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REPORT

Summary of

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REPORT

MEMBERS OF THE MILES CITY STUDY COMMISSION

AND

MEMBERS OF THE CUSTER COUNTY STUDY COMMISSION

of the

MILES CITY and CUSTER COUNTY

GOVERNMENT STUDY COMMISSIONS

Copies of the full report are available
at the Courthouse, City Hall and Miles City Library.

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REPORT

TO THE CITIZENS OF MILES CITY AND CUSTER COUNTY

SUBMITTED BY


MEMBERS OF THE MILES CITY STUDY COMMISSION

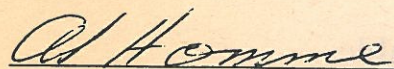
AND

MEMBERS OF THE CUSTER COUNTY STUDY COMMISSION

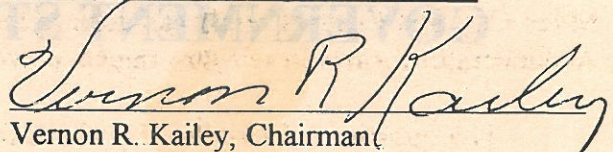
Approved March 28, 1996

Miles City Study Commission


Brent L. Christopherson, Chairman


Al Homme, Vice Chairman

Custer County Study Commission


Vernon R. Kailey, Chairman


John K. Uden, Vice Chairman

I. LETTER TO CITIZENS OF MILES CITY AND CUSTER COUNTY

To the Citizens of Miles City and Custer County:

The Miles City and Custer County Study Commissions, elected by voters on November 8, 1994, or afterwards appointed, present this Final Report to the citizens of Miles City and Custer County.

The purpose of the study commissions, as defined in state law, is "to study the existing form and powers of a local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state." Upon completion of these two phases of the study, it is the responsibility of the study commissions to submit a final report recommending no change, propose an amendment to the existing form of government(s), or offer an alternative form of government to the qualified electors.

In every phase of this review the study commissions sought advice and information from as many people in the city and county as possible. Opinions and recommendations were solicited from local government officials, community organizations, and citizens. All meetings of the study commissions were open to the public. Commission members appeared before various community organizations to explain the work of the commissions and also to hear the viewpoints, ideas, and concerns of those present. Professional consultants were utilized throughout the process. Public hearings were held; a survey questionnaire of citizen attitudes was made.

Our recommendations reflect the thoughts and opinions of those who participated in public hearings, those who attended our regular meetings, and those who responded to our survey questionnaire, in addition to the independent efforts of members of the study commissions.

In this Final Report we present our recommendations for an alternative form of government that we feel will provide the governmental services expected by the people both today and in the future. Our concern has been to provide a form of government that will be responsive to local citizens and provide the opportunity for devising solutions to local problems. We feel the citizens of Miles City and Custer County can achieve these goals by adopting a consolidated Commission-Administrator form with self-government powers.

The question of adopting this alternative form of government will be placed on the ballot November 5, 1996. We solicit your consideration of its adoption.

Respectfully submitted,

Brent L. Christopherson, Chairman
Miles City Study Commission

Vernon R. Kailey, Chairman
Custer County Study Commission

II. SUMMARY OF RECOMMENDATIONS

The Miles City and Custer County Local Government Study Commissions, having thoroughly studied our present forms of city and county government and the alternative forms of government available under state law, and having studied our future governmental needs, recommend the following:

1. Miles City and Custer County should adopt a consolidated, commission-administrator form of government, with self-governing powers under a new Charter. A commission, or elected legislative body of six (6) members plus a chairperson, shall be elected for four (4) year terms of office. Commissioners shall be nominated from districts in which they reside and which are apportioned as compact and equal in population and area as possible. Commissioners shall be elected at large. The commission chairperson shall be nominated and elected at large for a four (4) year term.
2. The question on the alternative form of government shall be submitted to voters on November 5, 1996.

REVIEW PROCESS

Along with many other Montanans across the state, we have been involved in a 2-year process of reviewing our local governments as required by our State Constitution. This review process, as specified by the Legislature, involved a Study Commission for the City of Miles City, and another Study Commission for Custer County.

Initially, the two study commissions worked separately, each studying the present form and powers of its governmental unit. A thorough study was made of alternative local government forms detailed in a Local Government Review, 1994-1996 handbook provided to each study commission member.

In communication between the two study commissions, it soon became apparent that there was a strong feeling in both groups, supported by public hearings and citizen surveys, that consolidating the functions of the existing city and county governments under a Commission-Administrator form with self-government ("Charter") powers would best serve attainment of the following goals:

MAJOR GOALS

- (1) To give locally elected government officials more authority and flexibility in determining matters of local government concern than is currently possible under state statutes. We believe that local citizens are both more responsive and accountable to local needs than officials elected or appointed at the state level of government. The greater merit of local decision making is recognized in the broad grant of local government authority to those communities which organize themselves under the Charter provisions of Article XI of the State Constitution.
- (2) To provide for an improved combination of needful governmental services to our people as citizens, at the lowest possible cost to our people as taxpayers. We believe that there is wasteful cost in the duplication of services as currently exists in two separate local governments for our small population, and that our tax dollars can be put to more efficient use in providing necessary services under a consolidated city-county government.
- (3) To maintain the traditional close relationship between local citizens and their government -- by establishing a commission of six (6) members, plus a commission chairperson elected at large. We believe that the commission thus established will preserve the close personal ties that should exist between citizens and their local government representatives.

Toward these goals, the two study commissions determined to meet together in working toward the objective of a unified Charter form of consolidated government. Though meeting together to facilitate communication, members continued throughout the study to vote as the separate commissions to which they had been elected or appointed. In this way it was assured that both city and county study commissions approved the following recommendations for change:

KEY REVISIONS OF THE PROPOSED FORM

- (1) Acquisition of local self-government powers under a Charter.

Acquisition of self-government powers under a Charter enables locally elected government officials to function with more authority and flexibility in dealing with matters of local concern. The proposed Charter, which follows on pages 13-23, establishes a locally written document of government which best meets our local needs under state constitutional provisions while preserving legislative safeguards.

Under the 1972 State Constitution, the potential power and authority of local government has been changed. Traditionally, power over local governmental concerns has been the prerogative of the state legislature, which decided what local governments should do and how to do it.

The new constitution provides that "self-government powers" can be adopted by counties, along with an alternative form of government. With self-government power, certain areas of control would be transferred from the state legislature to the proposed Miles City-Custer County Commission. Many decisions that are now made on a state-wide basis by the legislature could be made at the county level. State wide uniformity, while still mandated in certain areas, could be replaced in other areas with procedures tailored to the particular needs of Miles City-Custer County. Self-government powers would mean greater flexibility in shaping our local governmental structure, greater power to solve our own problems, and more responsibility to recognize and deal with these problems.

(2) Complete unification of the city and county under a consolidated local government.

Complete unification under a consolidated local government recognizes that there is one community of citizens within Miles City and Custer County. The small size of this community of citizens cannot long support the duplicative nature of two forms of local government and their personnel staffs without a serious diminishing of important services. Unification promises greater economy, efficiency, and tax and services equity among the citizens of this community.

The plan for consolidation grants the legislative body (commission) of the consolidated government authority to determine policy and provide for the implementation of its policies through the enactment of ordinances. The plan provides for the adjustment of existing bonded indebtedness and other obligations in a manner that assures a fair and equitable burden of taxation for debt service. It provides for the establishment of subordinate service and special improvement districts, and for the absorption of existing subordinate service and special improvement districts. The plan establishes the official name of the consolidated local government: "Miles City-Custer County."

(3) Adoption of the Commission-Administrator form of administration for the consolidated government.

The goals of local government improvement are enhanced when unification and consolidation are coupled with a Commissioner-Administrator form of administration which combines competent, efficient, professional administration with responsive elected representative leadership.

The traditional structure of a three-member commission and seven separate elective offices places the commissioners in the awkward position of being responsible for county government, yet having no effective control over seven elected county officials who are not required to conform to recommendation, direction, or official action of the commission. The traditional structure also requires the three-member commission to act as both legislature and executive for county government, without the "checks and balances" that are elsewhere preserved as an important balance of governmental powers.

In the proposed form of government a commission of six members plus a commission chairperson will act as a legislative body with power to formulate policy, and will have authority to enact ordinances to carry out their policies. The responsibility of administering and enforcing these ordinances lies with the administrator.

The administrator, a professional hired by the commission "on the basis of merit only," is responsible for the administration of the programs and policies determined by the commission. Subject to the commission's general direction, the administrator controls the hiring and firing of county personnel, directs and supervises the administration of all departments, prepares the budget, and is in charge of the business affairs of the consolidated government. The administrator serves at the pleasure of the commission and may be replaced at any time.

The plan for a Commission-Administrator form of administration for the consolidated government provides for the adjustment of commissioner district boundaries to assure fair and equitable representation of the citizens of Miles City-Custer County.

SUMMARY COMMENTS

These goals and their related changes in our form of local government are not recommended lightly. Members of the study commissions have labored long and diligently, devoting many hours to detailed study and analysis to identify the form of government that would best serve our citizens into the 21st century and beyond.

We know that it is difficult to change tradition. The "traditional" forms of government in Miles City and Custer County are basically the same as described in the 1889 State Constitution, reflecting their "traditional" roles as administrative arms of the state government. Local government duties are detailed in state law, and authority to deal with local problems is limited.

We are also keenly aware that change in local government is "uncomfortable" unless there is a crisis of some sort that forces such change -- and that many feel that our current problems and challenges have not yet reached crisis proportion. However, it is not likely that a local government "crisis" will coincide with the opportunity to review and change our government form that comes only in 10-year cycles. But the potential for crisis looms ever closer, as the gap widens between

necessary or desired government services provided by duplicative personnel staffs and our ability to pay the increasing cost of such services and personnel staffs.

We strongly believe that the changes recommended herein are a responsible approach to enabling our citizens to deal with issues of local government concern before they reach crisis proportions, and that now is the time to prepare for those situations that will most certainly confront us in the not too distant future.

III. COMPARISON OF THE EXISTING FORMS OF GOVERNMENT AND THE PROPOSED FORM OF GOVERNMENT

Description of the General Characteristics of the Existing Form of Miles City Government

The City of Miles City operates under the form of government specified under the provisions of 7-3-113, MCA, with options detailed in Part 2, 7-3-201 through 7-3-224, MCA.

The City is governed by a Commission-Executive ("Council-Mayor") form. The City Council is comprised of eight (8) district ("Ward") Council members, with 2 council members representing each of four (4) districts, elected for four-year overlapping terms. The districts are apportioned by population, and Council members must reside in the districts from which they are elected. Council member elections are non-partisan.

A Chairman of the City Council is elected by members of the Council from their own number for a term established by ordinance.

Community councils to advise Council members may be authorized by ordinance.

The city exercises general government powers as defined in state statutes, with the Mayor responsible for carrying out the duties of the executive.

The Mayor is elected at large for a four-year term. From November 1986 to June 1992 the city was governed under a Council-Manager form, with five (5) council members, each representing a separate Ward. However, in June 1992, a special election resulted in a return to the former Council-Mayor form.

In the role of executive, the Mayor exercises the following functions and powers:

- (1) Serves as the presiding officer of the Council, decides all tie votes of the Council, but shall have no other vote.

- (2) May appoint one or more administrative assistants to assist him in the supervision and operation of the local government, with such assistants answerable solely to the Mayor.
- (3) May appoint, with the consent of a majority of the Council, all department heads and remove department heads and may appoint and remove all other department employees.
- (4) May veto ordinances and resolutions, subject to override by a two-thirds vote of the Council.
- (5) Prepares the city budget in consultation with the Council and department heads.
- (6) Exercises control and supervision of all departments and boards to the degree authorized by ordinance of the Council.

In addition to the Mayor and Council Members, a city financial officer ("City Treasurer") is also elected for a four-year term.

Appointed City Officers include:

- Chief of Police
- City Clerk
- Director of Public Works
- Director of Public Utilities
- Fire Chief
- Managerial Assistant
- Water/Waste Plant Supervisor

Description of the General Characteristics of the Existing Form of Custer County Government

Custer County operates under a form of government specified under the provisions of 7-3-111, MCA, with options detailed in Part 4, 7-3-401 through 7-3-442, MCA. This form is basically the same as described in the 1889 State Constitution. In structure and powers it reflects its role as an administrative arm of state government. The legislative function of county government essentially resides with the State Legislature.

A three (3) member Board of County Commissioners is elected by the voters of the county for four-year overlapping terms. Each commissioner must reside in the district he or she represents, but commissioners are elected at large. Commissioner elections are non-partisan elections.

The commissioners serve as the executive branch of the county government and are responsible for the administration of the business affairs of the county as outlined in state law. They also have the responsibility to appoint members of boards and commissions and any department heads who are not elected.

Under the existing form of government, county commissioners have rather limited authority to supervise officials and employees of the county government. They can supervise those whom they appoint, but the only control they have over departments headed by elected officials is through the county budget.

In addition to the three commissioners, there are seven other elected officials under the existing form of county government. They are:

Clerk and Recorder	
Clerk of District Court	
County Attorney	Note: Excepting for County Attorney and
County Superintendent of Schools	County Superintendent of Schools, there
Public Administrator	are <u>no required qualifications</u> for persons
Sheriff/Coroner	holding these elected offices.
Treasurer/Assessor	

The salaries as well as the powers and duties of these elected officials are determined by state law under the existing form, and each official is nearly independent from the supervision of the commissioners or any other central administrative authority.

Major services provided by the county under the existing form include:

- Agricultural and rural services (county fairs, Cooperative Extension Service, weed, insect, rodent, and predator control programs, and rural fire protection)
- Elections
- Financial Administration
- Parks
- Planning and development
- Public safety and judicial administration (law enforcement, county attorney, and justice courts)
- Record keeping functions
- Recreation
- Roads and Bridges maintenance
- Social Services (welfare, health, nursing home, ambulance services)

Under the existing form of government, Custer County operates with limited powers, having only those powers specifically granted to them by the state legislature. If there is any doubt as to the existence of a local government power, the power is denied.

Description of General Characteristics of the Proposed Form of City-County Government

Self-Government Powers under a Charter:

Under provisions of the 1972 Montana Constitution and state laws passed in 1975, voters in Montana counties, through proposals of their local government study commissions, can choose a different kind of power and authority for their county government. This arrangement of state-local power sharing is called "self-government powers." Self-government powers means that a local government with those powers can take any action or engage in any activity unless specifically prohibited by the state or U.S. Constitution, state law, or local charter. Essentially, this is a reversal of the old rules regarding local government powers. There is no need for a grant of powers, since the local government is free to act unless specifically prohibited.

In a law adopted in 1975, the state legislature reserved certain powers and functions to the state, mostly relating to the necessity of state-wide uniformity in such areas as the conduct of elections, law affecting private or civil relationships, fish and game, etc., or to safeguard "due process" and individual rights of citizens of the state.

But even with these limitations, local governments adopting self-government powers will have the freedom to determine their own internal structure, including: departments, boards, bureaus and commissions; and to determine the type, level, and method of providing services such as roads, health services, fire and police protection, libraries, parks, water and sewer services, and solid waste disposal.

Unification of the City and County under a Consolidated Government:

Under the proposed form, all functions of the former Miles City and Custer County governments would be consolidated under the Miles City-Custer County government.

Policy-making and Administrative Structure under a Commission-Administrator form:

Under the proposed form, the commission would make policy, pass ordinances and resolutions, review, modify, and approve the budget, determine the department structure of city-county government, appoint boards, and place their functions under direction of the administrator. The commission also appoints the administrator and can replace him or her at any time.

The administrator is responsible for carrying out the policies that are set by the commission. He/she would prepare the budget, hire and fire employees (except as provided by law or ordinance), and supervise all departments. The administrator would provide centralized administration and county-wide coordination of government operations.

Under the proposed form, administrative responsibility and authority are centralized under the office of the administrator. There are no elected administrators; only policy-makers are elected. The commissioners are the policy-makers and the legislative body of city-county government. They appoint the administrator and the administrator carries out and administers the policies and ordinances of the commission. The administrator has no vote on the commission and no veto authority over commission ordinances and resolutions. The administrator is responsible to the commission and may be replaced at any time by the commission. Accountability and responsibility to the public is thus pinpointed in the commission and its administrator.

Comparison of Specific Characteristics of Existing and Proposed Forms of Government

The chart on the following pages compares specific characteristics of the existing forms of city and county government with the proposed form of government.

CUSTER COUNTY AND CITY OF MILES CITY
 COMPARISON OF SPECIFIC CHARACTERISTICS OF THE
 COMMISSION AND MAYOR COUNCIL FORMS OF GOVERNMENT WITH CONSOLIDATED CITY-COUNTY ADMINISTRATOR FORM

CHARACTERISTIC	PRESENT COUNTY FORM OF GOVERNMENT	PRESENT CITY FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	EVALUATIVE COMMENTS
Form of Government	COMMISSION FORM Merges legislative, administrative and executive functions in commission.	COMMISSION EXECUTIVE FORM Elected commission (council) determines policy. Elected mayor administers policy.	CHARTER with CITY-COUNTY ADMINISTRATOR FORM Elected commission determines policy. Administrator hired to administer policy.	Separation of legislative and administrative responsibilities. Administrator appointed on basis of experience and training.
Powers	GENERAL GOVERNMENT POWERS State law defines what government may do and specifically how it shall do it. Little power to pass ordinances.	GENERAL GOVERNMENT POWERS State law defines what government may do and specifically how it shall do it.	SELF-GOVERNMENT POWERS City-county government shall exercise any power which the state does not deny. Legislative power is vested in the Commission.	Self-government powers bring to the county the power to act in its own best interest, and flexibility in shaping government structure.
Governing Body Size	3 commissioners nominated by district, elected at-large.	8 member council, 2 elected from each of 4 wards in which they reside.	6 member Commission, nominated from district in which each resides, elected at-large.	Increase in the size of the city-county commission will allow greater representation. District representation assures the commission viewpoints from all sections of the county. Commissioners elected at-large will offer county-wide perspective.
Election	Nonpartisan	Nonpartisan	Nonpartisan.	Local government issues tend to be non partisan. Commission can concentrate on efficient delivery of services.
Term	4-year overlapping terms	4-year overlapping terms	4-year overlapping terms	Continues 4-year terms previously approved by county voters.
Presiding Officer	Chairman--Elected from own members.	Mayor presides, has executive authority.	Chairman--Elected at large, votes only in case of a tie.	Chairman presides at commissions, has no executive authority.
Duties	Commission is responsible for executive and many administrative functions. Administrative powers are shared with other elected officials.	Council is the legislative/policy making body.	Commission is the legislative/policy making body. Hires a professional administrator to administer all departments.	Commission is freed from administrative responsibilities to concentrate on policy-making role.

COMPARISON OF SPECIFIC CHARACTERISTICS

CHARACTERISTIC	PRESENT COUNTY FORM OF GOVERNMENT	PRESENT CITY FORM OF GOVERNMENT	PROPOSED FORM OF GOVERNMENT	EVALUATIVE COMMENTS
Other Elected Officials	COMMISSION FORM 7 elected officials Clerk & Recorder County Attorney Sheriff/Coroner Treasurer Clerk of Court Public Administrator Superintendent of Schools	COMMISSION EXECUTIVE One elected official: Treasurer	CHARTER with CITY-COUNTY ADMINISTRATOR FORM One elected official: County Attorney	Formerly independent offices are brought under the supervision of the administrator. Qualifications for offices can be established.
Chief Administrative Officer	None. Administrative responsibility shared by commissioners, elected officials, and various boards.	Directs and supervises the administration of all departments.	The hired administrator administers government on a full time basis.	Better overall coordination is possible with clear lines of authority and responsibility.
Appointment Powers	Commission appoints department heads who are not elected, members of boards, commissions, special districts.	The mayor appoints department heads and members of boards and commissions with the consent of the council.	Commission appoints and removes the administrator and members of boards and commissions. The administrator appoints and removes department heads (subject to commission approval) and employees and appoints temporary advisory committees.	Department heads are appointed on basis of qualifications. Responsible to city-county administrator. Members of boards and commissions continue to be appointed by the commission.
Budget Preparation	Clerk & Recorder prepares budget with officials and departments. It is modified and/or approved by commission.	Mayor prepares budget in cooperation with department heads. Budget is then modified and approved by the city council.	Administrator prepares the budget. Commission modifies and/or approves it.	Administrator can balance priorities set by commission with available county-wide resources, also balance needs of individual departments with overall needs and resources of county.
Service Delivery Structure	Performed by elected offices and appointed boards, commissions and special districts.	Performed by mayor, council and city departments.	Government activities could be grouped into fewer departments on the basis of function. Services performed by the departments are under the supervision of the city-county administrator.	Many functions now performed by independently elected offices or independent boards are brought under supervision of a professional administrator and commission control.

SUMMARY OF CHARTER PROVISIONS BY ARTICLE

ARTICLE I: GENERAL PROVISIONS

- (1.01) Establishes the name Miles City-Custer County for the new charter government.
- (1.02) Defines the new charter government status as having the combined authority of both an incorporated city and a county.
- (1.03) Provides charter supremacy over state local government statutes as per Article XI, Section 5 of the Montana Constitution.

ARTICLE II: POWERS OF MILES CITY-CUSTER COUNTY

- (2.01) Establishes the consolidated charter government of Miles City-Custer County as having all powers and authority given to both cities and counties by the state constitution and legislative statutes.
- (2.02) Provides for the liberal interpretation of charter government powers; that the charter government has all local governmental powers and authority not specifically denied it by the state constitution or statutes; and that all questions arising will be resolved in favor of the local charter government authority.
- (2.03) Restricts the otherwise open-ended grant of local charter government authority by limiting mill levy/taxing levels to those established by the state for cities and counties; with continued options for voted levies as presently provided by law.

ARTICLE III: CITY-COUNTY COMMISSION

- (3.01) Establishes a commission as the governing body of the new charter government.
- (3.02) Defines the commission as having six (6) part-time commissioners and a part-time chairperson.
- (3.03) Defines every citizen of the county 18 years of age or older as eligible to be elected as commission chairperson or as a commissioner from the district in which they reside.
- (3.04) Establishes 4-year terms of office for commissioners; terms to be overlapping (staggered) to assure continuity of experience on the commission. The Commission chairperson also elected for a 4-year term.
- (3.05) Provides for non-partisan local government elections; commissioners to be nominated by district, with district residency requirements; commissioners and commission chairperson to be elected at large.
- (3.06) Establishes six commissioner districts as compact and equal in population and area as possible.

- (3.07) States that commissioner and commission chairperson vacancies occur as defined by state law.
- (3.08) Describes the process of removing a commissioner or commission chairperson from office under the provisions of state law.
- (3.09) Provides a process for temporarily filling a commissioner or commission chairperson vacancy by appointment.
- (3.10) Provides for the election and term of office of the commission chairperson, and specifies the functions of the office.
 - [1] Presides at commission meetings, but does not vote except in case of tie.
 - [2] Represents the consolidated government at meetings and other functions.
- (3.11) Lists and defines the powers and duties of the commission:
 - [1] Legislative and policy determining body; exercises governing powers established by the charter.
 - [2] Appoints members of boards.
 - [3] Establishes qualification of office for the administrator and approves the qualifications of all appointed government department heads; approves the appointment, suspension, or removal of appointed department heads..
 - [4] Establishes and conducts annual performance evaluations for the administrator and appointed department heads.
- (3.12) Requires four (4) affirmative votes for all actions of the commissioner; requires four (4) commissioners to be present when official actions are taken.
- (3.13) Provides for the commission to establish its rules of procedure; set the time and place of regular meetings; and call special meetings as required. The commission to meet at least monthly.
- (3.14) Compensation for commissioners set by ordinance; to be commensurate with their part-time role and function. Any increase in salaries do not take effect until the first day of the fiscal year following the next general election.

ARTICLE IV: EXECUTIVE

- (4.01) Provides that the administrator is appointed by the commission for an indefinite term on the basis of merit only, and is removed only by the affirmative vote of four (4) members of the commission.
- (4.02) Enumerates the specific duties and functions of the administrator.
- (4.03) Establishes the authority of the administrator over government employees.
- (4.04) Compensation of the administrator, department heads, and other government employees are set by ordinance.

ARTICLE V: JUDICIAL

- (5.01) Provides for the establishment of such City and County courts as are provided by law.

ARTICLE VI: DEPARTMENT STRUCTURE

- (6.01) Provides for the election of the County Attorney.
- (6.02) States that the qualifications for the office of county attorney are prescribed by law.
- (6.03) A vacancy in the office of county attorney occurs as prescribed by law. Provides for the filling of the vacancy by temporary appointment.
- (6.04) Provides for the removal of a county attorney as prescribed by law, or by recall by electors.
- (6.05) Provides for the organization of other city-county departments by ordinance, with qualifications of department heads and other employees also prescribed by ordinance.
- (6.06) Provides that compensation of elected and appointed department heads and employees shall be set by ordinance.

ARTICLE VII: OTHER PROVISIONS

- (7.01) Provides for the amendment of the Charter as prescribed by state law.
- (7.02) Establishes an effective date for the implementation of the Charter.
- (7.03) Provides for the recall of elected government officers as prescribed by law.
- (7.04) Requires all elected government officials to take and subscribe to the oath of office prescribed in the Montana Constitution.
- (7.05) Provides for "severability" of any provision of the Charter that may be determined to be invalid; such determination does not apply to other Charter provisions.

ARTICLE VIII: TRANSITIONAL PROVISIONS

- (8.01) Transition to the new Charter government shall be as prescribed by law; a transition advisory plan to be provided; transition provisions to expire one (1) year following the implementation of the Charter.
- (8.02) Existing city and county officials and employees, excepting the mayor, city council members, and county commissioners, shall continue in their positions until officially reassigned or terminated. All rights and benefits of city and county employees are recognized under the Charter.
- (8.03) Existing rules, ordinances, and resolutions of city and county governments remain in force within those former jurisdictions until superseded by action of the commission, which shall revise, repeal, or reaffirm all such rules, ordinances, and resolutions within one year of the effective date of the Charter.
- (8.04) The new Charter government shall hold, own, and control all rights and properties owned or controlled by the former city and county governments; and shall be subject to all debts, obligations, contracts, and liabilities of the former city and county governments.
- (8.05) All general obligation indebtedness remains payable from the jurisdiction subject to the indebtedness.

- (8.06) Revenue bonds or special funds indebtedness under the former city and county governments continue in effect and are payable according to the terms of such indebtedness.
- (8.07) Provides implementation procedures for the Charter government; establishes a calendar for the primary and final election of commissioners and commission chairperson and the implementation date of the new government. Provides for varying initial terms of commissioners and the commission chairperson to fix the pattern of overlapping terms thereafter.
- (8.08) Fixes the initial salaries of commission members and the commission chairperson, until changed by ordinance.
- (8.09) Provides for the appointment of an interim administrator within 90 days of the first commission meeting; for appointing an administrator at the earliest practical date; for the preparation by the administrator of a government personnel system; and for the adoption of a personnel system by the commission.
- (8.10) Provides that existing city and county service districts shall remain in effect until changed as provided in the Charter.
- (8.11) Recommends the establishment of a 1-year transition advisory committee to advise and assist the new charter government; such committee to be appointed by the commission.

ARTICLE VIII TRANSITIONAL PROVISIONS

- (8.01) Transition to the new Charter government shall be as prescribed by law or a transition advisory plan to be provided; transition provisions to expire one (1) year following the implementation of the Charter.
- (8.02) Existing city and county officials and employees, excepting the mayor, city council members and county commissioners, shall continue in their positions until officially reassigned or terminated. All rights and benefits of city and county employees are recognized under the Charter.
- (8.03) Existing rules, ordinances and resolutions of city and county governments remain in force within those former jurisdictions until superseded by action of the commission, which shall revise, repeal or reaffirm all such rules, ordinances and resolutions within one year of the effective date of the Charter.
- (8.04) The new Charter government shall hold, own and control all rights and properties (land or other) controlled by the former city and county governments, and shall be subject to all debts, obligations, contracts and liabilities of the former city and county governments.
- (8.05) All general obligation indebtedness remains payable from the jurisdiction subject to the indebtedness.

MINORITY REPORT

The purpose of the Minority Report is to present the minority's view of the study commission process, the findings of the study commission, and the conclusions reached. Although there are areas of agreement between the majority and minority report, the minority report recommends that the voters do not support adoption of the proposed alternative form of government for the following reasons:

- (1) The proposed alternative requires the consolidation of Custer County and the City of Miles City.
- (2) The proposed alternative establishes a part-time council which selects a city/county administrator. The administrator has broad powers to run the city/county; i.e., weak council/strong administrator.
- (3) The proposed alternative removes the elected sheriff from county government. The proposed alternative replaces the office of sheriff with an official appointed by the administrator, subject only to commission approval, and accountable only to the administrator.

The work of the county study commission began with limited public hearings, meetings with county officials and a survey commissioned by the joint study commission. The initial research demonstrated, in the minority view, a general satisfaction with county government and its ability to operate efficiently and meet the community's expectations of service. Clearly, the survey commissioned by the study commission reported little public support to experiment again with an unelected city/county manager/administrator.

The county deserves a government that works well; a government that is both efficient and responsive to the wishes of the community. The traditional form of government should be discarded only if clearly persuasive and well-documented arguments can be made that it has ceased to work or is inefficient or unresponsive. The deficiencies of the present government should be documented in the public record of the study commission's work.

The study commission has failed in this respect. The majority report fails in this respect. The majority report asserts that the new form of government will be more responsive to the citizens, but it does not explain how this will be accomplished or why an appointed administrator is more responsive than an elected commissioner. The majority report asserts that the new form of government will be more efficient. However, the testimony heard and work done by the county study commission does not document how the county will be made more efficient or what implications this may have for the county employees or residents.

The majority report identifies three key changes. The minority position regarding these changes is described below.

(1) Acquisition of Local Self-Government Powers under a Charter.

The minority agrees that it is advantageous to the county for it to have self-government powers. Unfortunately, there is no way to support (or vote for) self-government powers without also voting for consolidation, city/county administrator, and the appointed versus elected sheriff. In the minority opinion, the advantages of self-government powers do not outweigh the disadvantages of the charters' provisions.

(2) Unification of the City and County under a Consolidated Government.

The minority does not support adoption of a consolidated city/county government for the following reasons:

(a) Special taxation districts allow property owners to only be taxed for services they have reasonable access to. The proposed charter does not provide for taxation districts; therefore, property in Kinsey or Volborg will be taxed just like property in Miles City to support Miles City services not realistically available in these areas. Although the proposed council would have the power to create special taxation districts, they are not required to do so under the charter; there are no guarantees they would do so.

(b) Zoning, planning, nuisance and similar ordinances will apply on a county-wide basis, not just to Miles City and its immediate area as is generally now the case. Although the council would have the ability to exempt rural areas, the charter does not require them to do so; there are no guarantees they will.

(c) Finally, consolidation raises many very complicated and important issues regarding personnel, eventual employment of department heads and supervisors, the salaries of displaced supervisors, and the equalization of city and county wage structures, all while protecting the terms of the city's union contracts. It is not the responsibility of the study commission to solve these issues. However, in the minority's opinion, the study commission has a duty to at least consider options to resolve these issues, their practicality and potential cost. To ask the voters to adopt consolidation without providing basic information of these issues is to ask the voters to make a decision based upon inadequate information.

(3) Adoption of the Commission-Administrator Form of Administration for the Combined Government.

The minority does not support adoption of an appointed administrator for the following reasons:

- (a) The appointed administrator would not be as responsive to the public as the county's current structure of elected commissioners and elected officials.
- (b) The study commission has not demonstrated that quality administrators can be recruited and retained by communities of our size and particularly at the salary suggested by some members of the majority.
- (c) The people have clearly and decisively expressed their opinion on an appointed administrator. In the minority's opinion the survey, based largely on Miles City's prior experience, represents an informed opinion regarding the council-administrator form of government which should be respected by the study commission.

Finally, the charter calls for all currently elected county officials (except the county attorney) to be appointed and supervised by the administrator. This is of particular concern to the minority in the case of sheriff.

The sheriff has significant county-wide responsibilities to administer justice and outside the city limits of Miles City to enforce justice. In the minority opinion, the tradition of an elected sheriff has worked well for Custer County in part because the sheriff is directly accountable to the voters.

The proposed charter makes the office of sheriff accountable to the appointed administrator. The appointed administrator has the power to appoint, suspend, remove, and conduct performance reviews on the sheriff. The elected commission has the authority to approve the required qualifications for department heads including sheriff, and to approve the administrator's appointment. In the minority's opinion, the people lose any effective input into the operation of law enforcement in the consolidated government.

In closing, it has been a privilege to be part of this study process. It is regrettable that the final result of this process is not, in the minority's opinion, in the best interest of Custer County and its people. Therefore, this minority report recommends that the voters do not support the study commission recommendations.

I do hereby certify that this Minority Report has been prepared by me as a member of the Custer County Government Study Commission.

In testimony whereof, I set my hand. Done at Miles City, Montana this ____ day of _____, 1996.

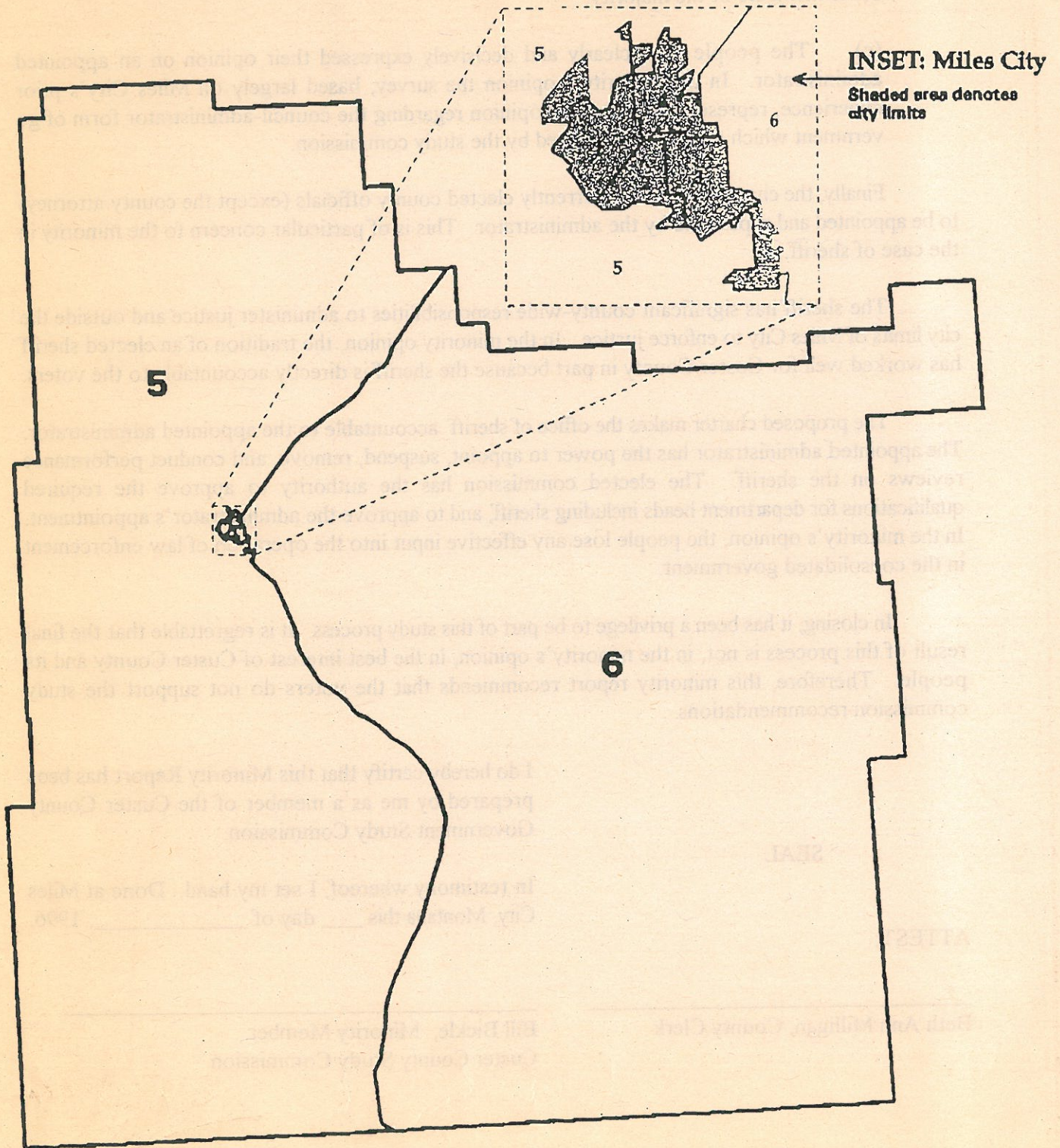
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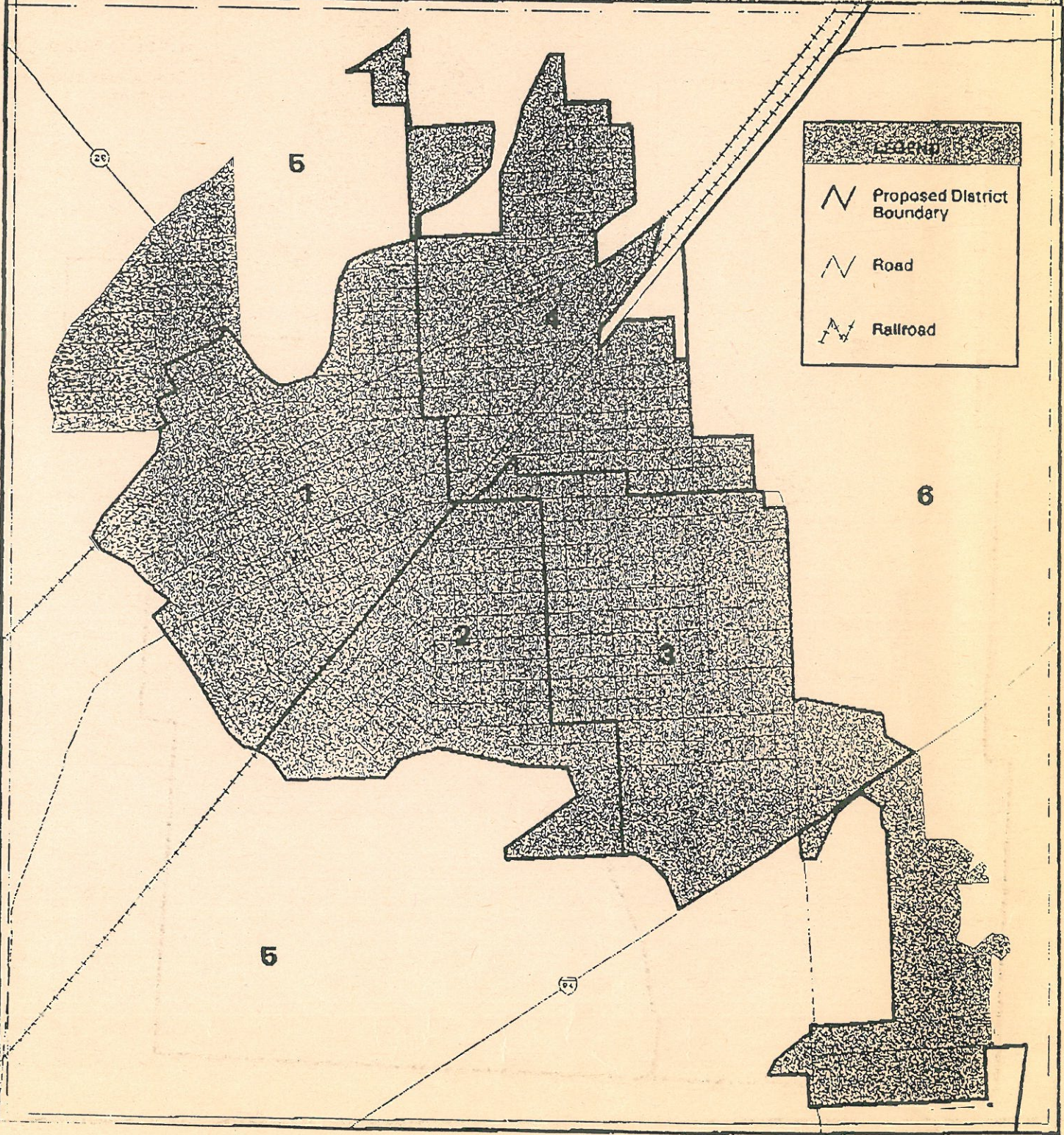
Beth Ann Milligan, County Clerk

Bill Bickle, Minority Member
Custer County Study Commission

CUSTER COUNTY, MONTANA PROPOSED COUNTY COMMISSIONER DISTRICTS



MILES CITY DETAIL
Custer County, Montana
Proposed County Commissioner Districts



LEGEND

- Proposed District Boundary
- Road
- Railroad

