

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on February 9, 1995, at
12:30 p.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Ethel M. Harding, Vice Chairman (R)
Sen. Sharon Estrada (R)
Sen. Delwyn Gage (R)
Sen. Don Hargrove (R)
Sen. Dorothy Eck (D)
Sen. John "J.D." Lynch (D)
Sen. Jeff Weldon (D)

Members Excused: none

Members Absent: none

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 258, SB 263, SB 262, SB 230
Executive Action: SB 214, SB 182, SB 222

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

EXECUTIVE ACTION ON SB 214

Discussion:

CHAIRMAN TOM BECK said the amendment would put a second sunset on the bill and that the advisory board be composed of at least five members.

Motion/Vote: SEN. DON HARGROVE MOVED TO ADOPT THE AMENDMENTS TO SB 214. THE MOTION CARRIED WITH SEN. HARDING AND SEN. LYNCH VOTING NO.

Discussion:

CHAIRMAN BECK asked Arnie Olsen, Department Fish, Wildlife, and Parks, to clarify some confusion on SB 214.

Mr. Olsen said there were some questions regarding the origin of SB 214 and he clarified that the bill did not originate from the Department. The bill came up the previous session from the boaters and REP. BOHARSKI carried the bill. The reason was that the boaters were frustrated over the quality of boating facilities at some of the state parks. They were also paying a considerable amount of money in lieu of fees which they considered user fees. The idea originated from other states which use funds collected by the counties for boating improvements.

SEN. ETHEL HARDING said there was some thought that any improvements would be done through some kind of sticker fee rather than through the Lake County treasurer and asked if that could be incorporated in SB 214?

SEN. J.D. LYNCH said he tried to do the very same thing but found that it went beyond the scope and title of the bill and one of the sponsors in the House did not want that in the bill.

Motion/Vote: SEN. LYNCH MOVED TO TABLE SB 214. THE MOTION CARRIED (SEE ROLL CALL VOTE NUMBER 1).

Discussion:

SEN. HARGROVE asked if he could ask Ken Hoovestol to make a comment.

Mr. Hoovestol mentioned that he would like the committee to reconsider and at least save the boating advisory council. He said that by tabling SB 214 they would be wiping out the council along with the funding source. He felt the council gave good representation from across the state as to what needed to be done.

EXECUTIVE ACTION ON SB 182Discussion:

SEN. JEFF WELDON explained the amendments he had proposed.

Motion/Vote: SEN. WELDON MOVED TO ADOPT THE WELDON AMENDMENTS. THE MOTION CARRIED UNANIMOUSLY.

Motion: SEN. LYNCH MOVED TO ADOPT THE LYNCH AMENDMENT.

Discussion:

SEN. LYNCH explained his amendment which dealt with property rights. He felt there were other people involved besides the sign company. The land owners and business owners were also affected.

SEN. WELDON felt the part of the amendment dealing with the fair market value. He said the problem was what were the outdoor industry standards?

Michael Lahr, stated there were various methods associated with valuating a sign and the concern was that it be put in the bill that there were specialized methods used within the industry. He said they were looking mostly at the multiplier of gross earning method which was potential earnings combined with a cost less depreciation. He said they wanted recognition that there was a special commercial valuation method for valuing signage.

SEN. WELDON followed up that it was his understanding that the cost approach typically used included the basic cost of sign materials including labor and the average indirect cost. He asked if it was **Mr. Lahr's** argument that it was not a fair method?

Mr. Lahr said potential earnings were not the whole picture because there was inherent value in the cost to put up a sign that had been depreciated over time. He said there was the cost of the sign plus the potential income from the sign worked into one method.

SEN. WELDON asked to hear another perspective on his question and asked **Sara Busey** to address the question.

Ms. Busey responded that the accepted approach in Montana both for the Department of Transportation and the Department of Revenue was the cost approach. She said it was used in almost all states and has been upheld by almost all courts. If there would be a disagreement over the value of a particular sign there was a mechanism in place for sign owners and the DOT to reach an agreement which was the value finding commission. In terms of standards, the basic method of the valuating signs was not set in stone. The cost approach was currently used but the DOT was reevaluating that method.

SEN. WELDON said he was not certain he would be able to support the amendment. He pointed out the land owner under current practice was compensated for the unused portion of the lease with the bill board owner. The fair market value compensation of the bill board owner he felt was fair using the current method being the labor and material costs. He felt the last part of the amendment went too far beyond what the state currently did in terms of compensation.

CHAIRMAN BECK said that if the sign was taken down, it would be an indication that the right of the land owner to put another sign up.

SEN. WELDON said that was not necessarily the case.

CHAIRMAN BECK questioned that the purpose of the bill was to give local government the control if there could be a sign in a certain place.

SEN. WELDON said that was one option of what the bill could do. He also asked if there was a way to segregate out the last part of the amendment.

Motion: SEN. WELDON MOVED TO SEGREGATE THE AMENDMENT SO THAT SUB B AND C WERE SEPARATE ITEMS.

Vote: THE MOTION TO ADOPT SECTION A AND B OF THE AMENDMENTS CARRIED UNANIMOUSLY.

Discussion:

SEN. GAGE commented that the unforgotten voice was the person advertising on the sign and that the amendments go far enough.

Vote: THE MOTION TO ADOPT SECTION C CARRIED WITH SEN. WELDON VOTING NO.

Discussion:

SEN. LYNCH asked if there was something they could do to give the business person who would lose the sign the ability to put the sign someplace? He said he would hate to see that person not have any access to a sign.

SEN. WELDON said they were taking a large leap in what local governments would do with the power. He did not believe they would remove and condemn all signs from the county. What he visioned was that in certain area they would put on certain regulations.

SEN. LYNCH pointed out that there would still be due process of the law.

SEN. HARGROVE commented that local governments could set standards currently for new signs. He said that in Bozeman they set all kinds of signs up and as a result, they had an unbelievable collapse between businesses and the city.

CHAIRMAN BECK mentioned a bill that had gone through the Senate which regulated the size and height of signs.

SEN. WELDON said there were conflicting opinions and they needed clarity in the authority. Given the difficulties of determining

what actions local governments have in regards to signs he encouraged the committee to pass SB 182.

Motion/Vote: SEN. WELDON MOVED SB 182 DO PASS AS AMENDED. THE MOTION CARRIED (SEE ROLL CALL VOTE NUMBER 2).

EXECUTIVE ACTION ON SB 222

Discussion:

CHAIRMAN BECK refreshed the committee on the title of the bill.

Ms. Fox said there was an amendment to SB 222 to clean up some of the language.

SEN. LYNCH said that they were earmarking for the counties and he felt that was telling the counties what they had to do with their money. He said that anytime he saw the word "requiring" it sent up a red flag.

SEN. HARDING said she agreed with SEN. LYNCH but since the counties and the clerk and recorders supported the bill there must have been a reason they wanted the bill.

CHAIRMAN BECK asked Gordon Morris, Montana Association of Counties, how much of an impact the bill would be on counties?

Mr. Morris said SB 222 was a housekeeping measure in regards to a current law. He said that the money by way of county budget consideration had to follow the levy. He said it should not be compared to the state general fund. Once in the county general fund, the money could not be moved to the sheriff's public safety levy.

Motion/Vote: SEN. WELDON MOVED TO ADOPT THE AMENDMENT. THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. LYNCH MOVED SB 222 DO PASS AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

HEARING ON SB 258

Opening Statement by Sponsor:

SEN. SUE BARTLETT, SD 27, Helena, presented SB 258. She went through a hand out a in regards to the tax deed schedule and explained the bottom portion (EXHIBIT 1). There were some substantive changes in SB 258 in addition to reorganizing and clarifying the language. One of these changes included allowing the county to retain some tax deed property if in the best interest of the public or will advance the public benefit or welfare. SEN. BARTLETT continued through the bill and pointed out all of the changes.

Proponents' Testimony:

Mel Clint, retired Clerk and Recorder, said that he had noticed problems with this portion of law and took it upon himself to get the problems taken care of. He had been questioned by auditors in regard to the new method of establishing the sale price. In 1986, the special session allowed twenty acres or more in a subdivision to go to agricultural status. This caused a value of lots to be \$20, \$40, causing thousands of dollars in delinquency. To apply the formula you had to first go and get as much back in taxes and penalty interest and costs. He said that much of the bill was language clarification and he asked the committee's support.

Gordon Morris, Montana Association of Counties, stated he worked with **SEN. BARTLETT** on the bill and he added that the bill did not change the right of redemption or an individuals right of repurchase. He noted the bill clarifies a great deal of the language and he asked for favorable consideration of SB 258.

Blake Wordal, Lewis and Clark County Commissioner, supported SB 258. He added that SB 258 made sense out of the existing law and did not make a lot of changes. He said the idea was to go through a process that made sense in terms of time. He urged the committee's favorable consideration.

Bill Raphold, Pondera County Commission Chairman, stated they support SB 258.

Opponents' Testimony: none

Questions From Committee Members and Responses:

CHAIRMAN BECK gave a scenario and asked **SEN. BARTLETT** if they tried to recoup all the taxes if there would be an out for the counties to come out under what would be collectable? **SEN. BARTLETT** said that the procedures through the auction process and following the auction had ways of reducing the price. She noted that most counties would have to try and recover all of the delinquencies.

CHAIRMAN BECK stated that if he understood the bill correctly, even if they had the sales price at the amount of taxes collected, they would still have to get 70%. He was concerned that if there was an environmental spill of some property and there was very little value to the property, he wanted to know if there was an out for the county to still move the piece of land and get out from under it? **SEN. BARTLETT** said she did not have an answer but she would look into it.

SEN. HARGROVE asked if SB 258 established retention by the county for the first time if the property does not sell? **SEN. BARTLETT** said if property did not sell, it would be retained by the county. Section one of SB 258 dealt with the retention of

property and would allow the county to not take the risk of putting certain properties up for sale that they took by tax deed.

SEN. HARGROVE asked if there was any possibility for a county to use this law to acquire a piece of land that would benefit them.

SEN. BARTLETT said that any provisions of the bill would go into play, the property owner would have had to not paid taxes on the property for about a three and a half year period. At that point, you would have to go through the tax deed process and the owner could come pay the taxes at that time making it difficult for the county to go after a piece of land.

SEN. HARGROVE asked if the whole tax deed process had been gone through and the county decided they wanted the land if the county would be able to have the land? **SEN. BARTLETT** said that the county would not have to auction the land if it would fit in with planning documents and various standards the county set. With SB 258, one of the safe guards for the original property owner was they had to allow the repurchase period for the original property owner or successor in interest. However, she pointed out that another section of law allows the county to contract with the owner for payments to be made on the taxes over a certain amount of time.

Closing by Sponsor:

SEN. BARTLETT said this was a complex subject area and she would be available for any further questions.

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HEARING ON SB 230

Opening Statement by Sponsor:

SEN. TERRY KLAMPE, SD 31, Florence, brought SB 230 before the committee. He pointed out on the title that it stated resort tax but was not exactly a resort tax bill. He stated that it was more than a resort tax because it included counties and incorporated municipalities. They were not going to restrict the resort tax to communities that were resorts under population of 2,500. They wanted to open it to any community or county in the state that would want to impose a tax on itself to do so. He emphasized that it was local control and the people had the choice. He believed the bill would allow the communities to get tax dollars from out of staters and would go to the communities in the form of community improvements and property tax relief. SB 230 was property tax reform. He pointed out that at least 50% of the resort tax revenue had to be used to reduce the municipal or county property tax. The percentage could also go higher depending on the local decisions. He said that there had been many meetings with the cities and the Montana Association of Counties to assure equitable distribution of the tax proceeds.

Proponents' Testimony:

Alec Hanson, League of Cities and Towns, stated they strongly supported SB 230. He said that the election asked for cutting taxes and giving people back their government. He suggested that SB 230 would accomplish both of those purposes. 50% of the money if some town should enact the tax would automatically go to reduce property taxes. In Flathead County, a tax such as this would generate as much as three million dollars. With that amount of money going against property tax relief it would wipe out any mill levies in that area. SB 230 did not require any juvenile fund subsidy or a complicated reimbursement formula. It would put money into the governments to replace property tax mill levies. He said this was a very simple way to relieve property tax especially in those areas of the state where the interest of recreational property has driven up the valuation in property taxes. He thought the bill worked perfectly because it addressed the problem and adapted a solution that would work. He pointed out that the tax could not be enacted without a vote of the people. He pointed it out it was identical to what the people in West Yellowstone were doing which was working very well. He noted that SB 230 would not work in every town but the people could decide. He said it was a fair deal and would work. He pointed out the opponents had the best deal in the world and that the 7% cumulative rate would be bad for business. The cumulative rate in West Yellowstone was 7% and it must not be bad for business because they were building a brand new hotel. Two reason for passing SB 230 he gave were it would give people a chance to finance their committees on a fair and equitable basis and give some property tax relief.

Mark Watson, Billings City Administrator, stated that they were challenged with looking at the future financially. With a mill levy cap for property tax, no sales tax available, and the rise in gambling they felt SB 230 was a viable option. They had been pushing to look at accommodation taxes and the resort tax. He pointed out the variety and great number of activities that occur in Billings and required services. He said the resort tax was a viable option that would help them locally, it was good for economic development and was something to look at. He commented that the resort tax at 4%, eight million dollars came in state wide. With 4,200 rooms in Billings, one and a quarter million goes to the state and they get \$125,000 back for a tourist center at the Chamber of Commerce. He asked the favorable consideration of the committee.

Larry Gallagher, representing the City of Kalispell, encouraged the committee to pass SB 230 as it was important to a community that was inundated with 2.1 million tourists annually. He said that it seemed to be the mood of the legislature to limit ability to annex commercial areas on the edge of cities. He said they needed some help and some equity.

Gordon Morris, Montana Association of Counties (MACO), stated that MACO supported local authorities to implement various local option taxes to offset local property tax revenues. He said that SB 230 did that and he encouraged the committee to possibly appoint a subcommittee to meet with those interested in the bill to see if they could get the favorable consideration of the committee.

Bill Verwolf, representing the City of Helena, supported SB 230 and reminded that it would provide property tax relief and it was voluntary.

Larry Fasbender, City of Great Falls, stated that it was time something was done about allowing a local option tax to be put in place and SB 230 would do that.

Don Spivey, Whitefish citizen, stated that he was in support of SB 230.

Earl Tufte, Director of Public Works, Great Falls, asked the committee's support of SB 230.

Chris Imhoff, League of Women Voters, supported SB 230.

Opponents' Testimony:

Keith Colbo, Executive Director, Montana Tourism Coalition, stated that the sponsor identified the title properly in that it was misleading. He stated that SB 230 was a local option tax and in regard to the resort tax, they would not support a tax that was not broad based and not consistent state wide. SB 230 was a resort tax which did not meet their requirements. They would however, support a broad base tax that was consistent statewide to address some of the valid problems presented by the proponents. SB 230 as structured they were opposed to.

Stuart Doggett, representing the Montana Innkeepers Association, stated they discussed bill regarding a resort tax and they took the understanding that they would oppose those measures at the time. He said that SB 230 changed the entire scope of the intent of the resort tax implemented by the legislature. He pointed out they were open to a broad base tax consistent state wide. The luxury items would also limit some of the measures and may have needed to be broadened out to retail items. He stated that of the 1.1 billion dollars spent by non residents, 28% was spent on retail, 27% food, and 19% lodging. He said this may have limited SB 230 from being applied to other sources mentioned in the bill.

SEN. J.D. LYNCH opposed SB 230 and stated that it was a sales tax, they would be taxing their neighbors, and to call every town and city a resort went beyond the scope of the bills intent, and if they wanted local option, why were there not options in the bill that would benefit other parts of the state. He said that

this was a sales tax and 75% of the people did not agree on a sales tax.

Questions From Committee Members and Responses:

SEN. HARGROVE asked if a recreation vehicle would be under the tax? **Mr. Hanson** said the tax in West Yellowstone was set up so the City Council decided what would fall under the general definition of luxury items. He said the intent was not to tax automobiles, recreational vehicles, and things of that nature. The intent was to tax the items tourists use such as hotels, motels, bars, and restaurants.

SEN. GAGE asked if there was anything in the bill that said you could not tax the other items? **Mr. Hanson** said that if a person could convince someone that a farm tractor was a luxury item he thought they could tax them on it. He said it was a narrow range of items that would be purchased by tourists. The main emphasis of the tax was on hotels, motels, bars, and restaurants.

SEN. WELDON asked **SEN. LYNCH** that since 75% of the people in the state voted against the sales tax and SB 230 requires a vote of the people why was he so troubled by the bill? **SEN. LYNCH** said it was because they wanted to tax their neighbors. If there was going to be a sales tax all the people should vote on it again.

SEN. ECK said that on page 1 line 21, it stated a resort area meant a county or an area that had a population of less than 2,500. She said that the area would have to be separated from the county. **Mr. Hanson** said the section referred to the resort area designation created by the legislature to allow St. Regis and Big Sky to have a resort tax. He said they did not want to change anything that would interfere with those areas. He said it would then be able to be a whole county or just a portion.

SEN. ECK asked if it would have to be limited to 2,500 people? **Mr. Hansen** said it did not. **SEN. ECK** stated she felt that portion would have to be rewritten.

SEN. ECK asked how the Department of Commerce would do the designation of a resort town? **Mr. Hanson** said it would be based on the volume of recreational and tourist business as a percentage of total business activity in the designated area. It would apply to those areas within a county like Big Sky but not to the city or entire county.

SEN. ECK asked if it would be likely that Billings or Great Falls would qualify? **Mr. Hanson** said that as the way SB 230 was written at the time, an incorporated municipality could be a resort area.

Closing by Sponsor:

SEN. KLAMPE pointed out that North Dakota had a similar tax which was working. He reminded the committee the tax would only be on discretionary spending, would only be voted in by the people. In regards to opponent testimony calling for a broad base tax, he pointed out that the people of Montana voted down a broad base sales tax. He said they would be happy to work on the bill further to clean it up and have it make more sense.

HEARING ON SB 263Opening Statement by Sponsor:

SEN. ARNIE MOHL, SD 39, Kalispell, presented SB 263 which would allow a budgeting on a line item basis. If a department should run over on one item, instead of coming in for increasing one line item for running under another and balance it, they would just come in and make sure they were within the total budget. He said he received a letter from the Flathead County Commissioner supporting SB 263. This was considered a housekeeping bill and would allow bookkeeping departments to have a considerable amount of time at year end for closing.

Proponents' Testimony:

Robert Throsel, Montana Association of Clerk and Recorders, stated that within county budgets if there was deviation either over or under in a minor line item, it required a budget amendment process through the county commissioners. SB 263 would allow those expenditures to be made by the county official within the total budget. SB 263 would not allow the county official discretion to move money within the categories. SB 263 was aimed at trying to end what happens at the end of each fiscal year of having each county officer come in about such things as office supplies to have the county commissioners pass an amendment to the budget either over or under the budget.

Opponents' Testimony:

Blake Wordal, Lewis and Clark County Commissioner, urged caution that there were some budget items in operations and maintenance like contracted services which were large budget items and were detailed in a budget as to what those services are. For another elected official or department to be able to move those concerned Mr. Wordal. He appreciated that SB 263 would allow personnel line items to be moved.

Informational Testimony:

Gordon Morris, MACO, pointed out that SB 263 on line 18 said expenditures could be made within the total appropriation adopted as the final budget for each fund or for each department within a fund. With current law, that would allow the whole appropriation

for the general fund to be available to every department head within the course of the year. If this was absent of control, there could be complete chaos. He said at a minimum, SB 263 would be worth consideration if the total appropriation was taken out and was left to each department within the fund.

Questions From Committee Members and Responses:

SEN. HARDING asked if a department went over on a utility in one budget within the general fund that you could utilize another departments utility money if available? **Mr. Throsel**, responded that it would be a possibility within SB 263 to equalize within the offices. He said it was not the intent of the legislation to allow one officer to spend money not budgeted for that particular office. It was intended within each county office to allow discretion within the expenditure category and there was control on that. The potential for abuse would always be there but there were certainly controls. This would take care of when there would be minor overages and underages without having to go through a whole budget amendment.

SEN. HARDING stated she liked the bill as long as the total amount of the budget did not go above the total they had budgeted for so they would stay within their own individual budgets. **Mr. Throsel** said that the intention was to picking out the problems within individual county official officer budgets. He agreed that if something major had happened and one office needed to transfer money to another that would be a type of budget amendment the county commissioner would have to do. **Mr. Morris** commented that currently, a department could not exceed a line item classified expenditure prior to getting an amendment to do so. SB 263 allowed for a line item to be exceeded but not the total budget. He felt that they should strike the language on line 18 following "adopted". He said that fund would allude to many departments.

SEN. GAGE asked if not being able to transfer between operations and maintenance and personnel services was in some other part of the codes? **Mr. Wordal**, said that was an exception of the provisions in 3-5-404762325 and 7-31-2101.

SEN. GAGE asked if there were thoughts of making managers out of department officials and put some responsibility as to work with the budgets more cautiously? **Mr. Morris** said he could not answer but made the observation that most county officers within the general fund manage their budgets department by department. He did not feel an incentive program would be needed to reduce spending as these departments and budgets run much differently. He said some county commissioners would sent out notices that there would be a shortfall and departments would have to find an area to save mid fiscal year.

Closing by Sponsor:

SEN. MOHL said that there were some miswordings in the bill and he had no problem with allowing some amendments. He asked that with the clean up the committee pass the bill to help out the counties.

EXECUTIVE ACTION ON SB 268

Motion/Vote: SEN. HARGROVE MOVED SB 268 DO PASS. THE MOTION CARRIED WITH SEN. ESTRADA VOTING NO.

HEARING ON SB 262Opening Statement by Sponsor:

SEN. MIKE SPRAGUE, SD 6, Billings, brought SB 262 before the committee on behalf of the Montana Realtors Association. SB 262 was an act to prohibit the local government from requiring a subdivision to conform to the master plan.

Proponents' Testimony:

John Shontz, representing the Montana Association of Realtors, stated that SB 262 took a look at a law that had been on the books for many years that took the subdivision review process out of the normal channel of land use management. He said it was normal to do a master plan which was a vision statement. He stated the next step after the vision statement was to put in place zoning ordinances that specifically tied uses of land to the vision statement. The zoning ordinances control what happens to the land and what SB 262 would repeal was for subdivision purposes, the master plan would not have to be controlled by zoning. What they were going to do was throw out zoning from the process and a subdivision would not have to conform to the master plan. He said that zoning was complicated, expensive, and required a great deal of public input and energy. He asked the committee if people do not like zoning, should they like land use management through a vision statement? SB 262 did not say subdivisions should not be reviewed to make sure they meet the vision statement. He pointed out there were some court decisions stating if an individual would like to do a subdivision, and the county commission decided it would not meet the master plan, the individual had no right of appeal to the court system.

William Spilker, presented his written testimony in support of SB 262 (EXHIBIT 2).

Vickie Amundson, Missoula County Assoc. of Realtors, supported SB 262 and stated the comprehensive plans had become a back door

zoning in conflict of what prospective property owners wanted. She noted it was accomplished through a visionary staff plan without the normal process to create zoning. She explained that areas in Missoula where zoning attempts had been made and property owners have had to continue organized resistance but their rights as property owners are useless because of the comprehensive plan.

{Tape: 2; Side: A; Approx. Counter: ; Comments: .}

Opponents' Testimony:

Jim Richards, representing the Montana Assoc. of Planners, stated it was not fair to characterize the comprehensive plan as a vision document. Over the last few years, the master plan had become a document expressing public policy derived after many years of public involvement in some cases. He felt it was inappropriate for the state to preempt public policy that had been developed at the local level. He also pointed out the statute amended by SB 262 required an affirmative step to be made by local governing officials. From a practical standpoint, a master plan improves or offers the opportunity to improve the design of subdivisions. The comprehensive plan also helped define the five review criteria.

Jim Kembel, representing the City of Billings, stated that current law required the development of a master plan to be established when the planning board itself was established. The master plan evaluates physical, socioeconomic factors of the community so the community can identify the needs, opportunities, and constraints related to growth. The future growth could also be guided in a logical, orderly, and cost effective manner. Subdivision regulations present a planning tool that assisted in achieving the goals and objectives adopted by the master plan. If SB 262 would be adopted, the planning process would substantially be eroded.

Don Spivey, Flathead County resident, presented his written testimony (EXHIBIT 3).

Gordon Morris, MACO, opposed SB 262 and presented the committee with a handout and a letter from the Blaine County Commissioner (EXHIBIT 4 & 5).

Gretchen Olheiser, Montana Preservation Alliance Vice-President, presented her written testimony (EXHIBIT 6).

Ted Lange, representing the Northern Plains Resource Council, opposed SB 262 and presented a letter to the committee (EXHIBIT 7).

Andrew Seaephil, Bozeman City County Planning Director, agreed with all the comments of the opponents and stated that eliminating this option of local government would take away a valuable tool and grassroots level of implementing a master plan. He passed a letter out a letter from **Susan Norton (EXHIBIT 8)**.

Milo Manning, Planning Director, Anaconda Deer Lodge County, stated the outdated master plans should be changed rather than forbidding the county commissioners to use the plan as a guide. He also commented that their master plan and their development permit system tied in with ARCO's reclamation of the super fund. He said they reached wording in their plan so that they would be able to get developments in their community. He felt that if the commissioners did not have the options to relate development to the master plan he felt they would lose their agreement with ARCO and the EPA would unravel. He urged the committee not to pass SB 262.

Larry Gallagher, City of Kalispell, mentioned that Justice Shay said the objective under the statutes was that there be a final adoption of a master plan and that the plan be followed once adopted and county commissioners and city councils listen to their planning board. He stated Kalispell opposed SB 262.

Bill Verwolf, Helena City Manager, presented a letter to the committee and stated SB 262 was a step backwards (**EXHIBIT 9**).

Alec Hanson, League of Cities and Towns, opposed SB 262.

Tom McNab, Montana Technical Council, stated they were opposed to the bill.

Cheryl Beattie, Anaconda Deer Lodge County, strongly opposed SB 262 as it would jeopardize millions of dollars of super fund activity.

Ann Hedges, Montana Environmental Information Center, stated that master plans were a very important part of the development of a community and they opposed SB 262.

Janet Ellis, Montana Autobahn Council, stated the law had worked well and should be left alone.

Earl Tufte, City of Great Falls, opposed SB 262.

Gloria Hermanson, representing the Montana Cultural Advocacy, stated they opposed SB 262.

Blake Wordal, Lewis and Clark County Commissioner, stated they were opposed to the bill.

Chris Imhoff, MT League of Women Voters, stated they opposed SB 262 and presented a letter from the Ravalli County League of Women Voters (**EXHIBIT 10**).

Kathy Masefield, City of Helena, opposed SB 262.

Shirley Menders, Helena, opposed SB 262.

Questions From Committee Members and Responses:

SEN. HARGROVE asked if SB 262 would repeal a law requiring a master plan? Mr. Richards said it did not.

SEN. HARGROVE asked if the master plan was currently optional? Mr. Kembel replied that the implementation was optional.

SEN. HARGROVE asked if anyone was excluded from participating in the process of making a master plan? Mr. Kembel answered he was not aware of anyone being excluded.

SEN. GAGE asked if a majority of the Supreme Court ruled in favor of the case he was talking about? Mr. Gallagher said the majority ruled in favor of the case Little vs. the Flathead County Commissioners.

Closing by Sponsor:

SEN. SPRAGUE stated that there was no one in the room who disagreed that a master plan was needed and good. Most were in agreement that a master plan was visionary and was trying to protect what may or may not happen. He said they were asking for the zoning privilege along with the master plan. He said they want the option to appear and have the same zoning abilities as anyone else but subdivisions were excluded from all the options. He said the realtors would just like their clients to have the opportunity to be involved in the process.

EXHIBITS 11 THRU 14 were mailed in to be placed in the record.

ADJOURNMENT

Adjournment: 2:50 p.m.


SEN. TOM BECK, Chairman


ELAINE JOHNSTON, Secretary

TB/ej

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE _____

February 9, 1995

[illegible]

SEN:1995
wp.rollcall.man
CS-09

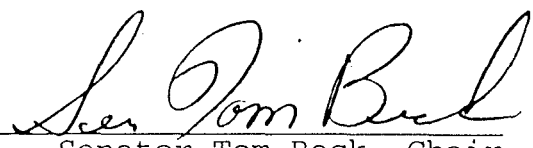
SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 9, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 182 (first reading copy -- white), respectfully report that SB 182 be amended as follows and as so amended do pass.

Signed: _____


Senator Tom Beck, Chair

That such amendments read:

1. Title, line 5.

Following: "ADVERTISING"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 30.

Page 2, line 9.

Strike: "condemnation"

Insert: "eminent domain"

3. Page 2, line 9.

Following: "(2)"

Insert: "(a)"

4. Page 2, line 11.


Insert: "(b) For the purposes of [section 2] and this section, just compensation must be based on the fair market value of the outdoor advertising that is to be acquired and must be paid to the owner of the outdoor advertising in cash or as mutually agreed upon by the owner and the county or incorporated city or town acquiring the outdoor advertising. Compensation payable to the owner of the outdoor advertising must be separate from an award payable to the owner of the real estate upon which the outdoor advertising to be acquired is situated.


(c) For purposes of [section 2] and this section, the fair market value of outdoor advertising must be based on outdoor advertising industry standards and methods for valuation and without regard to any condemnation proceedings."

5. Page 2, following line 14.

Insert: "

NEW SECTION. **Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in

 Amd. Coord.

 Sec. of Senate

341624SC.SPV

all valid applications that are severable from the invalid applications.

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval."

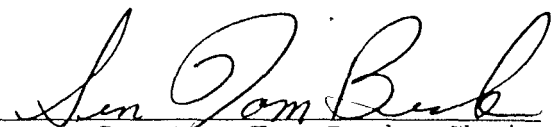
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 9, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 222 (first reading copy -- white), respectfully report that SB 222 be amended as follows and as so amended do pass.

Signed: 

Senator Tom Beck, Chair

That such amendments read:

1. Page 2, line 14.
Strike: "service"
Insert: "safety"

-END-



Amd. Coord.
Sec. of Senate

341633SC.SPV

SENATE STANDING COMMITTEE REPORT


Page 1 of 1
February 9, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 268 (first reading copy -- white), respectfully report that SB 268 do pass.

Signed: _____


Senator Tom Beck, Chair

 Amd. Coord.
Sec. of Senate

341631SC.SPV

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE
ROLL CALL VOTE

DATE 2-9-95 BILL NO. SB 214 NUMBER 1

MOTION: TABLE SR 214

[illegible]

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE
ROLL CALL VOTE

DATE 2-9-95 BILL NO. SB 182 NUMBER 2

MOTION: DO PASS AS AMENDED

[illegible]

EXHIBIT NO. 1DATE 2-9-95BILL NO. SB 258TAX DEED SCHEDULE SPECIFIED IN STATE LAW AND SB 258

1991	Dec. 1	First half 1991 real property taxes delinquent
1992	June 1	Second half 1991 real property taxes delinquent
	By July 19	County Treasurer holds sale of lien for real property taxes delinquent Dec. 1, 1991 and/or June 1, 1992.
1993		
1994		36-month redemption period for property owner
1995		

	July 19	<u>Tax deed issued to the county;</u> repurchase period for original owner or successor in interest begins .
	Nov. 30	First half 1995 real property taxes due
1996	By Jan. 19	County must hold first auction sale; may donate or retain tax deed property
	Jan. 18	Repurchase period for original owner or successor in interest ends (24 hours before auction).
	By July 19	County must hold second auction sale of remaining property.

EXHIBIT NO.

2

DATE

2-9-95

BILL NO.

SB 262

My Name is William M. Spilker - 801 Harrison, Nebraska —

I appear here in support of SB 262

SB 262 is quite a simple Bill and it will solve a problem which has existed for several years, and will make the subdivision process more predictable and fair. It is needed.

A major problem related to the subdivision process is that in the master plan legislation a subdivision must comply with the provisions of the master plan. Unfortunately this law has turned the planning process for city and counties into a defacto zoning ordinance. Typically and traditionally land use zoning regulations and subdivision regulations are the implementation strategies of a master plan. The zoning laws set forth in Title 76, chapter 2 outline these procedures through an orderly process of establishing a zoning ordinance as a result of the master plan. Yet the existing law is totally in reverse. It turns the planning process on its head. It makes a document, ~~which~~ ^{AND} meant to only provide direction and guidelines, which is loaded with vague, idealistic and subjective verbiage into a regulatory document.

Let me give you two examples of what I'm talking about. The current law says a subdivision has to comply with the county master plan. The Lewis and Clark County master plan identifies preferred growth areas. That same plan also says development outside the preferred areas is not prohibited yet, in both of the examples - two applications for subdivisions - recommendation of denial were based on the property not being in a preferred development area, as well as other references to the master plan.

Additionally the Sweeney Creek tract application has a letter of denial from the County Commissioners. This letter also relates to a conflict with the master plan. Clearly the County Commission has used the master plan as a zoning document. As a matter of interest this case was taken to the District Court for a writ of review. Unfortunately there is no appeal process under the current subdivision law. It was remanded to the County Commission for further proceedings. In short the Court said the County Commission did not act properly. Why should an individual have to spend \$20,000 to make a local government act properly.

How is it possible for a landowner to comply with a document which does not contain definitions, is in conflict with itself and intentionally written in a subjective manner. Leave the land use regulations to subdivision law and zoning to properly adopted zoning ordinance.

I urge you to support SB262

Other: park board has approved the donation of cash in lieu of parkland dedication and directed the donation to the general park fund; MDFWP strongly suggests that parkland dedication should be required to preserve all available wildlife habitat.

CONCLUSIONS

Because of the location and physical setting of this proposal, significant steps would need to be undertaken to mitigate impacts in order for it to comply with the comprehensive plan goals and objectives. These steps would include road improvements, including widening and grade reduction, compliance with State Lands guidelines for wildland residential interface development, and preservation of the natural drainage located on the property. While these steps could be accomplished, they would in turn cause significant detrimental impacts to wildlife and habitat both on the property and adjacent areas. The potential for further development would also be increased, thus adding to the potential for greater impacts to this sensitive area. Additionally, the presence of rock outcrops and a significant natural drainage will greatly restrict the location of structures or require site modifications which would reduce the effectiveness of mitigation steps for wildlife impacts and increase the impacts on the natural environment.

RECOMMENDATION

Staff recommends DENIAL of the proposed preliminary plat of the Minor Subdivision of Lot 14, Colorado Gulch Tracts to create three lots for single-family dwellings located in the SE 1/4, NW 1/4 of Section 1, T9N, R5W, Lewis and Clark County, Montana. Staff recommends this denial based upon the following:

1. The subdivision proposal is in conflict with the Lewis and Clark County Comprehensive Plan goal to provide for efficient delivery of public services, including education and emergency services. This conflict is particularly evident with the provision of fire protection services due to the condition of the access road and the wildland residential interface area.
2. The subdivision proposal is in conflict with the Lewis and Clark County Comprehensive Plan goal to encourage infill development within Preferred Development Areas. Approval of the proposal would encourage premature subdivision within the area.
3. The proposed density of development is a departure from the pattern of development. Approval of the subdivision would encourage further subdivision within the area.
4. Significant impacts to wildlife, including whitetail and mule deer habitat and elk winter range, would result from the proposed density and location of the proposal.
5. Public health and safety would be adversely impacted due to access conditions, water availability within the entire area, and the presence of a natural drainage which restricts housing and septic system location.

Lot 14 SWEENEY Creek

PLANNING STAFF Recommendation

Subdivision WAS DENIED

MAY/June 1994

On the site, natural drainage patterns should be preserved.

Cultural Resources

No historically significant sites or cultural resources have been identified on or near the proposal. A low to moderate potential for the presence of historical or archaeological resources does, however exist for the proposed site.

Traffic

The development of the proposed subdivision is estimated to generate approximately 30 additional average daily trips (ADTs). The additional trips generated would have insignificant impacts (less than 1.0% increase) on Highway 12. The most recent 1992 traffic counts estimate approximately 3,140 trips are generated along the segment of Highway 12. The additional trips would however impact the existing accesses to the property and would incur additional maintenance cost that should be borne by the users.

EXHIBIT 2

DATE 2-9-95

SB 262

RECOMMENDATION

Staff recommends DENIAL of the proposed preliminary plat of the Sweeny Creek Minor Subdivision, creating three (3) lots for single family residential dwelling units located in the SE 1/4 NW 1/4 NE 1/4 SW 1/4 of Section 33, T10N, R5W, Lewis and Clark County, Montana. Staff recommends this DENIAL for the following reasons:

1. The proposed subdivision is in conflict with the Lewis and Clark Comprehensive Plan goal to provide for efficient delivery of public services.
2. The proposed subdivision is in conflict with the Lewis and Clark County Comprehensive Plan goal to encourage infill development within Preferred Development Areas. Approval of proposal would encourage premature subdivision within the area and encourage "leap frog development."
3. The proposed density of development is a departure from the pattern of development. The property in the immediate area are large tracts of 20 acres or greater.
4. The proposed subdivision when developed would have an immediate and long lasting impact upon the scenic values of the surrounding landscape.
5. Wildlife values, in particular, mule deer and elk winter range associated with south and easterly facing slopes would be negatively impacted. The proposed and existing development activities would also exacerbate the cumulative loss of wildlife habitat.
6. Development of the proposed subdivision would enlarge the residential/wildland interface.
7. While the proposal would create only two additional parcels and for the most part the direct adverse effects would be minor, if looked at individually. These adverse effects could be mitigated by certain restrictions and improvements in most cases. The departure from the existing pattern of development (< 20 acres) in the area and would create a precedent for similar development. The cumulative effects of such development would have more significant impacts on the natural environment, wildlife and wildlife habitat, public health and safety, and the provision of services. These factors conflict with the goals of the Comprehensive Plan.

Lot 25 Sweeny Creek.

STAFF Report -
APPLICATION DATE - MAY 20, 1993



LEWIS AND CLARK COUNTY

City County Building
P.O. Box 1724
316 North Park
Helena, Montana 59624
Telephone 406/447-8304

Board of County Commissioners

June 15, 1993

Michael and Erin Melugin
129 Hauser Blvd.
Helena, MT 59601

Dear Mr. and Mrs. Melugin:

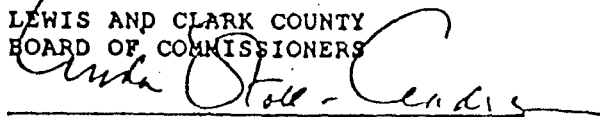
On Tuesday, May 25, 1993, the Lewis and Clark County Commissioners held a public meeting and received comments on the proposed Sweeny Creek Minor Subdivision of Lot 25, located in the SE 1/4, NW 1/4 and the NE 1/4, SW 1/4 of Section 33, T10N, R5W, Lewis and Clark County, Montana.

The Commissioners considered all testimony from the public and reviewed Staff recommendations. After weighing the factors set forth in Section 76-3-608, MCA, the Commissioners determined that the subdivision, as proposed, would have significant cumulative adverse effects upon the scenic character of the area, provision of local services, tax-based services, the natural environment, wildlife and habitat, and public health and safety.

In addition, the Commissioners noted that the proposal was in conflict with the stated goals of the Lewis and Clark County Comprehensive Plan to encourage growth in Preferred Development Areas, discourage premature subdivision and leapfrog development. It was also noted that the proposal would create a distinct departure from the pattern of land development that exists in the vicinity. In view of the findings outlined above, the Commissioners voted (2-1) to deny your subdivision proposal.

Sincerely,

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Linda Stoll-Anderson, Chairwoman

cc: Michael T. McHugh, County Planning

File: 2616 Sweeny.Dnd

EXHIBIT

D

February 8, 1995

Memo to: Montana State Senate
Local Government Committee
Senator Tom Beck, Chairman

Subject: Senate Bill 262

Senators,

I believe this bill represents bad public policy and am therefore opposed to it's passage.

I am writing on behalf of myself, the Whitefish City/County Planning Board (of which I'm a member), and the Citizens For a Better Flathead (a concerned volunteer organization in the Flathead Valley).

The State of Montana has thoughtfully provided a mechanism for local government units to use when planning for their future. In Montana it is called a Master Plan. When created and adopted by a community it represents a 'vision statement' as well as a control mechanism for directing future growth and development in the area. The statutes governing Master Plans suggest a very broad range of topics for inclusion in that plan, but key among them are land-use directives.

Development activities in any area are almost always associated with subdivisions, either major or minor according to Montana's Subdivision Regulations. Conformance to the Master Plan is one of the key vehicles utilized to help manage growth and development in accordance with the public directions set forth in the Master Plan.

In our part of Montana there are also checks and balances that help to insure the validity (currency) of the Master Plan as well as provide for exception handling of subdivision requests. I suspect these exist throughout Montana where Master Plans are in place.

First--legislative bodies (City Councils or County Commissions) can and sometime do approve subdivisions that do not conform to the Master Plan.

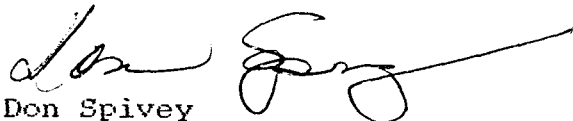
Second--A developer wanting to propose a subdivision that does not conform to the Master Plan can elect to first propose an amendment to the Master Plan thus enabling his subdivision. These are called Neighborhood Master Plan Amendments. In our jurisdiction this is often done, particularly for large subdivisions where community impact is severe. Today the Whitefish City/County Master Plan contains 2 such approved amendments.

Third--Most Master Plans also contain provisions for formal review and update to reflect the changing needs of an area, thus affording another opportunity for dealing with non-conforming proposals. In Whitefish we are nearing the end of one of those update cycles which reflects substantial change to that Plan.

The proposed legislation will cripple a community's ability to plan and manage land-use directions. In fact it may effectively cripple Master Planning in general as the most critical use of the Master Plan relates to its role in directing development activities.

Please do not tie the hands of a community, its' Planning Board and legislative body relative to land-use planning by passing this legislation.

Respectfully,

A handwritten signature in black ink, appearing to read "Don Spivey", with a long, sweeping horizontal line extending to the right.

Don Spivey
51 Penney Lane
Columbia Falls, Montana

**WHY IT IS APPROPRIATE FOR COUNTY AND MUNICIPAL GOVERNMENTS
TO HAVE THE ABILITY TO USE THE LOCAL MASTER PLAN
AS A BASIS FOR SUBDIVISION APPROVAL.**

1. STABILIZE OR REDUCE TAXES AND FEES.

Requiring subdivisions to comply with a master plan can stabilize or reduce tax or user fees expenditures by enabling local governments to more efficiently provide the needed services and facilities.

Emergency services such as law enforcement and fire protection and facilities such as roads, utilities, and water, and waste disposal can be more efficiently provided if an overall plan is available to guide individual decisions on subdivisions.

Through the master plan, citizens and local officials can develop cost-effective, money-saving financing programs for providing public facilities.

2. PROMOTE ORDERLY DEVELOPMENT.

Without the ability to require a subdivision to conform to a master plan haphazard development occurs.

The cost of providing public services and facilities to haphazard development generally leads to higher taxes, fees, and private costs to provide the necessary facilities and services.

3. PROVIDE SAFER, HEALTHIER COMMUNITIES.

Requiring a subdivision to conform with an overall master plan protects public safety and health by encouraging safe well-designed streets and identifying suitable building sites, free of potential hazards.

4. BENEFITS DEVELOPERS AND BUSINESS PERSONS.

Having a master plan benefits developers and business persons.

The plan gives them a better sense of community goals for development and geographic areas where new development is desired and planned.

The plan provides useful data for helping developers and business persons design

better, more profitable subdivisions.

Considering a master plan during the review of a subdivision helps reduce conflicts over community goals and policies during public hearings on subdivision proposals.

5. ENHANCES PRIVATE PROPERTY VALUES.

Requiring a subdivision to comply with a master plan helps to prevent possible incompatible uses (such as a residential subdivision next to a junkyard). This enhances property values.

6. PREVENTS ARBITRARY AND CAPRICIOUS DECISIONS.

Requiring a subdivision proposal to conform to a master plan helps prevent arbitrary and capricious decisions by the local governments. Requiring a subdivision to conform to a plan means the city or county must determine the relationship between the decision on a specific subdivision and the overall public policy embodied by the master plan.

It is less likely that a local government would be be tempted or pressured to bestow a unique benefit on a specific subdivision (that other subdivision proposals would not receive) if each decision on each subdivision proposal is based on a master plan. In other words, basing the approval of subdivisions on conformance to a master plan improves consistency, fairness, and equity in the development process.

7. A MASTER PLAN PROVIDES BROADER INFORMATION AND POLICY GUIDANCE THAT CAN NOT BE OBTAINED BY LOOKING AT SUBDIVISIONS MERELY ON A CASE BY CASE BASIS. THIS BROADER INFORMATION IS NEEDED TO MAKE GOOD COST EFFECTIVE DECISIONS.

For example, it is folly to only look at an individual subdivision without considering the master plan which should include overall policies for fitting the subdivision into the road network and water and sewer services (Or central systems if central systems exist). The master plan is needed to insure the proposal fits into the overall city or county infrastructure.

8. MASTER PLAN STREAMLINES APPROVAL PROCESS FOR SUBDIVISIONS.

For a class 1 or 2 municipality, if a subdivision is within a master planned area, it is

not subject to sanitary restrictions imposed under the sanitation in subdivision law. This is a big incentive for developers. It saves them time and money in the subdivision review process (76-4-124 MCA, MSISA.-- municipality must also certify that municipal facilities for water, sewer, and solid waste will be provided).

9. BENEFITS AGRICULTURE.

A master plan can identify ways to prevent problems which could interfere with agricultural operations. For example, a master plan can identify the location of irrigation ditches and systems and suggest methods to prevent interference with these facilities. Another example is the approval of subdivisions adjacent to agricultural uses and problems that can arise because of normal agricultural operations such as aerial spraying or strong odors or harassment of livestock.

A master plan can also help to maintain the viability of agricultural operations. The master plan can help to identify areas suitable for non-agricultural uses, such as subdivisions, and those areas that are prime agricultural areas and which are needed to be preserved as agricultural uses in order to sustain the local agricultural economy.

10. PROTECTS AND ENHANCES SPECIAL COMMUNITY AND RURAL VALUES.

A master plan provides valuable information and guidance on how subdivisions can be developed to help maintain historic, scenic and natural features and rural character.

11. GOALS OF THE PEOPLE, STATEMENT OF PUBLIC POLICY.

The master plan states the goals of the people in terms of desired outcomes for community development, including the approval and development of new subdivisions. It is appropriate and it is responsible democracy for a governing body to consider the overall wishes of the people, as embodied by the master plan, before making development decisions which impact the citizens of the city or county.

12. PUBLIC INVOLVEMENT.

The master plan is developed with widespread public involvement and participation and reflects the concerns and goals and objectives of the community's citizens.

The plan is the public's expression of their vision for the community. Exempting subdivisions from conforming to the master plan eliminates the public decision making process and may preclude the vision from becoming a reality.

13. GOOD MANAGEMENT, GOOD COMMUNITY DEVELOPMENT.

Since at least the 1920's the ability of a local government to require a subdivision to conform to a master plan has been considered to be good city and county management and good community and rural development. Approval of individual development proposals should be guided by an overall plan. This has been the prevailing philosophy, not only in Montana communities, but in communities across the nation as well. As previously stated, there are sound reasons for this philosophy.

**PROBLEMS CAUSED BY ELIMINATING THE ABILITY TO REQUIRE
SUBDIVISIONS TO CONFORM TO A MASTER PLAN**

**1. HAPHAZARD DEVELOPMENT REDUCES ABILITY TO BUILD BETTER
COMMUNITIES.**

By not requiring subdivisions to conform to a master plan, development patterns become the cumulative result of hundreds of independent, mostly unrelated, decisions made by individual landowners. Communities that develop in a haphazard, random fashion rarely are as attractive, safe, functional or efficient as they could be.

**2. HAPHAZARD DEVELOPMENT TENDS TO INCREASE TAXES AND USER
FEES.**

The ability to reduce tax and user fee expenditures, by instituting better planning for public facilities such as roads and community water and sewer facilities, would be greatly reduced. Unplanned roads and public facilities simply cost more to build and maintain than planned facilities.

3. PURPOSE OF MASTER PLAN IS COMPROMISED.

By exempting subdivisions from compliance with a plan you are eliminating a major method to carry out the plan and eliminating any ability of the master plan to fulfill its purpose.

The master plan, while a non-binding document, is developed through a public process that identifies land use issues, public goals, and gives direction for dealing with those issues and goals. Subdivision regulations carry out the direction and policy of the plan by specifying detailed requirements that govern the use of land. By not requiring subdivisions to comply with the master plan, the issues and goals identified in the master plan would be compromised.

4. ABILITY TO CONDUCT COMMUNITY PLANNING AND MANAGE NEW GROWTH IS SEVERELY DAMAGED.

Montana citizens have demanded community planning. In fact, in many communities across the state, citizens have demanded more and better planning. This bill would severely damage the ability of communities to plan in accordance with the wishes of the citizens.

CURTIS C. MOXLEY
Commissioner

ARTHUR KLEINJAN
Commissioner

KEITH BENSON
Commissioner

SANDRA L. BOARDMAN
Clerk and Recorder/Assessor

SHIRLEY GRUBB
Treasurer

PERRY W. MILLER
Justice of Peace



EXHIBIT NO. 5

DATE 2-9-95

SB 262

JOHN C. MC KEON
District Judge

KAY O'BRIEN JOHNSON
Clerk of Court District #17

MARK HARSHMAN
County Attorney

JOHN W. HARRINGTON
Sheriff and Public Administrator

CAROL L. ELLIOT
Superintendent of Schools

MARVIN A. EDWARDS
Coroner

B.W. MC GUIRE
Justice of Peace

BLAINE COUNTY

Chinook, Montana 59523

Chairman Beck and Local Government Committee Members

Blaine County would like you to vote against SB 262. The purpose of our Master Plan is to control subdivisions in the rural areas or at least allow the planning board to have input on the effects of it. Should this bill pass as proposed, it will start to erode the Master Plan until it becomes a completely useless document.

Once again, we urge to you to please defeat SB 262.

Thank you.

Yours truly,

Arthur Kleinjan

Arthur Kleinjan
Blaine County Commissioner



MONTANA PRESERVATION ALLIANCE

P. O. Box 1872, Bozeman, Montana 59771-1872 (406) 585-9551

President

Jon Axline, Helena

Vice President

Kathy Macfield, Helena

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Jim McDonald, Missoula

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Ellen Sievert, Great Falls

Keith Swenson, Bozeman

Bill Brolin, Anaconda

John Brumley, Havre

Mary McCormick, Butte

February 9, 1995

Representative Tom Beck, Chairman
Senate Local Government Committee

Dear Committee Members:

The master plan or comprehensive plan provides an opportunity for a city or a county to protect its historic and prehistoric resources if they are identified as important to the community. Often, historic and prehistoric sites serve as an important element of a community's economic base and development for tourism.

The master plan is developed and presented for public review and comment, and then adopted through the public hearing process. The master plan then provides a basis for the city or county subdivision and zoning regulations. Subdivisions are then reviewed to determine whether or not they are consistent with the publicly adopted master plan.

This consideration is especially important for historic and prehistoric resources which could be detrimentally and irreparably affected if they are not adequately considered. The subdivision review process then provides a mechanism to mitigate adverse effects which can include redesigning the subdivision.

SB 262 eliminates the master plan as a major component of the decision-making process. As a result, SB 262 effectively limits a community's ability to protect its historic and prehistoric resources through the subdivision review process.

SB 262 is not a good bill. Please do not pass SB 262.

Sincerely,

Gretchen Olheiser
1995 MPA Vice-President

Testimony on SB 262 - 2/9/95

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 7

DATE 2-9-95

BILL NO. SB 262

About two-and-a-half years ago, something exciting began to happen around the town Red Lodge. Ranchers and realtors, shop owners, school teachers, politicians, and retired people - more than a hundred and fifty in one meeting alone - came together to start identifying current and future community needs. It was a list that grew out of our shared values, our sense of common ground. In truth there was surprisingly widespread agreement on a number of issues. And one of those issues was the value of good planning.

You should know that most of the people in our area look favorably on economic development; our heritage is agriculture and coal, and we still like to think of ourselves as a working class community. Yet we believe strongly in the wisdom of building a citizen-based blueprint for the future. A blueprint to help us deal with things like our faltering infrastructure. Or the growing needs of our senior citizens. Or our commitment to preserving our clean air, and healthy streams and ground water. The truth is that a dynamic community plan is the only tool local people have for maintaining a say in their future.

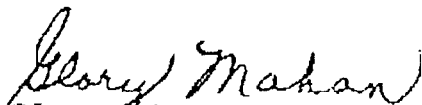
In these past many months we've worked hard to build cooperation between city and county government and local citizens; our master plan is now just months away from completion. Governor Racicot was so impressed with our broad-based approach that he invited us to come to Helena to talk to him about it. He said it was "a great example

of what people can do when they work together.' 'When Taylor Brown spoke to us at a town forum last year, he went so far as to say that such efforts were the surest way to build 'a great future for Montana. '

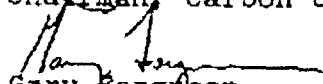
That's why a lot of people here are so upset about Senate Bill 262. To us it makes a lot more sense to fully involve our developers in shaping a community plan, which we've done from the beginning, instead of denying them and all other locals the right to have any say at all in what happens to them in the years ahead. These days it seems everyone is talking about the need for strong, supportive communities. We know that takes a lot of hard work, even in the best of circumstances. Senate Bill 262 would make that job harder still.

We respectfully request that you vote against this proposal.

Sincerely,



Glory Mahan,
Chairman, Carbon County Planning Board



Gary Ferguson,
For the Beartooth Front Community Forum



Mike Fahley,
Carbon County Planner

SUSAN R. NORTON
7237 Raven Drive
Belgrade, MT 59714-8118
(406) 388-0002

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 8DATE 2-9-95BILL NO. SB 262

February 8, 1995

Local Government Committee
Senator Thomas Beck, Chair
Capitol Station
Helena, MT 59620

Dear Senator and Committee Members,

RE: SB 262

I am writing to express my grave concerns with respect to SB 262. I have been a citizen member of planning boards in two different Gallatin Valley communities. Over the years I have seen firsthand how valuable master plans are in guiding the planning process. I am alarmed at the prospect of eliminating the requirement that a subdivision conform to the Master Plan.

The development of the Master Plan provides a critical format for optimum citizen participation in the future direction of their community. Countless hours are spent by not only the local government, but the volunteer board members and the citizens who participate in the creation of a Master Plan. It is developed from a very broad base of community involvement and becomes the public policy statement for the community.

Master Plans are the only real way we are going to see the desires of the community reflected in an area's development. A critical element that a planning board and a county commission should refer to in subdivision review is this public policy statement. SB 262 eliminates the largest component of the public participation process.

It would do the people of Montana a terrible disservice to, in effect, eliminate them from the shaping of their communities' futures.

Cordially,





City of Helena

SENATE LOCAL GOVT. COMM.

EXHIBIT NO

9

DATE

2-9-95

BILL NO.

SB 262

February 9, 1995

Representative Tom Beck, Chairman
Senate Local Government Committee

Dear Committee Members:

The master plan is developed and presented for public review and comment, and then adopted through the public hearing process to become public policy. For example, the City of Helena recently went through an extensive three-year process to update its 1983 comprehensive plan. Extensive public participation was invited and encouraged for the city's comprehensive planning process. Realtors, developers, property owners, and citizens worked together to identify a community vision for future growth and development.

The master plan or comprehensive plan provides a basis for the city or county subdivision and zoning regulations. Subdivisions are then reviewed to determine whether or not they are consistent with the publicly adopted master plan. Zoning and subdivision regulations become tools to implement the plan, as well as the ability to review land use proposals (including subdivisions) for their consistency with the comprehensive or master plan.

SB 262 eliminates the master plan as a major component of the decision-making process. As a result, SB 262 effectively limits a community's ability -- and therefore, its citizens' capability -- for self-determination on the local level, and inhibits their options to decide how a neighborhood, city, or county will grow in the future. SB 262 is a great disservice to Montana's citizens, and discourages their public participation in the planning process. Finally, the comprehensive plan essentially would not count because its ability for implementation is substantially reduced with SB 262.

SB 262 is not a good bill. Please do not pass SB 262.

Sincerely,

Kathy Macefield
Planning Director

SENATE LOCAL GOVT. COMM.

EXHIBIT NO.

10

DATE

2-9-95

BILL NO.

SB 262

TO: Senator Tom Beck and Members of the Senate Local Government
Committee
FROM: Tonia Bloom, League of Women Voters of Ravalli County
RE: SB 262
DATE February 7, 1995

The League of Women Voters of Ravalli County would like to voice its opposition to this bill. SB 262 would effectively wipe out the planning efforts of many rapidly growing counties in Montana. Planning is the only tool local communities have for directing growth, so that the costs of providing services to new developments do not overwhelm old and new taxpayers alike. It is the only tool that communities have to direct growth in a way that minimizes the effects of new developments on the environment and on the way of life of the residents of the area.

The development of a community master plan is a difficult and often divisive process. But it is a process that communities undertake when confronted by rapid growth because it is the only way to create some kind of common expectations and predictability for longtime residents, newcomers and developers alike. It is the only way to try to ensure that the costs of providing infrastructure and services are kept to a minimum. SB 262 would undo the hard work undertaken by many communities around the state.

If SB 262 were to become law the only way to enforce a community master plan would be through zoning regulations. Few parts of Montana are urbanized enough to warrant the imposition of rigid zoning regulations. But many rapidly growing areas need the guidance of a county plan to help deal with rapid development.

The League of Women Voters of Ravalli County urges you to oppose SB 262.

SENATE LOCAL GOVT. COMM.

EXHIBIT NO.

11

DATE

2-9-95

BILL NO.

SB 262

JOHN O. GRAY

P. O. 27

PRAY, MONTANA 59065

Double Rainbow Tarentaise Ranch
February -8, 1995

Senator Beck, Chairman,
Senate Local Government Committee

Dear Senator Beck,

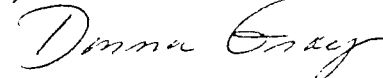
I wish to be on record with your committee as opposed
to Senate Bill 262.

Those of us trying to maintain agriculture in Park
County have repeatedly been told by county officials that
any regulations that might help toward this end are depen-
dent upon first adopting a Master Plan for the county.
Much work has been done to devise and encourage adoption
of such a Master Plan. This work has been done in good
faith under existing laws that place the counties as po-
litical subdivision of the state.

Without a Master Plan, the planning board and the
county commissioners have little rational basis upon which
to make decisions on development proposals which continually
jeopardize our agricultural base, and threaten to destroy
our economy by creating the need for more government ser-
vices than the county can afford.

Any county that so wishes presently has the authority
to avoid adopting a Master Plan. There is no practical
need for this legislation, and it would punish counties
that are endeavoring to create some order out of the de-
velopment pressures.

Yours very truly,



John and Donna Gray

PLANNING OFFICE

414 East Callender — Livingston, MT 59047 — 1-(406) 222-6120

February 9, 1995

Senate Local Government Committee
Capital Station
Helena, MT 59620

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 12

DATE 2-9-95

BILL NO. SB 262

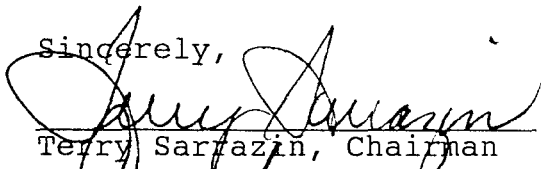
Dear Senator Beck and Committee Members:

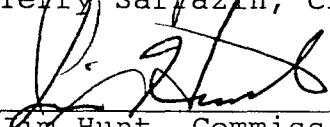
The undersigned Park County officials wish to go on record as being opposed to Senate Bill 262. Many residents of Park County have expressed concern about our rate of growth, and we are currently working on a master plan. The planner and various citizen groups have spent many hours in the past year and a half trying to develop guidelines for development in the county. The master plan will give the County Commissioners and the Planning Board a foundation for making development decisions. If the planning board and governing bodies cannot use the master plan to make development decisions, then there is no reason to develop a plan.

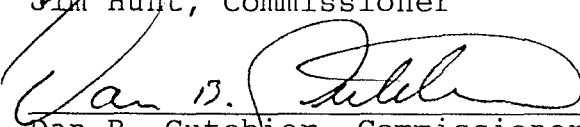
The passage of this bill would not only take away local governments right to review subdivisions based on a master plan, but interfere with local control of development patterns. A master plan is a public policy document developed with the participation of local residents. The purpose of the document is to direct development to areas that the county can provide services and accommodate growth.

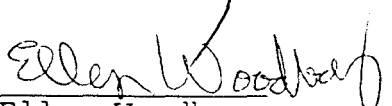
Obviously the drafters of the bill have no concern for the local government costs, local citizens input, or development patterns in the State of Montana. We urge you to vote against Senate Bill 262.

Sincerely,


Terry Sarrazin, Chairman


Jim Hunt, Commissioner


Dan B. Gutebier, Commissioner


Ellen Woodbury
Planning Director