

MADISON COUNTY GOVERNMENT STUDY COMMISSION

FINAL REPORT

AND

MINORITY REPORT

1986

TABLE OF CONTENTS

PREAMBLE TO THE FINAL REPORT.....PAGE 1
PROPOSED FORM OF GOVERNMENT.....PAGE 2
TRANSITION.....PAGE 5
COMPARISON OF THE EXISTING AND PROPOSED FORMS OF
GOVERNMENT.....PAGE 6
ARGUMENT FOR ADOPTION OF THE PROPOSED FORM OF
GOVERNMENT.....PAGE 9
FORM OF BALLOT QUESTIONS.....PAGE 11
CERTIFICATE ESTABLISHING THE EXISTING FORM OF
GOVERNMENT.....PAGE 11
CERTIFICATE ESTABLISHING THE ELECTION DATE.....PAGE 14
MAP OF THE APPORTIONMENT PLAN.....PAGE 15
MINORITY REPORT.....PAGE 16

PREAMBLE TO THE FINAL REPORT
OF THE
MADISON COUNTY STUDY COMMISSION

TO THE PEOPLE OF MADISON COUNTY, AS YOUR ELECTED REPRESENTATIVES, THE MEMBERS OF THE MADISON COUNTY GOVERNMENT STUDY COMMISSION HAVE UNDERTAKEN AND FULFILLED THE RESPONSIBILITIES OF:

1. Studying the form and powers of our existing form of government.
2. Comparing it with other forms of county government available under State law, and we hereby,
3. Propose an alternative form of government.

The Madison County Government Study Commission recommends the Charter form of government as the alternative form. At the election, November 4, 1986, the voters of Madison County will choose between the recommended alternative form, and the existing form.

The Madison County Study Commission has concluded that the Charter form of government with self government powers provides a local government with the freedom to act on its own to solve its own unique problems.

During the process of selecting and drafting this proposal as the alternative form of government, this Commission has sought advice and information from as many people in the county as possible. Interviews have been held, opinions and recommendations have been solicited from citizens, County Commissioners, county officials, and county employees. All meetings of the Madison County Government Study Commission have been open to the public. A series of public hearings has been held throughout Madison County, and all recommendations and comments have been carefully studied. Intense discussions among the Commission members, along with a great amount of research, have gone into the writing of this proposed form of government.

A minority report has also been published along with this final report.

The Study Commission sincerely hopes that the people of Madison County will study all aspects of this report. The form of government of Madison County will be determined at this election.

PROPOSED FORM OF GOVERNMENT

Pursuant to the provisions of Article XI, Section 5 (1) of the Montana Constitution and the laws implementing the same, the plan of government for Madison County shall be Charter form with provisions as follows:

- I. Madison County shall have self-government powers.
- II. The legislative body shall be a three member Board of County Commissioners. The Board shall meet at such times as its business may require.
 - A. The chairman of the Board of County Commissioners shall be elected by the members of the Board of County Commissioners from their own number for a term established by ordinance.
 - B. All members of boards shall be appointed by the Board of County Commissioners.
 - C. The Board of County Commissioners shall adopt a county personnel policy.
- III. Manager.
 - A. The executive and administrative functions of the county government shall be performed by a Manager whom the Board of County Commissioners shall appoint to serve at will on the basis of merit only, and removed only by a majority vote of the Board of County Commissioners. In the temporary absence or incapacity of the Manager, the Chairman of the Board shall perform the functions of the Manager.
 - B. Duties of the Manager. The Manager shall:
 - 1. enforce laws, ordinances, and resolutions;
 - 2. perform the duties required of the office by law, ordinance, or resolution;
 - 3. administer the affairs of the local government;
 - 4. direct, supervise, and administer all departments, agencies and offices of the local government unit except as otherwise provided by law or ordinance;
 - 5. carry out policies established by the Board of County Commissioners;
 - 6. prepare a tentative meeting agenda for the Board of County Commissioners and cause it to be published in a newspaper of general circulation in the county.

7. recommend measures to the Board of County Commissioners;
8. report to the Board of County Commissioners on the affairs and financial condition of the local government;
9. execute bonds, notes, contracts and written obligations of the Board of County Commissioners, only on the direction of the Board.
10. report to the Board of County Commissioners as the Board may require;
11. attend the Board of County Commission meetings, and may take part in the discussion, but he may not vote;
12. prepare and present a proposed budget to the Board of County Commissioners for its approval, and execute the budget adopted by the Board;
13. the employment and discharge of all employees shall be determined by the department heads in accord with procedures set out by a personnel policy administered by the Manager.

C. The duties of the Manager may be modified or limited by unanimous action of the Board of County Commissioners through ordinance.

IV. There shall be the following officers of the County:

- A. a legal officer who shall be elected and be called the County Attorney;
- B. a law enforcement officer who shall be elected and be called the Sheriff, and who shall, in addition, perform the duties required by law to be performed by a County Coroner;
- C. a Clerk of the District Court who shall be elected;
- D. a County Assessor who shall be elected;
- E. a County Treasurer who shall be elected;
- F. a Clerk and Recorder who shall be elected;
- G. a Surveyor who may at the discretion of the Board of County Commissioners be selected and perform such functions as may be provided by ordinance;
- H. a Public Administrator who shall be elected;
- I. The foregoing officers shall perform such duties as may be required by law to be performed by such officers under the Commission form of government, provided that in

addition or modification thereof, the following shall apply:

1. The Board of County Commissioners may, by ordinance, appoint a bookkeeper to perform the bookkeeping and budgeting functions performed by the Clerk and Recorder under the Commission form of government.
2. The County Treasurer shall perform the statutory functions of the County Superintendent of Schools required by law. In the event the Treasurer is not fully qualified to perform the duties of the said Superintendent of Schools provided by law under the Commission form of government, the Treasurer shall, with the approval of the Board of County Commissioners, contract for those services for which the Treasurer is not qualified.
3. The Clerk and Recorder shall serve as Election Administrator.

V. All Commissioners and other elected officers shall be elected for terms of four (4) years commencing the first Monday in January following their election.

VI. The salaries and compensation of officers and employees shall be determined as follows:

- A. Commissioners shall receive a salary per day actually and necessarily engaged in the performance of Board duties equal to the amount provided by statute for Commissioners paid on a per day basis. Commissioners shall be further entitled to mileage and expense allowance ordinarily payable under the Commission form of government.
- B. The salaries of the other elected officers may be determined by the Board of County Commissioners, provided, however, that the same shall not be lowered during the term for which an officer is elected.
- C. The salary of the Manager shall be set by ordinance of the Board of County Commissioners and shall not exceed twice the salary paid to the Clerk and Recorder.
- D. The salaries of other employees of the county government shall be determined by ordinance adopted by the Board of County Commissioners.

VII. Qualifications of all elected county officers shall be the same as required by state law for comparable officers under

the Commission form of government, except as otherwise herein set forth.

- VIII. A vacancy in an elective office shall be filled by appointment made by a majority of the Board of County Commissioners. Such appointed officer shall serve until a successor is elected and qualified in the next general election. In the event a vacancy is not filled within 45 days, such appointment shall be made by the District Judge. Vacancies shall be deemed to exist as provided by law and herein.
- IX. An elected officer shall have vacated his office when he no longer lives within the county, or in the case of members of the Board of County Commissioners, when he no longer lives within the district from which nominated or elected.
- X. No officer or employee shall authorize expenditures in excess of the budgets approved by the Board of County Commissioners and such action by an officer or employee may be cause for removal by the Board of County Commissioners.
- XI. Through the process of initiative and referendum, the people may vote to increase or decrease by specific amount, those mill levy limits provided for by law.
- XII. The proposed form of government shall be effective commencing the first Monday of January, 1987.

* * * * *

TRANSITION

- A. Elected officers of the proposed form of government shall be those nominated at the General Primary Election in June, 1986, and elected in the General Election held in November, 1986, under the current Commission form of government. The County Commissioner from Commissioner District No. 1 (Sheridan) shall serve only until the first Monday in January, 1989. The Commissioner to serve thereafter shall be nominated and elected in the course of primary and general elections held in 1988.
- B. The two newly elected Commissioners elected in the year 1986, together with the Commissioner from District 1, shall meet on the call of said Commissioner within ten (10) days following election and qualification for an organizational meeting or meetings, and shall commence the search for a Manager forthwith. Such Board shall be empowered to establish the salary of the Manager by Ordinance duly adopted, if they see fit, prior to the effective date of the government within the limits set forth in the plan of government, and to make the official appointment of such Manager prior to the effective date of the new form of government.
- C. The initial salaries of all officers shall be those prescribed by statute for similar officers under the

Commission form of government, provided that Commissioners shall receive the approximate salaries provided in the Charter.

- D. All ordinances and resolutions, contracts and agreements and obligations effective under the former Commission form of government and the former Charter shall continue in effect and bind the new form of government.
- E. Commissioner districts shall remain as established by Executive Order of the Madison County Chief Executive dated November 9, 1982, until modified as authorized by statute.

* * * * *

COMPARISON OF EXISTING FORM VS PROPOSED FORM OF COUNTY GOVERNMENT

EXISTING FORM

Policy-making and administrative structure. Madison County now has a Commission form of government. Based on the 1972 Constitution and related statutes, this structure reflects the County's role as an administrative arm of State government. It can best be described as a collection of eight somewhat autonomous administrative offices consisting of a three-member Commission and seven elected officials. In addition, many Boards and special districts operate within the County.

The three member Board of County Commissioners is elected by the voters for four year terms. Each Commissioner must reside in the district he represents, but is elected at large on a county-wide basis. Elections are partisan.

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 by State law. They approve the county budget, levy taxes, issue bonds, enter into contracts, approve claims, and may buy, sell and lease county property.

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 they appoint and have limited authority to set salaries of non-elected officials. In addition to the three Commissioners, there are

seven other elected officials:

COUNTY ATTORNEY
SHERIFF/CORONER
CLERK OF DISTRICT COURT
COUNTY ASSESSOR
TREASURER/SUPERINTENDENT OF SCHOOLS
CLERK AND RECORDER
PUBLIC ADMINISTRATOR

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

Numerous Boards, Commissions and special districts also operate in the County to administer services. These bodies range in authority from advisory agencies, which are subordinate to the Board of County Commissioners, to those which operate independently of Commissioners' control. Members of these Boards are appointed by the Board of County Commissioners.

PROPOSED FORM

Policy-making and administrative structure. The proposed Charter form of government will have three elected Commissioners. They will serve four (4) year terms. The Board of County Commissioners, under this proposed Charter form will: Make policy, pass ordinances, (laws) and resolutions, review, modify and approve County budgets, appoint Boards and set salaries for all County employees and elected officials. The Board of County Commissioners will also appoint a Manager who will serve at the will of the Board.

Under the proposed form of government, administrative responsibility and authority are centralized into the office of the Manager. The Board of County Commissioners is the legislative, policy-making body of the government. The Manager carries out and administers the policies of the Board. The Manager has no vote on the Board, nor any veto authority over ordinances or resolutions. The Manager is responsible to the Board and can be replaced at the vote of the Board.

Just as in the existing form, there are seven other elected officials:

COUNTY ATTORNEY
SHERIFF/CORONER
CLERK OF DISTRICT COURT
COUNTY ASSESSOR
TREASURER/SUPERINTENDENT OF SCHOOLS
CLERK AND RECORDER
PUBLIC ADMINISTRATOR

The powers and duties of these officials are largely controlled by State law.

Service delivery structure. Under the proposed form of government, the county shall have greater flexibility in establishing a service delivery structure to provide the same services listed under the existing form of government. Centralized administration of service delivery through the Manager is an important feature of this proposed form of government.

Powers and authority. The proposed form of government provides for self-government powers. Under this arrangement of State and local government power-sharing, a local government can take any action or engage in any activity unless specifically prohibited by the State or US Constitutions, state law or local Charter. Essentially this is a reversal of the "Dillon Rule". There is no need for a special grant of powers from the State, or the need to wait for State action on local government problems.

The State legislature has stipulated certain powers and authority which would be denied to local governments with self-government powers. The powers thus denied are in areas such as elections, laws affecting private or civil relationships, natural resources, certain forms of taxation, fish and game, and the judicial system.

Service delivery structure. In some instances, the county is acting as an agent of the State in providing "traditional" services such as elections and property tax collections, but increasingly, county government is involved with providing other services also. Major county-provided services include:

Elections
Record keeping functions

Financial administration
Road and bridge maintenance
Agricultural and rural services such as weed, insect and
predator control programs, fire protection, fairs
Public safety and judicial administration
Social services such as Welfare, hospitals and nursing
homes
Land use planning and development
Solid waste disposal

Under the existing form of government, some of these services are provided by elected officials, (Clerk and Recorder assumes record-keeping services, Sheriff provided law enforcement), while other services such as airport, libraries, solid waste disposal are provided by the many boards and special districts. In some cases, these boards and districts provide services that the county does not have the authority to provide directly under existing State law.

Power and authority of county government. Under the existing form of government, Madison County operates with limited powers specifically granted by the State Legislature. The "Dillon Rule", a judicial interpretation of State law, restricts local government to wielding only those powers specifically granted, and if there is any doubt as to the existence of local government power in a certain area, that power is denied.

ARGUMENT FOR ADOPTION OF PROPOSED FORM OF GOVERNMENT

Politics is the art of compromise.

In the last ten years and more, the citizens of this county have been involved in considerable controversy over its form of county government, involving not only elections, but also expensive litigation. In the last public expression of interest (1982), it was apparent that the county was almost evenly divided between those who wanted a Charter form of government with a strong executive, and those who wanted the old form with a three-man commission at its head.

The close result of that election has led the majority of your study commission to believe that by taking some of the best features of each, (Charter and Commission plan), a form of government may be proposed satisfactory to a greater proportion of our citizens than a bare majority.

We have thus constructed a plan, the major feature of which is to create an administrative head with supervisory powers which will, we believe, lead to better coordination of county functions on a day to day basis. That Manager will, in turn, be responsible to the elected Board of County Commissioners which will serve primarily as the policy-making and legislative body.

The other salient feature of the new plan is that it provides for self-government powers.

The grant of self-government powers means that the local legislative body (Board of County Commissioners) has the power to deal with local problems unless such power is specifically withheld by the state. In the absence of self-government powers, the local legislative body has only such powers as are granted by the state. These existed under the prior charter and although not exercised extensively, proved effective when employed. We believe that looking forward to the future we must attain for ourselves the ability to deal with local problems by legislative action of local people, rather than depending upon the State Legislature. We have faith in the wisdom and judgment of our own elected officers to exercise such powers for the good of the citizens of this county.

In reviewing our plan, you will note that we have not made changes in the number of officers to be elected. The principle of democratic representation through duly elected officers is retained.

We have set forth in considerable detail, the duties and obligations of the Manager. We have not provided as much detail for the elected officers as their duties will remain substantially the same as they have been throughout this period. These duties are largely controlled by existing statutes of the State of Montana.

We are unable to promise to anyone that this form of government will be less expensive to operate than the current Commission form. However, we believe the reduction of compensation of County Commissioners will more than offset the cost of a Manager.

We believe that our proposal is an effective and efficient form of government. We propose it as a reasonable compromise of those contending views set forth in the recent past.

We hope that we have properly exercised "the art of compromise".

FORM OF BALLOT QUESTIONS

VOTE FOR ONE

- () For the adoption of the self-government Charter for Madison County proposed by the Government Study Commission.
- () For the existing form of government for Madison County.

THE FOLLOWING SUB-OPTIONS SHALL BE EFFECTIVE ONLY IF THE PROPOSED ALTERNATIVE FORM OF GOVERNMENT IS ADOPTED AND AFTER ITS EFFECTIVE DATE.

Sub-Option 1: Effective in the year 1988, All Elected Officers of the County:

- () shall be elected on a non-partisan basis.
- () shall be elected on a partisan basis.

Sub-Option 2: Effective in the year 1988, The Members of the Board of County Commissioners Shall Be:

- () nominated from districts in which candidates must reside, and elected at large.
- () nominated from and elected by districts in which candidates must reside.

CERTIFICATE ESTABLISHING THE EXISTING FORM OF GOVERNMENT FOR MADISON COUNTY, MONTANA.

The following is the existing form of Madison County government, Commission form.

I. The Commission form consists of an elected Commission and other elected officers as provided in Part 4, Chapter 3, Title 7 & Section 7-3-11 Montana Code Annotated, and Article XI, Section 3 of the State Constitution. All legislative, executive and administrative powers and duties of the local government not specifically reserved by law or resolution to other elected officers shall reside in the Commission.

The Commission shall appoint department heads and other employees other than those employees appointed by elected officials.

- II. The plan of government shall also include the following:
 - A. The size of the Commission shall be three members or

Commissioners, and community councils to advise the Commissioners may be authorized by resolution.

- B. The Commission shall be elected by any combination of districts, in which candidates must reside, and which are apportioned by population, and at large.
- C. Local government elections shall be conducted on a partisan basis as provided in this title.
- D. The Chairman of the Commission shall be the presiding officer of the Commission. All members of boards and committees shall be appointed by the Chairman with the consent of the Commission. The Chairman shall be recognized as the head of the local government unit and he may vote as other members of the Commission from their own number for a term established by resolution.
- E. The Commission may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.
- F. Commission members shall be elected for overlapping terms of office.
- G. The term of office of the Commissioners shall be four years. Other elected officials shall serve four year terms.

III. The plan of government shall further define the structural characteristics of the form by including the following:

- A. A legal officer (called the County Attorney) shall be elected.
- B. A law enforcement officer (called the Sheriff) shall be elected.
- C. A Clerk and Recorder shall be elected.
- D. A Clerk of the District Court shall be elected.
- E. A Treasurer shall be elected.
- F. An Assessor shall be elected.
- G. A Superintendent of Schools shall be selected as provided by ordinance.
- H. A Coroner shall be selected as provided by ordinance.
- I. A Public Administrator shall be elected.
- J. An Auditor shall not be included in this form as a

separate office.

The foregoing officers shall have the powers and duties established by ordinance or resolution. After the establishment of any office, the Commission may consolidate, as provided by law, two or more of the offices.

IV. The plan of government shall have general government powers.

CERTIFICATION

We, the undersigned members of the Government Study Commission of the County of Madison do hereby certify that the foregoing documents represent and are identified as follows:

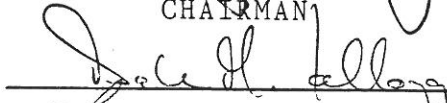
1. The proposed plan of government of Madison County.
2. A comparison of the existing plan and the proposed plan.
3. The form of ballot questions on the adoption of an alternative form of government and sub-options.
4. The existing plan of government of Madison County.
5. The proposed plan of apportionment of Madison County.

We further certify that the date of the election on the ballot questions referred to shall be November 4, 1986, the date of the general election; and further that the effective date for the adoption of the proposed government form shall be January 5, 1987, at ten o'clock A.M.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands on this 14th day of July, 1986.



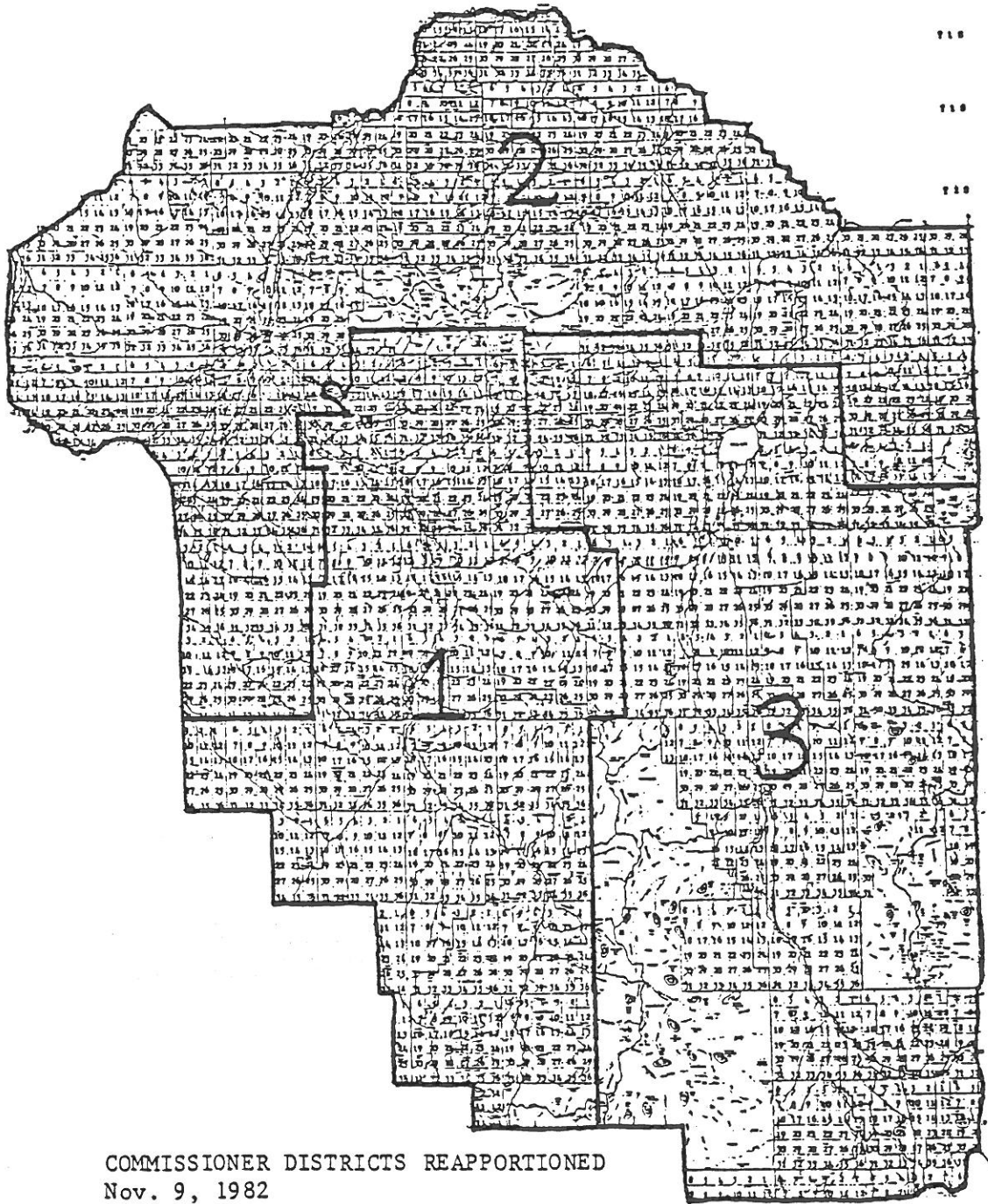
CHAIRMAN







MADISON COUNTY
COMMISSIONER DISTRICTS



COMMISSIONER DISTRICTS REAPPORTIONED
Nov. 9, 1982

- Dist. No. 1, Combination of Precincts No. 1 & 5, 1124 Voters
- Dist. No. 2, Combination of Precincts No. 7 & 15, 1242 Voters
- Dist. No. 3, Combination of Precincts No. 20 & 21, 1138 Voters

MINORITY REPORT

MADISON COUNTY STUDY COMMISSION

I wish to comment on the harmony and cooperation enjoyed during our many months of study on the forms of county government. Despite differences in political philosophy, our commission was able to constructively discuss and debate without friction between members.

My basic opinion remains unchanged, as I cannot approve self-government powers which automatically are allowed by law if a charter is adopted.

---- Self-government powers under state law, allow a local government to exercise all powers not specifically prohibited by state law, constitution or this charter. Basically only elections, judicial matters and public schools are excluded.

---- There are possibilities of misuse of self-government powers. They do not exempt the county from State and Federal mandated programs. Every required board, committee, district or regulation applying to counties, will apply to all counties, regardless of form of government. Self-government powers can only lead to further increase in size and cost of county government and increased intrusion into the lives of our county citizens, since they can be used to institute new programs not allowed under state law. We don't need three people cooking up more bureaucracy. I have concern with the exercise of self-government powers in passing ordinances. When the solid waste dispute was tried in court, the court ruled that it was not of great concern that procedures were not strictly followed in passing ordinances, this is a dangerous situation as it can allow three people to bypass prescribed rules and pass ordinances without fully following the rules, such as per hearings and presentations. I sincerely feel that state statutes do not unnecessarily hinder the necessary administrative functions of the county under the present commission form. I further dispute the wisdom of allowing three people the authority to pass laws affecting all county citizens. A majority is only two and we have seen examples in the past where one

person dominated and also where public hearings on ordinances, though held, were ignored.

---- In addition, the presently proposed charter requires a hired manager. An amendment to the former charter proposed this change in the election in June of 1982. It was defeated. A hired manager for Madison County is unnecessary, and would create another layer of government, because it retains all presently elected officers as it is written in this proposed charter. Each county department, as they presently operate, has specified duties, and each is assigned distinctly different duties, each has its own elected county officer in charge. Any effort to run them as one unit can only cause confusion and will result in conflict. You can't work for two bosses. All elected officers know or should know the duties of their office and can better exercise these duties without outside interference.

---- The argument for adoption of the proposed charter form states that the majority believes the reduction in Commissioners' salaries under this new charter, which would put commissioners back on per diem, paid only for each day's work, would offset the proposed manager's salary. I feel a better way would be an overhaul of the classification schedules presently allowing nearly \$20,000.00 annual salary for each commissioner, upon reaching 4th class or reaching 15 million dollar county valuation. Other study commissions have expressed concern about this and we need a change in the law. It is a curious fact that the classification bracket still stands at \$15 million as it was over 25 years ago! Yet the allowed salary figure is nearly triple the optional amount it was ten years ago. The diminished value of the dollar has affected the salary but not the county classification.

When the new charter form was prepared and ready to be presented at the June primary, the arguments in favor of passage included a cost comparison of operating the Commissioners' office. Since the legal deadline was missed, the present arguments did not appear at the primary and this comparison is not in it. I still feel that this is a very important issue to many people, therefore I wish to again include a cost comparison I

had prepared at that time. This is based on what they would have been at last year's levels.

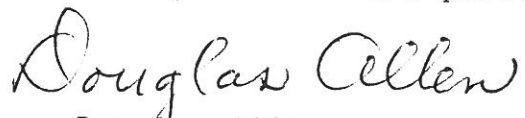
The projected secretary's salary was estimated at \$12,000, while the "administrative assistant" was getting \$15,000, the title may be different, the duties performed are the same. A future board could return to the requirement of state law that the Clerk and Recorder's office act as clerk for the board, this would include secretarial duties and telephone answering, if the Commissioners will bite the bullet. Make these two changes and the figures are like this:

| CHARTER FORM | | EXISTING FORM | |
|-----------------------|-----------------|-----------------------|--------------------|
| Manager's max. salary | \$34,346.00 | 3 Commissioners' sal. | \$57,260.00 |
| Secretary | 15,000.00 | Eliminate Admn. Ass. | ----- |
| 3 Co. Comm. | <u>7,200.00</u> | | |
| | \$56,546.00 | | <u>\$57,260.00</u> |

neither set of figures includes mileage costs for either form.. with 3 commissioners plus a manager, mileage charged would be greater than only 3 commissioners; this would reverse the costs in favor of the existing commission form.

Also the proposed charter allows the 3 commissioners to set all officers' salaries, therefore the manager's salary is really unknown until the commissioners pass a salary ordinance.

I urge all of the people to carefully study the proposed form of charter government and realize that this charter is distinctly different than the one we had before. It contains few constraints and proposes very liberal centralization of powers in one person, the hired manager.



Douglas Allen
Member
Madison County Government
Study Commission