said, she understands Ryan's feelings of frustration over lack of funds.

She said she's been impressed with the way the commission, and especially Ryan, has been able to attract volunteer efforts to create and improve parks. She said it would be "interesting" to see how voters respond to an initiative.

Nancy Johnson, president of the commission, said the

group discussed a petition drive Wednesday but hasn't taken a formal vote to lead a drive. She also said the commission is studying options for replacing Ryan, but she expects that a new parks superintendent will be hired.

Ryan, a long-time organizer of youth baseball in Helena, said he considers creation of Ryan Park near the fairgrounds as his greatest accomplishment during the 13 years he served on the parks commission or as parks supervisor.

Other accomplishments, he said, included the county's comprehensive parks plan and its park-land inventory. But he said his inability to get funds for further improvements to Ryan Park — as well for other parks such as the eight-acre park at Treasure State Acres and Hooper Park in Lincoln, had finally worn him down.

"After 13 years I couldn't hack it anymore," he said.

Ryan said, however, that he'd be glad to help out the parks commission when and if it comes time to gather initiative-petition signatures.

LOCAL GOVERNMENT COMMITTEE
FEBRUARY 7, 1985
EXHIBIT D

TESTIMONY OF LINDA STOLL ANDERSON
IN SUPPORT OF SENATE BILL 204

Before the Senate Local Government Committee
February 7, 1985

My name is Linda Stoll Anderson and I am a Lewis and Clark County Commissioner. I am testifying on behalf of the County Commission in support of this legislation.

The bill before you would allow citizens to vote for an increase in property taxes in order to fund the maintenance and operation costs of county parks.

Presently, the County Parks Department operates from two funds. One fund receives its revenue from payments developers make in lieu of parkland donation, and proceeds from the sale of county park lands. In the past four years, revenues to this fund have averaged about \$2,000 a year. This money can be used only for land acquisition and capital improvements to park lands.

The operation and maintenance costs of the Parks Department are about \$20,000 a year. This is funded, and has been funded for several years, from Revenue Sharing funds received from the federal government. As you are probably aware, President Reagan is proposing to eliminate the Revenue Sharing Program. If this occurs, our county will be hard-pressed to find funding to continue the operation and maintenance of our county parks. Our options will be to find the money in the general fund or eliminate the service. Finding money in the general fund will be difficult. For the past few years, we have been levying near the maximum allowed (25 mills) for the general fund just to perform basic county services such as law-enforcement, Clerk and Recorder's Office, Clerk of the Court, etc.

This legislation offers a solution to the funding problem by allowing residents to determine for themselves whether or not they want to see parks and recreation services provided by the County.

Your support of this legislation is greatly appreciated.

1984 County Park Board Survey

Bob Kundo - SB304

Counties	Cascade	Flathhead	Gallatin	Lewis & Clark	Missoula	Ravalli
Information requirements from project sponsors requesting development funds:						
1) description of proposed improvements	—	YES	YES	YES	YES	YES
2) drawing of project proposals	—	YES also project location	YES	YES	YES	YES
3) funding sources	see (5) below	YES	YES	YES	YES	see (5) below
4) maintenance plans	—	YES	YES applying group must make maintenance provisions	YES	YES	YES
5) matching fund requirement	development funds are considered loans	whenever possible	no matching fund requirement	policy being formulated	50% match as cash or donated materials	sponsoring organization must agree to maintain park and have capacity to do so
6) eligible groups	"community" park boards	public use projects when development is proposed for a county park	any interested group, generally homeowners' associations	any interested group		match with labor material, equipment or cash responsible citizens organizations
Funding sources for county Park development	payment-in-lieu 2 grants from Bureau of Outdoor Recreation	county general budget LEUC self-supporting facilities user fees land lease facility rental	payment-in-lieu	payment-in-lieu revenue sharing for county recreation complex	payment-in-lieu development is done slowly and only with groups having demonstrated track record of maintaining their park	payment-in-lieu
Suggestions for increasing funding capability	—	enabling legislation for a park fund levy	—	enabling legislation for park fund levy		legislative change is needed
Proposing county Parks legislation to '85 Legislature	NO	YES	NO	YES	NO	NO

Cash-in-lieu of dedication of parks in the subdivision process is restricted to use for the purchase of additional lands or for the initial development of parks and playgrounds.

76-3-606. Dedication of land to public — cash donations. (1) A plat of a residential subdivision shall show that one-ninth of the combined area of lots 5 acres or less in size and one-twelfth of the combined area of lots greater than 5 acres in size, exclusive of all other dedications, is forever dedicated to the public for parks or playgrounds. No dedication may be required for the combined area of those lots in the subdivision which are larger than 10 acres exclusive of all other dedications. The governing body, in consultation with the planning board having jurisdiction, may determine suitable locations for such parks and playgrounds.

(2) Where the dedication of land for parks or playgrounds is undesirable because of size, topography, shape, location, or other circumstances, the governing body may, for good cause shown, make an order to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that would have been dedicated. For the purpose of this section, the fair market value is the value of the unsubdivided, unimproved land. Such cash donation shall be paid into the park fund to be used for the purchase of additional lands or for the initial development of parks and playgrounds.

(3) The park dedication and cash in lieu requirements of subsections (1) and (2) do not apply to any division that creates only one additional lot.

Use of proceeds from the sale, lease or exchange of County parkland is similarly restricted.

7-16-2324. Sale, lease, or exchange of dedicated park lands. (1) For the purposes of this section and part 25 of chapter 8, lands dedicated to the public use for park or playground purposes under 76-3-606 and 76-3-607 or a similar statute or pursuant to any instrument not specifically conveying land to a governmental unit other than a county are considered county lands.

* * *

(4) Any revenue realized by a county from the sale, exchange, or disposal of lands dedicated to public use for park or playground purposes shall be paid into the park fund and used in the manner prescribed in 76-3-606 and 76-3-607 for cash received in lieu of dedication.

AMENDMENTS TO SB 88 (passed by Senate Local
Government Committee, 2/7/85)

1. Title, line 4.
Following: "AN ACT"
Strike: "PERMITTING"
Insert: "REQUIRING"
2. Title, line 5.
Following: "FUND"
Insert: ", TO PAY THE STATE'S PRIOR CONTRIBUTIONS TO THE GENERAL
FUND,"
3. Title, line 6.
Following: "TRANSFER"
Insert: "ANY"
Following: "MONEY"
Strike: "CONTAINED"
Insert: "REMAINING"
4. Page 1, line 18.
Following: "(2)"
Strike: "If"
Insert: "When"
Following: "city"
Insert: "or town"
5. Page 1, line 20.
Following: "and"
Strike: "if"
Insert: "when"
6. Page 1, lines 22 and 23.
Following: "city"
Strike: "may"
Insert: "or town shall"
Following: "and"
Strike: remainder of line 22 through "in it" in line 23
Insert: "pay to the state auditor, for deposit in the general
fund, an amount proportional to the prior contributions
made by the state under 19-10-305, as determined by the
state auditor. Any remaining money in the fund must be
transferred"

NAME :

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: BOB MURDO DATE: 2/7/85

ADDRESS: HELENA

PHONE: 443-5625

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: SB 204

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: PREPARED INFO LEFT WITH
COMMITTEE

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.