

A Force at the Legislature

By Anne Hedges, MSGC Chair

Montana Environmental Information Center

There is no longer any doubt. The Montana Smart Growth Coalition is a political force with which those who would gut land use laws must reckon. In the 2003 legislative session, the Coalition killed or amended bills that would have weakened the growth policy act or subdivision laws, and we passed several amendments that closed some of the endless loopholes in our growth statutes.

Thanks to the tireless efforts of our executive director and lobbyist, Tim Davis, the Coalition was well represented at the legislature and is now well respected by members of both political parties. MSGC started the legislative session by proposing an ambitious agenda to improve Montana's land use laws. But as usual, half way through the session smart growth advocates had to switch gears and defend the mediocre status quo.

It's a similar theme that has played out each session for the past decade. But never before have smart growth advocates had so many bills introduced in one session. Our bills were premised on the arguments our opponents have been touting for years—predictability for the building industry, affordability for homeowners, and fairness for taxpayers. Unfortunately, the opposition was still fierce



They Keep Coming. And so do we. Once again, MSGC spent the legislative session defeating bills that would have encouraged this kind of sprawling development.

and, despite their claimed support for predictability, affordability, and fairness, ultimately most of our bills failed. But we gained new allies and strengthened ties with old friends.

The Coalition's most important victories this session were stopping the many poor-growth laws. Perhaps the victory that will mean the most in the long term will be a resolution passed by Rep. Mark Noennig (R-Billings) asking the legislature to study the subdivision and platting act and make recommendations for improving the law to the next legislature. If the legislature decides to embark on this study it will take countless hours of the Coalition's time. But with perseverance maybe we can finally improve the law that most determines how Montana grows. And maybe, just maybe, we'll stop growing one subdivision at a time and start relying on growth policies to accomplish our land use goals. ❖



MONTANA
SMART
GROWTH
COALITION

IN THIS ISSUE

MSGC Plays Defense at the Legislature	2
Partnership Revamping Billings	4
Transportation Bucks Coming	6
Members Busy on Transport Front	7
Up & Coming	7

P.O. Box 543 ❖ Helena, Montana 59624
smartgrowth@mcn.net ❖ 406-449-6086
www.mtsmartgrowth.org

In Helena, Defense Was MSGC's Game

By **Tim Davis**

MSGC Executive Director

The Montana Smart Growth Coalition came to the legislature with a proactive agenda and succeeded in raising the awareness of and support for vital growth issues. Unfortunately, the climate of the session was such that we were able to pass only one bill. That bill, HJ 37 (sponsored by Rep. Mark Noennig, R-Billings), calls for a potentially important study to clean-up the Montana Subdivision and Platting Act.

Many of our other bills had very good hearings but did not make it out of committee. Those bills would have ensured that cities and counties planned for wildfire and floods (SB 227 by Sen. Mike Wheat, D-Bozeman), required that subdivision proposals consider the community's need for affordable housing (HB 324 by Rep. Nancy Rice-Fritz, D-Missoula), and implemented a 1 percent real estate transfer tax on second homes to help pay for affordable housing and farm and ranch conservation (SB 301 by Sen. Ken Toole, D-Helena).

One bill that passed out of committee was SB 293 by Sen. Mike Wheat (D-Bozeman). SB 293 would have provided incentives for local governments to designate quality growth areas inside and next to existing towns. The bill encouraged cities and counties to plan infrastructure together and ensure they accommodate growth as efficiently as possible. Wheat's bill was the first attempt to infuse smart growth into Montana law. Its relative success makes us confident we

can pass an improved version in the future.

During much of the session we worked hard to defend existing planning, growth management, and conservation laws that came under a heavy attack. MSGC and our allies stopped or amended every bill that would have made smart growth more difficult in Montana. This is no small victory and is a good indicator of the strength of the Coalition.

Stopping the Uglies

Among the many bad bills we and our allies stopped were the following:

- SB 397 by Sen. Aubyn Curtiss (R-Fortine), the worst bill of the session, was modeled on Oregon's Measure 7. This bill would have required that landowners be compensated for any loss in property values caused by state and

local regulation.

- HB 712 by Rep. John Sinrud (R-Bozeman) would have tied local governments' hands by giving a developer a vested right to build whatever he proposes as soon as his application is complete—thereby taking away any public review or authority to amend or deny the proposal.

- SB 368 by Sen. John Bohlinger (R-Billings) would have created an overly complex and unfair impact fee process that no local government could have used and that would have given developers and Realtors total control over any future impact fees (impact fees are fees on new development to pay for infrastructure).

- SB 340 by Sen. Duane Grimes (R-Clancy) would have eliminated the requirement that



No Help for Downtown Businesses Yet. A bill by Sen. Ken Toole (D-Helena) would have leveled the playing field for local businesses like these by taxing big box stores like Wal-Mart. The bill died in committee.



Thanks, Folks. MSGC was able to stop a lot of bad bills and pass a few good ones with the help of several valuable allies. Among the most helpful of our friends were, from left to right, Senator Michael Wheat (D-Bozeman), Representative Mark Noennig (R-Billings), and Representative Nancy Rice Fritz (D-Missoula).

subdivision regulations be in accordance with a growth policy and would have stated that a growth policy is not regulatory. We were able to heavily amend this bill and incorporate it into SB 326. (See below.)

- HB 533 by Rep. Ron Stoker (R-Hamilton) would have weakened nitrate standards for water quality, thereby putting people at greater risk of pollution from septic tanks.
- SB 426 by Sen. Gary Perry (R-Begrate) would have outlawed inclusionary zoning (the ability of local governments to require that developments of a certain size address or include affordable housing).
- SB 425 by Sen. Rick Laible (R-Victor) would have weakened local governments' ability to ask for new information after a subdivision proposal is submitted. SB 425 would also have created a very short and unreasonable time limit for the pre-application review of subdivision proposals.
- SB 343 by Sen. Rick Laible (R-Victor) would have changed the percentage of landowners who must agree to a citizen-initiated zoning district from 60 percent to 85 percent, thereby

making it virtually impossible to create a zoning district by citizen initiative.

➤ SB 396 by Sen. Gary Perry (R-Begrate) would have outlawed impact and other fees that might be used by local governments to ensure that growth pays its own way unless those fees are explicitly authorized by law.

➤ HB 746 by Rep. Dave Lewis (R-Helena) would have transferred authority over sanitation

from the Department of Environmental Quality to local governments, which do not have the resources to do this review effectively.

And the Ugliest of Them All

Of the many horrible bills that were introduced this session, only SB 326 by Sen. Dan McGee (R-Laurel) passed, and it was heavily amended as a result of MSGC's work. SB 326 began with language that would have eliminated the requirements and even the definition of what is a growth policy, thereby undoing the work of the Environmental Quality Council in 1999 and eliminating any predictability in planning around the state. We were able to get the requirements of a growth policy reinserted into the bill. The final version that passed does several important things:

- It allows cities and counties to adopt growth policies for all or part of their jurisdiction. Adopting growth policies for small parts of jurisdictions could lead to fragmented growth management, which would be unfortunate.
- It eliminates the one-year timeframe for subdivision regulations to be adopted in accordance with a growth policy. This is a good be-

(Continued: Legislative Report, page 5)

Partnership Retools Billings's Heart

By Jennifer Henrie

Downtown Billings Partnership

Take a look around downtown Billings, and you will notice a lot of changes happening. From the new look of North Broadway to the excitement on Montana Avenue to property renovations and new businesses, downtown is experiencing a new phase of revitalization.

It all began in the winter of 1995, when the community was asked to participate in a "visioning" process to establish goals and objectives for downtown Billings. This process led to the creation of the Downtown Billings Framework Plan, a document that spells out the desired form and function of the downtown area. The Framework Plan was adopted by the city council in 1997, and the Downtown Billings Partnership was formed in 1998. The role of the Partnership is to take the Framework Plan from vision to implementation.

One of the first aspects of the Framework Plan was the creation of an urban design aesthetic for downtown Billings. The architectural community came together in a large volunteer effort to create

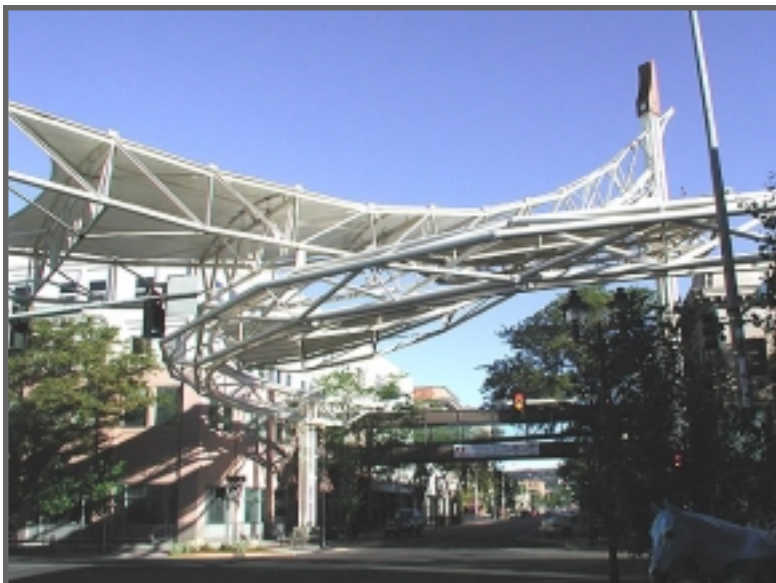
this plan in our Urban Design Sketchbook, which provides the basis for the Partnership's façade improvement grant program. Since 2000, this program has awarded over \$600,000 to 36 businesses in dollar-for-dollar matching grants for exterior improvements, such as doors, windows, landscaping, restorations, repairs, signs, awnings, and lighting. This is one of the most popular incentive programs the Partnership offers, and the impact of all these projects has been a more attractive and vibrant downtown.

Parking, also an important part of the Framework Plan, is valuable to everyone who visits downtown. In the summer of 2002, the Partnership's parking efforts began to take shape as parallel parking spaces were converted into diagonal spaces. This economical solution to the parking need created over 250 new spaces—equivalent to a new parking garage. It also had the welcome side effects of calming traffic and improving pedestrian access to downtown shops and amenities. The city's Parking Advisory Board is a member of the Partnership, and together we are working diligently to develop additional parking in the downtown area.

A new gathering space was listed as a goal of the Framework Plan. This space would be located in the core of downtown and be used for community events such as concerts and the farmer's market.

The Partnership held a design competition, and the project that would come to be known as Skypoint was selected as the downtown gathering space and defining element. This soaring, 70-foot sculpture resembling "sails" over the intersection of North Broadway and 2nd Ave. N. provides shelter as well as a visual and acoustical backdrop to downtown events. Skypoint is now an integral part of the North Broadway streetscape design

(Continued: Downtown Billings, page 8)



Downtown Focus. Skypoint gives central Billings a gathering place and a unique aesthetic.

Legislative Wrap-Up

(Continued from page 3)

cause it removes the one-year gap between when a growth policy is adopted and when the regulations need to be in place to implement the growth policy.

- It establishes a statutory limitation on using a growth policy as the sole basis for denial of or for conditions on proposed developments.
- And as a result of the limitation in above, it requires local governments to adopt regulations based on the growth policy through the public hearing process before they can be used in approving, denying, or putting conditions on proposed developments.

As a result of SB 326's passage, MSGC will work with local governments to help them develop regulations and other tools to implement their growth policies.

More New Laws

Other bills that passed include:

- HB 584 by Rep. Roy Brown (R-Billings) authorizes cities and counties to create a quasi-governmental authority to plan and administer a joint transportation system. We will work to amend this bill in 2005 to allow for a multi-county-regional authority.
- HB 511 by Rep. George Everett (R-Kalispell) gives local governments until 2006 to comply with the growth policy law; previously the date was 2001. This was a compromise bill that MSGC did not oppose.
- SB 389 by Sen. Dan McGee (R-Laurel) began as "tort reform" for the development community, intending to limit homeowners' ability to sue builders for construction mistakes. This bill was significantly amended to have little impact, according to the Montana Trial Lawyers Association.
- SB 168 by Sen. Emily Stonington (D-Bozeman) requires that when property is being annexed

into a city, the roads bordering the property must be annexed as well. This is pretty good, but it falls well short of addressing larger issues of annexation.

- SB 325 by Sen. Dan McGee (R-Laurel) would have created a huge loophole by creating a new class of division of land that would be exempt from subdivision review. Amendments by Montana Audubon and MSGC were able to close this loophole.

A number of modest bills that would have improved the way Montana grows were introduced, but all died. We see their fate as an indicator of how difficult it was to pass anything positive this session. These bills included HB 520 by Rep. Ron Erickson (D-Missoula), which would have created a blue-ribbon panel to study private and public actions needed to build more affordable housing; SB 242 by Sen. Gary Perry (R-Belgrade), which would have eliminated the sunset provision on the Montana Agricultural Heritage program, thereby making permanent the state's program for buying the development rights of farm and ranch lands; and SB 332 by Sen. Ken Toole (D-Helena), the Big Box Tax, which would have created a new tax on gross receipts over \$20 million in retail sales, thereby helping level the playing field between big box stores like Wal-Mart and local merchants.

No Rest for the Wicked

MSGC isn't resting after the session. We're using our stronger relationships with several cities, counties, and planners to develop legislation and administrative policy changes for the 2005 legislative session. Specifically, we're exploring:

- Making growth policies require not just growth planning but *smart* growth planning;
- Creating statewide setbacks for development along streams, lakes, and rivers; and
- Ending state subsidies for expensive, sprawling developments. ❖

Millions of Dollars Coming West *But Is That a Threat or a Blessing?*

In the last twelve years, a bi-partisan Congress, at the urging of both Republican and Democratic presidents, revolutionized the federal role in transportation. That happened in three important ways: First, lawmakers doubled resources for transportation. Second, they handed over much of the decision-making to state and local communities and welcomed average citizens to the process. And finally, Congress built into the law several new requirements and incentives designed to protect the environment, promote health and safety, and provide travel options to previously-underserved populations, such as seniors, disabled men and women, and the poor.

Now, Congress can take another step down this path to progress by re-affirming those three elements in the coming legislation. The 108th Congress should again increase support and ensure that both our economy and our communities benefit from the investment. More needs to be done to guarantee—not simply ask for—community input in transportation decisions. We must be more vigilant in our efforts—to assess and implement those provisions of the law that protect the nation’s health and safety, improve the environment, and ensure that all Americans have access to a wide array of transportation options.

– **Anne Canby, President**
Surface Transportation
Policy Project
*A national coalition of
more than 600 groups*

As Ms. Canby’s statement indicates, while most Montanans, including MSGC, were focusing their attention on the state legislature, Washington was working on reauthorizing the federal transportation spending bill. Known as TEA-3, the bill sends

over \$300 million a year to Montana. And even during these times of tax cuts and federal deficits, it is unlikely that amount will change much since powerful Congressional Republicans like Rep. Tom Delay (Tex.) are already talking about the gas tax increase.

Federal transportation dollars can be a blessing that helps provide all Montanans with transportation choices, enhances local economic development, and protects Montana’s waterways and wildlife. Or all that money can be spent in ways that subsidize sprawling development and fragment wildlife habitat and waterways.

Federal and state transportation projects directly and dramatically impact the way Montana’s communities grow. For that reason, MSGC sent a letter to our Congressional delegation asking them to ensure that TEA-3:

- puts more emphasis on local control of and flexibility in transportation spending;
- uses a “fix it first” philosophy that prioritizes repairs and maintenances over new construction;
- offers better transportation choices for all Montanans; and
- pays for the improvements needed to give every child a safe route to school.

Contact MSGC if you’d like more information about what we’re asking from our Congressmen. You can also contact two MSGC member groups, American Wildlands and Citizens for a Better Flathead, which are working to make sure TEA-3 and the Montana Department of Transportation build highways that specifically protect wildlife. ❖

Updating Your Will?

We hope you’re with us for a long time to come. But we’d be grateful if you’d remember MSGC when making out your will. Contact us for details.



Elk X-ing. Highways pose a major threat to large wildlife, which must travel between "islands" of habitat where food is plentiful. Here, an elk crosses a highway safely using a wildlife overpass. Two MSGC member groups, American Wildlands and Citizens for a Better Flathead, are working to expand such efforts in Montana.

Members Busy on Transportation Front

In other transportation news, MSGC member groups have been very busy monitoring and influencing the path of local highways.

Lewis and Clark County and the city of Helena came to consensus in support of a community-friendly alternative for the reconstruction of the I-15 corridor from Montana City to the north of Helena. Plan Helena did a terrific job turning out their members and encouraging the right decision.

In June MSGC and our member groups, led by Mayre Flowers of Citizens for a Better Flathead, will release a groundbreaking study of how to make transportation choices, processes, and laws more friendly to community and environment. (You will be able to find a copy of the report on MSGC's website.)

And we are keeping an eye on the reconstruction of Highway 93 in the Flathead Valley. At Governor Martz's request, the Bush Administration put Highway 93 on its list of projects for environmental streamlining. Federal and state officials say the designation will not weaken environmental or public-participation safeguards and will ensure that the

U.S. Secretary of Transportation is personally involved in moving the project along efficiently. Our members will be watching to make sure this is the case. ❖

Up & Coming

May 15. MSGC spring meeting, 9-12 a.m., Immaculata Hall, Helena.

May 26. MSGC begins work on the Smart Growth Models Project, our effort to create model growth policies and regulations that meet smart growth goals for fast-growing cities and counties.

June & August, TBA. Meetings of planners, commissioners, and MSGC members for the Models Project (see above).

September, TBA. MSGC fall meeting.

November, TBA. MSGC annual meeting and board member elections, Helena.

Drop us an e-mail at smartgrowth@mcn.net with your smart growth event.

Downtown Billings

(Continued from page 4)

and works wonderfully as a gathering space during the numerous events offered by the Downtown Billings Partnership.

Housing in the downtown area is yet another important feature of the revitalization effort. In late 2002, after conducting research to determine the demand for downtown housing, the Partnership introduced an incentive grant program for the development and improvement of downtown housing. Housing grants are available for rehabilitation of

existing housing units or development of new housing space. Grants are awarded based on the size of the units as well as the developer's investment in the project. Since the program's introduction the Partnership has awarded grants to four housing projects that together will add 26 housing units to downtown Billings.

These projects and programs are just a few of the activities of the Downtown Billings Partnership. We are proud to have played a role in the revitalization of downtown Billings, but we certainly can't take all the credit. The Partnership relies heavily

on volunteers who give generously of their time and professional skills to carry out the Framework Plan. And while we may act as a catalyst or incentive for investment in downtown projects, the real effort is made by the business and property owners who choose to stay in or even relocate to downtown Billings. The Partnership invites you to explore downtown Billings, the heart and soul of our community!

For more information, stop by our office at 2906 3rd Ave. N., call us at 294-5060, or visit our website at www.downtownbillings.com.

Join MSGC Today!

MSGC welcomes businesses, organizations, and individuals.

Name: _____ Organization: _____

Phone: _____ Fax: _____

Address: _____ City, State, Zip: _____

Email: _____

I am joining MSGC as an individual.

Enclosed is a check for:

\$35 (general membership) \$20 (student or living lightly)

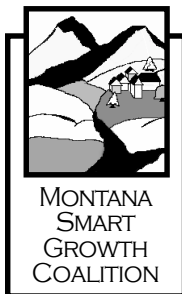
Our organization/business is joining MSGC. Enclosed is a check for:

\$25 (budget of \$9,999 or less) \$50 (budget \$10k to \$24,999)
 \$100 (budget of \$25k to \$99,999) \$250 (budget of \$100k or more)

I/we have added \$_____ to our membership dues to help MSGC keep up the fight for smart growth.

Declaration of Support. I/we support the mission and work of MSGC.

Mail to address below.



MSGC Member Groups

AERO (Alternative Energy Resources Org)
 American Conservation Real Estate
 American Farmland Trust
 American Wildlands
 Artisan LLP
 Beartooth Mapping
 Bitterrooters for Planning
 Brown Bear Resources
 Citizen Advocates for a Livable Missoula
 Citizens for a Better Flathead
 City of Bozeman Planning Bd
 Clark Fork Coalition
 Downtown Billings Partnership, Inc.
 Drake Engineering
 DT Architecture

Post Office Box 543 ❖ Helena, Montana 59624
smartgrowth@mcn.net ❖ 406-449-6086
www.mtsmartgrowth.org

Flathead Lakers
 Flathead Resource Org.
 Friends of the Bitterroot
 Greater Yellowstone Coalition
 High Plains Architects
 HomeWORD
 Hwy. 93 Citizens' Coalition for Responsible Planning
 MT Association of Conservation Districts
 MT Audubon
 MT Chapter of the Sierra Club
 MT Environmental Information Center
 MT Farmers Union
 MT Human Rights Network
 MT Wildlife Federation
 MontPIRG (MT Public Interest Research Group)
 National Center for Appropriate Technology
 Northern Plains Resource Cncl
 Park Co. Environmental Cncl
 Plan Helena
 Smart Growth Missoula
 Soil & Water Conservation Society-MT Chapter
 Sonoran Institute
 Tracy-Williams Consulting
 Wheeler Center for Public Policy, MSU
 Women's Opportunity & Resource Development (WORD)
 Women's Voices for the Earth