

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 12, 1987

The meeting of the Local Government Committee was called to order by Chairman Norm Wallin on January 12, 1987, at 1:00 p.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 103: Rep. Ted Schye, House District #18, sponsor of the bill stated the purpose of this bill is asking for statutory authority for the cancellation of municipal warrants and checks that have been outstanding and unpaid for more than one year.

PROPOSERS: Janet Jessup, City Finance Director (head of City Treasurer's office), stated she supported this bill as it would make it possible to clear up their books more efficiently at the end of the year.

OPPOSERS: None.

There were no further proposers. Rep. Schye closed by saying the passage of this bill would greatly facilitate the work in the City Treasurer's office at year end.

QUESTIONS OR DISCUSSION ON HOUSE BILL NO. 103: Rep. Whalen asked if this allowed the clerks to cancel checks that have not cleared the bank - to write them off so they don't have to be paid. Rep. Schye responded that it doesn't cancel the draft; however, there is nothing in the law giving them authority to write them off as outstanding so they cannot clear their books every year. It does not do away from having to pay that debt. This information has to be in the minutes of the council meeting - they would have to reissue another check but there is nothing in the law to allow them to write them off. Rep. Whalen asked if it would help to have something printed on the checks such as "this check is void twelve months after date of issuance". The County Commissioners have this authority but the cities do not.

There was further discussion concerning the cost of printing this information on the checks. It was pointed out that these checks are ordered for several years in advance in large amounts (thousands) and would have to be reprinted and the cost to the cities would be prohibitive.

DISPOSITION OF HOUSE BILL NO. 103: Rep. Brandewie made a motion HB 103 DO PASS. Rep. Ramirez made a substitute motion HB 103 DO NOT PASS. Substitute Motion CARRIED.

CONSIDERATION OF HOUSE BILL NO. 113: Rep. Ray Brandewie, sponsor of the bill, outlined the purpose of this bill, stating this would create a mechanism for collection of maintenance charges from users of a private road. He explained that other persons who were supporting this bill could not be here at this time to testify and he would then read from the prepared statement (Exhibit 1).

Rep. Brandewie read an amendment proposed for HB 113 (Exhibit 2).

PROPOSERS: Gordon Morris, Executive Director of the Montana Association of Counties, testified in support of HB 113.

OPPOSERS: None.

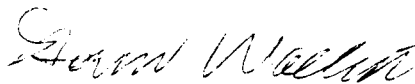
QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 113: Rep. Paula Darko asked how this road could be designated as a county road, and do they apply for status as a county road. Lee Heiman, staff from the Legislative Council, stated there were two or three different ways. They would need to make application to the county commissioners to be designated from private road to a county road and need to conform to those regulations set out by the county. Rep. Sales asked Gordon Morris a question concerning maintenance. Mr. Morris explained that this has nothing to do with regular maintenance districts established by the county. The county would not enforce the regulations and provide funds for safety purposes. Rep. Sales then asked what the liability would be for enforcing payment. Mr. Morris said they would have no liability and there would be an agreement with the Home Owners Association.

Local Government Committee
January 12, 1987
Page 3

There was further discussion concerning the method of advising the Home Owners if their dues are in arrears. Mr. Morris said the county tax notices have their addresses on them and the information could be obtained from the County Treasurer.

DISPOSITION OF HOUSE BILL NO. 113: Rep. Brandewie made a motion that HB 113 DO PASS. Rep. Ramirez made a substitute motion HB 113 DO NOT PASS. The substitute motion CARRIED.

ADJOURNMENT: There being no further business to come before this committee, the hearing adjourned at 2:15 p.m.


Norm Wallin, Chairman

Amend HB 113, Introduce Copy (white)
Rep. Brandewie
1/12/87

1. Page 2, line 18.
Strike: "proportionate"

Explanation: The word "proportionate" with "share" seems to imply that the charges are set by the standard proportionate methods, such as by running foot along a road or by adjoining lot area. This bill provides that "all road users" (page 1, line 24) "determine maintenance charges" (page 2, line 3). An amended reference to "share of maintenance charges" (page 2, lines 18 and 19) would be ~~unambiguous~~ unambiguous and could only mean those charges determined by all road users.

LH XT01
dw3 AMDHB113.txt

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

163-

50th LEGISLATIVE SESSION -- 1987

Date _____

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. BUDD GOULD	✓		✓
REP. REP. TIMOTHY WHALEN		✓	
REP. PAULA DARKO	✓		
REP. TOM BULGER	✓		
REP. JAN BROWN	✓		
REP. BOB GILBERT	✓		
REP. LARRY GRINDE	✓		
REP. WALTER SALES	✓		
REP. STELLA JEAN HANSEN	✓		
REP. PAUL PISTORIA	✓		
REP. ROBERT HOFFMAN	✓		
REP. LES KITSELMAN	✓		
REP. JACK RAMIREZ	✓		
REP. DAVE BROWN	✓		
REP. CAROLYN SQUIRES	✓		

Rep

1st

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date _____

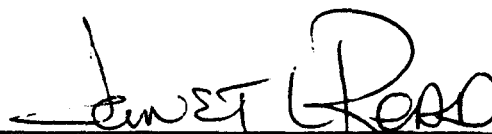
NAME	PRESENT	ABSENT	EXCUSED
Rep. Norm Wallin, Chairman			
Rep. Ray Brandewie, Vice Chairman			
Rep. Dave Brown			
Rep. Jan Brown			
Rep. Tom Bulger			
Rep. Paula Darko			
Rep. Bob Gilbert			
Rep. Budd Gould	<i>Excused</i>		
Rep. Larry Grinde			
Rep. Stella Jean Hansen			
Rep. Robert Hoffman			
Rep. Les Kitselman			
Rep. Paul Pistoria			
Rep. Jack Ramirez			
Rep. Walter Sales			
Rep. Carolyn Squires			
Rep. Timothy Whalen		✓	

not sanded and make it difficult for them to pass in their efforts to do their job.

9. I am concerned that there could be a problem with the homeowners' insurance policies of the homeowners on private roads that are poorly maintained, if it was discovered that the roads are impassible at times and that a fire or medical emergency could not be attended to. For example, on February 15th of 1986, I was unable to leave my residence for 34 hours due to the fact that we were unable to get anyone to plow the road and there was 15 inches of snow on the road.

10. I execute this affidavit in an attempt to have legislation passed that will insure the repair and maintenance of private roads in the State of Montana for the safety and security of those living on these roads.

DATED this 9th day of January, 1987.



Janet L. Read

SUBSCRIBED AND SWORN TO before me this 9th day of January, 1987.



Notary Public for the State of Montana
Residing at Helena, MT
My Commission Expires 1/14/89

Homeowner Meadow Creek Road

This letter is to inform you that there will be a meeting on Sunday, May 18th, at 4:00 p.m. at Janet Read's home (phone 837-5324) at the end of Easy Street to assess the possibility of repairing the road this summer, and to organize the property owners on Meadow Creek Road and North and South Whitetail.

Enclosed you will find a copy of the proposed Road Association Agreement which we need everyone to sign so that all future repairs and plowing of the road can be properly financed and performed as necessary. In past years there has been great difficulty in getting the jobs done and getting the general consensus of everyone in this neighborhood to participate and cooperate.

We do not have the exact figures as yet as to what the costs will be on a yearly basis for road repairs and plowing, but we are looking at a figure of possibly \$60.00 to \$100.00 per year. If everyone were to contribute their fair share we would have no problem in keeping this road properly maintained and plowed. Since anyone who can both afford to own a car and own a piece of property can surely afford \$5.00 - \$7.50 a month for maintenance of a road absolutely necessary to all of us. The cost to our vehicles in undercarriage repairs and other problems resulting from the poor quality of the road in its current state is far greater than the proposed monthly maintenance fees. And, it is absolutely necessary for ALL of us to have access in the winter via plowing. In fact, you might not be aware, but if we don't maintain adequate plowing in the winter all of our home owner's insurance policies will be voided as a result of the fire company being unable to obtain access at any time, and the possible necessity of a medical emergency, which any one of us might be involved in at any time without prior notice.

It is therefore not only imperative that each and everyone of us contribute to the maintenance of this road, as each of us owns a portion of it, but if everyone were to make a regular contribution the costs each of us would bear would be decreased. If you are unable to attend the road meeting this Sunday, please sign the enclosed Agreement and send it to Janet Read, Rte 1 - Meadow Creek Road, Big Fork, with your check for \$60.00. If you can only make a \$20.00 contribution this month and would like to pay \$10.00 a month thereafter, this will be acceptable since we all may not have the money at present to pay the entire amount. Make your check payable to the Meadow Creek Road Association. Anyone who does not sign this Agreement or pay his portion of the road fees will be subject to the Road Association taking legal steps to enforce compliance, as the maintenance of this road is an absolute necessity to all of us for access and insurance purposes. Legal consultation has informed us that it is a very real possibility that every property owner on this road could be legally liable for the maintenance and repair of this road. Let us hope that we can resolve these problems with mutual cooperation and coordination.

~~SECRET~~ A

ARTICLES OF ASSOCIATION

We, the undersigned, do herewith recite and agree as follows:

RECITALS:

A. Whereas each of us own a tract or portions of tracts of land in the Subdivision known as Meadow Creek Estates located in Section 1, Township 26 North, Range 19 West, P.M.M.; and across a certain private road which gives access from the Swan Highway approximately two miles to the East including Meadow Creek Road, North Whitetail Road, South Whitetail Road and Easy Street, Lake County, Montana.

LIST OF PARCELS AND LANDOWNERS

B. Whereas, it is not at the present time anticipated that that road shall become dedicated to the County, and the mutual intent of the undersigned is that said road will for the foreseeable future stay and remain as a private road; and

C. Whereas, there will be expenses incurred in connection with said road, including the payment of taxes, maintenance, etc., which should be shared equally by the parties utilizing said road, irrespective of the fact that said road may be in the individual name of one party; and

D. Whereas, that provision and agreement will be necessary to determine what persons shall have the right to the use of said road, and upon what terms and conditions.

E. Whereas, each of the parties agrees to pay a 1/16 share of the cost of maintaining and repairing the roadway, including the costs of graveling, grading, snow removal and similar costs. Upon receipt of bills incurred for such maintenance or repair, the parties shall promptly pay their share described above. In the event of a dispute as to how the roadway should be maintained or repaired, a decision reached by a majority of the owners of the property shall be binding on all of the owners. The owners of each parcel shall have one vote. If the property described herein is further subdivided, the shares of expenses shall be adjusted so that the owners of each parcel shall be responsible for an equal share of maintenance and repair costs, and the voting shall be similarly adjusted so that the owners of each parcel shall have one vote. If the parties wish to make substantial improvements to the roadway, such as paving the roadway, such decisions shall require the consent of all the owners of each parcel.

F. Whereas, the duties and obligations created by this agreement are for the benefit of and shall be appurtenant to the respective properties of the parties as described above. The obligations and grants herein shall run with the land and be

binding upon and be for the benefit of the parties and their respective heirs, successors and assigns.

G. In the event of a dispute arising under this agreement, the prevailing party shall be entitled to costs and reasonable attorney's fees. This agreement shall be construed in accordance with the laws of the State of Montana.

IT IS THEREFORE AGREED:

1. That the parties shall associate themselves together under the association name of "MEADOW CREEK ESTATES ROAD ASSOCIATION",

2. The Association shall meet twice per year for the purpose of electing a President and Secretary-Treasurer. The President shall be instructed to carry out the majority wishes of the said Road Association and shall also serve as Trustee. The Secretary-Treasurer shall be authorized to set up and handle a checking account for the Association, and disburse funds from that account for expenses incurred in connection with said common roadway.

3. At the said bi-annual meeting to be held on the 1st of November and the 1st of May, each year, an assessment will be made upon all parties signatory to this agreement for a prorated share of the expenses reasonably expected to be incurred for the following year.

4. The Association shall have the powers necessary to do anything proper for the accomplishment of the purpose of maintaining the said common roadway.

5. Membership in said Association shall be limited to those persons owning tracts of land on the above described roads.

ROAD ASSOCIATION MEETING

There will be a meeting of all of the people who live on Meadow Creek Rd, North Whitetail, South Whitetail and Easy Street on SUNDAY, JUNE 8, 1986, at 4:00 p.m. at Janet Read's house which is at the end of Easy Street.

We would really like everyone's participation and opinion on what we should and can afford to do with the road this summer, and to help organize next winter's plowing so that we all know we're well covered. Everyone who lives in this area is invited and encouraged to come. We would really like to know how everyone feels about this road and what kind of progress we can make towards improving it for all of us who live here.

If you need directions, please call Janet at 837-5324. Please try and make this meeting so that your voice can be heard.

WINTER SNOW PLOWING

I have made every effort possible to obtain someone to plow the road this winter. So far these are the results of my efforts. Wade Curtis will not plow since he feels this road is not plowed often enough, he had too much trouble collecting his money and too many complaints. As we all know Don Ganz won't plow because he said there were too many complaints and he had a very tough time collecting money for driveways. I have talked to Alan Kerr and he said he isn't interested in plowing only when someone calls him since he has a regular route to run. He felt that waiting until there is an eight inch pack and then only plowing when it was over six inches was too hard to plow. I talked to Jim who owns the Ferndale market and he said he wasn't interested in plowing since he has already heard of all the problems with plowing this road and doesn't want to be bothered.

So, we are left with the necessity of getting someone to plow and I don't know anyone else. I would appreciate it if each of you could call any other sources for plowing that you know and try to make some kind of arrangements to have this person talk to me so that I can insure they will get paid. It would be a real shame if no one was set up for plowing on a regular basis and we had to scramble for plowing after each good snowfall.

Therefore, if someone comes up with a person who will plow this road on a regular basis this winter please have them call me at 837-5324 or 752-6644 so that I can be sure they are paid out of the plowing funds.

Also, I will be collecting, hopefully, \$25.00 from each household and putting that in our bank account at First Interstate. I would appreciate it if people could drop their check made out to Meadow Creek Road Association in my mail box at the end of the road. If we are lucky and have little snow we can get through the winter on that. I will send out an accounting on December 1st and let everyone know who has paid and how much we have at that time to use for plowing funds.

Thank you.

Janet Read

SEARCHED _____
SERIALIZED _____
INDEXED _____
FILED _____
C

Form **SS-4**
(Rev. 9-82)
Department of the Treasury
Internal Revenue Service

Application for Employer Identification Number

(For use by employers and others as explained in the instructions.
Please read the instructions before completing this form.)

OMB No. 1545-0003 Expires 9-30-85

1 Name (True name and not trade name. If partnership, see page 4.) Meadow Creek Road Association		2 Social security no., if sole proprietor 559-70-4643 (J. Read)	3 Ending month of accounting year December
4 Trade name, if any, of business (if different from item 1)		5 General partner's name, if partnership; principal officer's name, if corporation; or grantor's name, if trust	
6 Address of principal place of business (Number and street) c/o Janet Read - Rte. 1 - Meadow Creek Road		7 Mailing address, if different	
8 City, State, and ZIP code Bigfork, Montana 59911		9 County of principal business location Lake County, Montana	
10 Type of organization <input type="checkbox"/> Individual <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> Other (specify) <input type="checkbox"/> Governmental <input checked="" type="checkbox"/> Nonprofit organization <input type="checkbox"/> Corporation		11 Date you acquired or started this business (Mo., day, year) 6-8-86	
12 Reason for applying <input checked="" type="checkbox"/> Started new business <input type="checkbox"/> Purchased going business <input type="checkbox"/> Other (specify)		13 First date you paid or will pay wages for this business (Mo., day, year)	
14 Nature of principal business activity (See instructions on page 4.) Maintenance, repair and snow plowing of Meadow Creek Road		15 Do you operate more than one place of business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
16 Peak number of employees expected in next 12 months (If none, enter "0")	Nonagricultural -0-	Agricultural -0-	Household -0-
18 To whom do you sell most of your products or services? <input type="checkbox"/> Business establishments (wholesale) <input type="checkbox"/> General public (retail) <input type="checkbox"/> Other (specify) No sales		17 If nature of business is manufacturing, state principal product and raw material used.	
19 Have you ever applied for an identification number for this or any other business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," enter name and trade name. Also enter approx. date, city, and State where you applied and previous number if known.		D	
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief it is true, correct, and complete.		Telephone number (include area code) (406) 837-5324	
Signature and Title J. Read		Date 8/20/86	
Please leave blank	Geo.	Ind.	Class
			Size
Reas. for appl.		Part II	

MONTANA TAXPAYERS Association



P O BOX 4909

1706 NINTH AVENUE

HELENA, MONTANA 59604

406 442-2130

January 12, 1987

Mr. Chairman and Members of the Committee:

For the record, I'm Sandra Whitney from the Montana Taxpayers Association. I'm here to present to you a study done in 1986 that documents the state funds for FY 1985, by program, that went to counties, cities, and schools. This study was undertaken because no one at the state level had an over-view of the state funds which were being sent to local governments, and because nobody else had the inclination to attempt such a lengthy project.

I'd like to go through the report first, and show you what is there.

1. Introduction and explanation
2. State funds to local governments and code references
3. County section
 - a. State funds going to the counties - pp 7-12
 - b. Other state aid to counties - p 13
 - c. Mill value of state funds - p 14
 - d. Total county revenues - p 15
 - e. State \$ & Property Taxes as % of Revenue
4. City Section - Organized the same as the county section
5. School Section
 - a. State funds going to schools - pp 32-34
 - b. Mill value of state funds - p 34

In doing this study, it became obvious that there was not total uniformity in reporting. Neither was there a lot of desire on the part of local officials to have this information made public. At the city and county level I relied quite heavily on annual reports for total revenues and total taxes for each jurisdiction. Unfortunately, reports were not available for all cities and towns. It may be that when the last session exempted the smallest towns from mandatory audits, some of those towns also felt they were exempt from annual reports. Therefore, some data is missing, and some is obviously not accurate. An example of discrepancy is in Walkerville on pages 24, 25 and 26. The state contribution shown on page 24 is higher than the total intergovernmental revenue shown on page 25. Some of the state revenue was probably included on their annual report as miscellaneous rather than intergovernmental revenue. As a result, the percentages on page 26 total more than 100%.

A few points should be emphasized.

1. pp. 14-16 & 29-31 - State funds account for 10% of total county revenue and 14% of city and town revenue
2. State aid going to cities averages over 41 mills. State aid to counties, including aid not counted as revenue on the annual reports shown on page 13, averages nearly 14 mills state-wide.
3. Equalization for schools is quite effective as seen by the mill equivalent differences on page 34. The wealthier counties are receiving very few mills worth of state aid. Poorer

counties receive well over two hundred mills worth of state aid.

4. No state agency knows where all state funds go. Some funds such as block grant are distributed at the county level, and no state agency has any record of that distribution.
5. Some distributions from the state are so small that they are not worth the bookkeeping time in the Treasurer's office.
6. Confidentiality requirements make it difficult to get information on the corporate license distributions to counties, ie the 80% of the bank tax that is allocated to counties. That allocation amounted to 8.6% of the total corporate license tax in FY 85.
7. If a bank in a county applies to the Dept. of Revenue for a refund of a portion of its taxes, DOR is requiring the counties to repay that distribution to the department. Unfortunately, that money has already been distributed by fund and spent when the repayment is required.

AND FINALLY -

8. State aid data on page 13, for the Poor Fund are dollars in excess of those collected through the use of the 12 mills in those counties which have elected state assumption. Generally, this total will be somewhat to substantially more than what the county could have legally collected in property tax if it had not chosen state assumption.
9. It must be re-emphasized that these are data from FY 1985, the most recent year for which all comparable information is available. The revenue picture, particularly in Federal Revenue Sharing and state General Services Block Grant has changed since then.
10. These funds are those dollars which were actually distributed by the state in FY 85 to various county funds, not just the general fund. There may or may not be any relationship to what was estimated by a city or county on its budget for that year.

STANDING COMMITTEE REPORT

January 12

19 87

Mr. Speaker: ~~_____~~ Committee on LOCAL GOVERNMENT

report ~~_____~~ REP. 103

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. NORM WALLIN,

Chairman

MS
FIRST

reading copy (WHITE)
color

STANDING COMMITTEE REPORT

January 12

19 87

Mr. Speaker: ~~_____~~ Committee on LOCAL GOVERNMENT

report HOUSE NO. 113

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. NORM WALLIN,

Chairman

WJW
FIRST

reading copy (WHITE)
color