

# Legal notices

## FINAL REPORT TO THE CITIZENS OF WHITE SULPHUR SPRINGS ON THE PROPOSED ALTERNATIVE FORM OF LOCAL GOVERNMENT VOTER REVIEW OF LOCAL GOVERNMENT 1986 WHITE SULPHUR SPRINGS LOCAL GOVERNMENT STUDY COMMISSION

To Our Fellow Citizens of White Sulphur Springs:

We were elected to the White Sulphur Springs Local Government Study Commission by you in November, 1984. Since that time we have spent a great many hours looking at the White Sulphur Springs government. This, then, is our final report to you on our findings and recommendations.

Our responsibility as members of the study commission, as defined in state law, is "to study the form and power of our present government and compare it with other forms available under the laws of the State of Montana." After completing these two phases of the study it is our responsibility to submit an alternative form of government to you, the qualified electors.

In every phase of this study we sought advice and information from as many of you as possible. Opinions and recommendations were solicited from our local government officials, community organizations, citizens, consultants and other cities and towns. All of our meetings were open to the public.

Our recommendations reflect the thoughts and opinions of you who participated in public hearings, you who attended our regular meetings, and the independent efforts of this study commission.

In this report we present our recommendations for an alternative form of government that we feel will provide the governmental services expected by you both today and in the future. Our concern has been to provide a form of government that will be responsive to all of us in White Sulphur Springs and provide the opportunity for devising solutions to local problems. We feel that we can best achieve these goals in White Sulphur Springs by adopting the Commission-Executive (Council-Mayor) form with self-governing powers.

The question for the adoption of this alternative form will be placed on the ballot Nov. 4, 1986.

Respectfully submitted,  
White Sulphur Springs  
Study Commission  
Members:  
/s/Willard E. Vannett  
/s/Elmer Schye  
/s/Elizabeth L. Bridges

ATTEST  
/s/Florence McAfee  
CITY CLERK

The White Sulphur Springs Local Government Study Commission, having thoroughly studied our present form of government and the alternative forms of government available to cities under state law, and having studied the future governmental needs of the city, recommend the following:

1. White Sulphur Springs should adopt the Charter Commission Executive (Mayor-Council) Administrator form of government, effective Jan. 12, 1987 with self government powers. The Commission or Council should be reduced to three

members and one member will be selected to serve as Mayor. The Mayor will be the presiding officer and will have a vote. Elections will be non-partisan.

2. The question on the form of government will be submitted to the voters of White Sulphur Springs on NOV. 4, 1986 in the following form: Instructions to the voters: Place an "x" in the box which expresses your preference. The full text of the proposed form of government and the existing form of government are available at the polling place.

### OFFICIAL BALLOT Ballot on alternative form of government Vote for one

- For the existing form of government  
 For the adoption of the Charter Commission Executive administrator form of government proposed in the report of the White Sulphur Springs Local Government Study Commission.

The White Sulphur Springs Local Government Study Commission has spent over one year reviewing our present weak mayor-council form of government and comparing it with the alternative forms established for our consideration by the 1975 Alternative Forms Act. Through research, discussions, public hearings and testimony by present and former public officials, we attempted to determine what changes in our government structure were needed to meet the present and future needs of White Sulphur Springs.

At the conclusion of the study the Commission felt that White Sulphur Springs local government should be changed in order to meet the following goals:

1. provide the local government more power of self determination.
2. provide clear separation of the powers of the executive and legislative branches.
3. make officials more responsive by providing an opportunity to take responsibility.
4. provide for non-partisan elections.
5. provide for an administrator

In an attempt to achieve these goals, the Study Commission has recommended a Charter with a Commission-Executive (Mayor-Council) form of government with self government powers, and an administrator to carry out the day to day operation of the city.

### KEY PROVISIONS OF PROPOSED FORM

#### Self Government Powers

Under the 1972 state constitution, the potential power and authority of city government has significantly changed. Traditionally city powers to govern were restricted by the "Dillon Rule" which stated that cities could do only those things specifically allowed by the state constitution and statutes. Under this rule laws were made at the state level to govern cities. These laws were general and did not take into account the varying size and tax base of the cities and towns throughout Montana. The legislature decided what city government should do and how it should do it.

The new constitution provides that self-government powers can be adopted by cities along with an alternative form. The adoption of self-government powers would significantly alter the traditional relationship between the state and cities. Certain areas of control would be transferred from the state legislature to the City Commissioners. Many decisions that are now

made on a statewide basis by the legislature could be made at the city level. Statewide uniformity while still mandated in certain areas, could be replaced, in many other areas with procedures tailored to particular needs of White Sulphur Springs. Self government powers would mean greater flexibility in shaping our governmental structure, greater power to solve our own problems, and greater responsibility to recognize and deal with these problems.

#### Clearer Separation of Legislative and Administrative Functions

The present form of government has an overlapping control into the administrative section of the government. We feel this often causes conflict between branches of government, and a lack of visibility and responsiveness, of government officials.

In the proposed form the Commission of (3) three members will act as a legislative body with the power to formulate city policy. The Commission will continue to have the authority to enact ordinances to carry out that policy. However, the total responsibility of administering and enforcing these ordinances and of administering the city government departments will lie with the Administrator. The Administrator will appoint and remove all department heads with council consent, and may appoint and remove all other employees. The Administrator will prepare the budget and present it to the Commission for adoption. In the new form the Administrator is given more responsibility to administer the affairs of the city and is more visible and responsive to the people.

#### REPRESENTATION

Under the proposed form the Commission would consist of three (3) members elected at large. This would provide for adequate representation for a city the size of White Sulphur Springs. At the first election after adoption of the new form of government, two members would be elected for two year terms and one member elected for a four year term, thereafter elections would be for four year terms with an election every two years to elect either the one member or the two members whichever terms are to expire. The Mayor would be elected by the commission at their first meeting every two years.

#### ELECTIONS

The Study Commission recommends that city elections be strictly non-partisan to remove the chance of politics clouding the real election issues.

The present form of government in White Sulphur Springs was extensively reviewed by the commission and this report is only a summary of the proposed Charter form the Commission is recommending for adoption.

The judicial branch of government is outside the scope of the local government review, therefore, no mention is made of this.

Chart 1 is a side by side comparison of the existing and proposed form.

In summary, the form of government which we are proposing to the citizens of White Sulphur Springs is not for drastic changes, it is keeping the mayor-council approach with the addition of an Administrator who will be controlled by the elected officials.

We believe that the proposed Charter will provide for real and concrete improvement in the daily

operation of the city's affairs as well as controlling the expanding cost of our local government. We feel that the proposed changes will improve the checks and balances as well as provide for more responsiveness in local government with local control over local programs and problems.

### CERTIFICATE ESTABLISHING THE EXISTING PLAN OF GOVERNMENT FOR THE CITY OF WHITE SULPHUR SPRINGS

If retained by the voters, the government of White Sulphur Springs shall be organized under the following provisions of Title 7 Chapter 3 part 1 - 7-3-113: Montana Codes Annotated 1983.

- (a) 7-3-201;
- (b) 7-3-202 (1);
- (c) 7-3-203;
- (d) 7-3-212 (2);
- (e) 7-3-213 (3);
- (f) 7-3-214 (2);
- (g) 7-3-215 (2);
- (h) 7-3-216 (2);
- (i) 7-3-217 (1);
- (j) 7-3-218 (2);
- (k) 7-3-219 (1);
- (l) 7-3-220 (1);
- (m) 7-3-221 (3);
- (n) 7-3-222 (2);
- (o) 7-3-223 (2).

This form has terms of four years for all elected officials. The size of the commission shall be established by ordinance, but it may not exceed 20 members.

These sections establish the following form of government which shall be called the MAYOR-COUNCIL (Commission Executive) form.

- (1) The Mayor-Council form consists of an elected commission and one elected executive who is elected at large.
- (2) The executive shall:
  - (a) enforce laws, ordinances, and resolutions;
  - (b) perform duties required of him by law, ordinance, or resolution;
  - (c) administer affairs of the local government;
  - (d) carry out policies established by the commission;
  - (e) recommend measures to the commission;
  - (f) report to the commission on the affairs and financial condition of the local government;
  - (g) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
  - (h) report to the commission as the commission may require;
  - (i) attend commission meetings and may take part in discussions;
  - (j) execute the budget adopted by the commission;
  - (k) appoint, with the consent of the commission, all members of boards; except, the executive may appoint without the consent of the commission temporary advisory committees established by the executive.
- (3) (a) The executive may appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the executive.
- (b) The executive may appoint with the consent of the majority of the commission, all department heads. The executive may remove department heads and may appoint and remove all other department employees.
- (c) The executive may veto ordinances and resolutions, subject to override by two-thirds vote of the commission.

(d) The executive may prepare the budget in consultation with the commission and department heads.

(e) The executive may exercise control and supervision of all departments and boards to degree authorized by ordinance of the commission.

(f) The commission shall be elected by districts in which candidates must reside and which are apportioned by population.

(g) Local government elections shall be conducted on a partisan basis as provided in this title.

(h) The commission shall have a chairman who shall be elected by the members of the commission from their own number for a term established by ordinance.

(i) The presiding officer of the commission shall be the executive who shall decide all tie votes of the commission, but shall have no other vote. The chairman of the commission shall preside if the executive is absent.

(j) Commission members shall be elected for overlapping terms of office.

(k) The size of the commission shall be four (4) members. Community councils to advise commissioners may be authorized by ordinance.

(l) The term of office of elected officials shall be four (4) years.

(4) The plan of government shall have general government powers.

We, the Study Commissioners of the City of White Sulphur Springs do hereby certify that this is the existing Plan of Government as established by Title 7 Chapter 3 part 1 - 7-3-113 Montana Codes Annotated 1983

In testimony whereof, we set our hands.

Done at 11:00 a.m. this 5th day of September, 1986.

/s/Willard E. Vannett

/s/Elmer Schye

/s/Elizabeth L. Bridges

Local Government

Study Commissioners

Attest /s/Florence McAfee

City Clerk of the

City of White Sulphur Springs

### CERTIFICATE

### ESTABLISHING THE PROPOSED PLAN OF GOVERNMENT

#### FOR

#### THE CITY OF

#### WHITE SULPHUR SPRINGS

Upon approval of the majority of voters the local government of White Sulphur Springs shall be organized under the following provisions of Title 7, Chapter 3 part 2 M.C.A. 7-3-33.

- (a) 7-3-202 (2);
- (b) 7-3-212 (2);
- (c) 7-3-213 (3);
- (d) 7-3-214 (3);
- (e) 7-3-215 (1);
- (f) 7-3-216 (1);
- (g) 7-3-217 (4);
- (h) 7-3-218 (1);
- (i) 7-3-219 (2);
- (j) 7-3-220 (1);
- (k) 7-3-221 (2);
- (l) 7-3-222 (2);
- (m) 7-3-223 (2);
- (n) 7-3-224

(1) The Charter Form consists of an elected commission and one elected member executive who is elected from the commission. The commission shall appoint an Administrator.

(2) The administrator shall:

- (a) enforce laws, ordinances, and resolutions.
- (b) perform duties required of him by law, ordinance, or resolution.
- (c) administer the affairs of the local government.

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**Local government study**  
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- (d) carry out policies established by the commission.
- (e) recommend measures to the commission.
- (f) report to the commission on the affairs and financial condition of the local government.
- (g) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission.
- (h) report to the commission as the commission may require.
- (i) attend commission meetings and may take part in discussions.
- (j) execute the budget adopted by the commission.
- (k) appoint, with the consent of the commission, all members of boards, except, the executive may appoint without the consent of the commission temporary advisory committees established by the executive.
- (l) The administrator may appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the administrator.
- (m) The administrator may appoint, with the consent of a majority of the commission, all department heads. The administrator may remove department heads and may appoint and remove all other department employees.
- (n) The administrator may prepare the budget and present it to the commission for adoption.
- (o) The administrator may exercise control and supervision of the administration of all departments and boards.
- (3) (a) The commission shall be elected at large. Candidates must reside within the city limits.
- (b) Local government elections shall be conducted on a non-partisan basis as provided in this title.
- (c) The commission shall elect a mayor (executive) who shall be elected by the members of the commission from their own number for a term of two (2) years.
- (d) The presiding officer of the commission shall be the mayor, who may vote as the commissioners.
- (e) Commission members shall be elected for overlapping terms of office.
- (f) The size of the commission shall be three (3) members. Community councils to advise commissioners may be authorized by ordinance.
- (g) The term of office of elected officials shall be four (4) years.
- (4) The plan of government shall have self-government powers.

We, the Study Commissioners of the City of White Sulphur Springs, do hereby certify that this is the Proposed Plan of Government approved by the Study Commissioners of the City of White Sulphur Springs. In testimony whereof, we set our hands.  
Done at 11:00 a.m. this 5th day of September, 1986.  
/s/Willard E. Vannett  
/s/Elmer Schye  
/s/Elizabeth L. Bridges

ATTEST: /s/Florence McAfee  
City Clerk of the  
City of White Sulphur Springs

CERTIFICATE  
ESTABLISHING THE DATE  
OF THE SPECIAL ELECTION AT  
WHICH THE ALTERNATIVE  
FORM OF GOVERNMENT SHALL  
BE PRESENTED TO THE

**ELECTORS OF**

**WHITE SULPHUR SPRINGS**

The alternative form of government proposed by the Local Government Study Commission shall be submitted to the voters of White Sulphur Springs at a special election to be held on Nov. 4, 1986.

We, the Study Commissioners of White Sulphur Springs do hereby certify that this is the date of the special election approved by the Study Commissioners of White Sulphur Springs.

In testimony whereof, we set our hands.

Done at 11:00 a.m. this 5th day of Sept. 1986.

/s/Willard E. Vannett  
/s/Elmer Schye

/s/Elizabeth L. Bridges  
Local Government Study  
Commissioners

ATTEST: /s/Florence McAfee  
City Clerk of the  
City of White Sulphur Springs

CERTIFICATE  
ESTABLISHING THE  
OFFICIAL BALLOT FOR  
NOVEMBER 4, 1986  
SPECIAL ELECTION

Instructions to voters: Place an "x" in the box which express your preferences. The full text of the proposed form of government and of the existing government are available at your polling place.

OFFICIAL BALLOT

Vote for one

For the existing form of government.

For Adoption of the Charter Commission-Executive Administrator form of government proposed in the report of the White Sulphur Springs local study commission.

We, the study Commission of White Sulphur Springs do hereby certify that this is the official ballot approved by the Study Commissioners of White Sulphur Springs.

In testimony whereof, we set our hands.

Done at City Hall this 5th day of Sept. 1986

/s/Willard E. Vannett  
/s/Elmer Schye

/s/Elizabeth L. Bridges  
Local Government Study  
Commission

ATTEST: /s/Florence McAfee  
City Clerk of the  
City of White Sulphur Springs

White Sulphur Springs  
Charter  
PREAMBLE

WE THE CITIZENS OF THE CITY OF WHITE SULPHUR SPRINGS, FOR THE PURPOSE OF ESTABLISHING A JUST FORM OF FUNDAMENTAL LAW — ONE THAT IS RESPONSIBLE TO THE PUBLIC FOR PROVIDING EQUAL AND ADEQUATE SERVICES AND PROTECTIONS, WITH EFFICIENT USE OF THE CITY'S REVENUE FOR ALL; A GOVERNMENT THAT PROVIDES FOR SELF GOVERNMENT POWERS WITH RESPECT TO THE HEALTH, SAFETY, AND WELFARE OF EVERY CITIZEN; AND ONE THAT UTILIZES THE UTMOST FLEXIBILITY TO PROVIDE FOR THE CITIZENS OF THE CITY — DO ESTABLISH THIS CHARTER FOR THE CITY OF WHITE SULPHUR SPRINGS OF THE STATE OF MONTANA.  
ARTICLE 1 — POWERS OF THE CITY

Section 1.01. Powers of the City. The City shall have all powers possible for a self government city to have under the constitution and laws of the state of Montana as fully and completely as though they were specifically enumerated in this charter.

Section 1.02. Construction. The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general powers stated in this article.

Section 1.03. Mill Levy Limit. The Council shall not levy more than 75 mills on real and personal property for all purposes. The mill levy on real and personal property may be increased only by an affirmative vote of a simple majority of the votes cast in an election on this question.

ARTICLE 11—Legislation

Section 2.01. Legislative Branch. The legislative branch shall consist of the City Council and the Mayor.

Section 2.02. City Council: Composition and Powers.

A. There shall be a City Council of the City of White Sulphur Springs composed of (3) three Councilmembers.

B. All powers of the city shall be vested in the City Council, except as otherwise provided by law or this charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Section 2.03 City Council: Elections, Terms and Qualifications.

A. Councilmembers shall be elected at large for (4) four year overlapping terms. One councilmember shall be elected at one election and two councilmembers elected at the next election.

B. Councilmembers shall serve for terms of four (4) years and shall be limited to two consecutive terms.

C. Councilmembers shall reside within the City of White Sulphur Springs and be qualified voters of the City.

Section 2.04. Mayor: Election, Powers and Duties.

A. The Mayor shall be a resident and qualified voter of the City of White Sulphur Springs and shall be elected by the Councilmembers from their membership at the first meeting after each general election.

B. The Mayor shall be the presiding officer of the City Council and shall have voting powers the same as the other councilmembers.

C. The Mayor shall be recognized as the head of the City government for ceremonial purposes and by the Governor for purposes of military law, and shall execute contracts, deeds and other documents.

D. The Mayor shall have administrative duties as required to carry out the responsibilities of the city and this charter.

Section 2.05 Deputy Mayor. The City Council shall elect at its first meeting following each general election one of its members to serve as Deputy Mayor, who shall act as Mayor during the absence or disability of the Mayor.

Section 2.06. Election. The procedure for the nomination and election of all City Officials shall be as prescribed by state law for non-partisan elections.

Section 2.07. Interference with Administration. Except for the purposes of inquiries and investigations, the Council and the Mayor shall deal with the city officers and

employees who are subject to the direction and supervision of the city administrator solely through the Administrator.

Section 2.08. Vacancies, Forfeiture of office and Filling of vacancies.

A. Vacancies. The Office of Councilmember or Mayor shall become vacant upon his or her death, resignation, removal from office in any manner authorized by law, or forfeiture of his or her office.

B. Forfeiture of office. Councilmember or Mayor shall forfeit his or her office if he or she: (1) Lacks at any time during his or her term of office any qualifications for the office prescribed by the charter or by law, (2) or violates any express prohibition of this charter, (3) or is convicted of a felony.

C. Fillings of vacancies of the City Council. Vacancies on the City Council shall be filled by appointment by the Mayor with the consent of the majority of the remaining members of the Council. A vacancy shall be filled within (30) thirty days. At the next general election, an appointed councilmember shall stand for election for any remaining portion of the term of office to which he or she has been appointed. In the event that all members of the Council are removed by death, disability, forfeiture of office, or other cause, the District Judge shall appoint an interim Council which shall hold office until a special election can be held within (90) ninety days.

D. Filling the vacancy of the office of Mayor. If a vacancy occurs in the office of Mayor, the Deputy Mayor shall become Mayor for the remainder of the unexpired term of the Mayor. Upon assuming the office of Mayor, the Deputy Mayor vacates his or her council position and that vacancy shall be filled as provided in this charter.

Section 2.09. Procedure. The Council shall establish by ordinance its rules of procedure and time and place of meetings.

Section 2.10. Compensation. The Council shall establish by ordinance the compensation of its members including the Mayor, but no Councilmember's or Mayor's compensation may be raised during his or her term of office and shall not exceed (20) twenty percent increase for the following term.

ARTICLE 11—Administrator

Section 3.01. City Administrator: Employment, Compensation, and Qualifications.

The Council shall employ a city Administrator on the basis of merit for an indefinite term. He or she need not be a resident of the city at the time of employment.

The administrator shall have had experience in local government administration or related experience; have knowledge of operation of water and sewage systems; have an understanding of street maintenance and drainage; and must demonstrate knowledge of the Budgeting Accounting and Reporting System (BARS) adopted by Montana for Local Government.

Section 3.02. City administrator: Powers and Duties.

The Administrator shall:

- A. Carry out policies established by the city council;
- B. Perform the duties required by law, ordinance, resolution, or this charter;
- C. Enforce laws, ordinances and resolutions;
- D. Administer the affairs of the city;

E. Prepare and present the city budget to the council for its approval and administer the budget adopted by the council;

F. Report publicly to the council each month on the financial conditions of the city;

G. Recommend measures to the council;

H. Report to the council as the council may require;

I. Attend council meetings and take part in the discussion but have no vote.

Section 3.03. Appointments and Removals. The Administrator shall appoint with the consent of the council all city administrative officers and employees subordinate to him. The Administrator shall have power to remove employees for cause without the consent of the Council.

Section 3.04. City Administrator: Removal.

The council may remove the Administrator with or without cause by an affirmative vote of a majority of all its members.

Article IV—Boards, Commissions and Committees.

Section 4.01. Powers. Boards, Commissions and Committees of city government shall be advisory only. They shall have no administrative authority unless specifically required by Federal or State law, or interlocal agreement.

Section 4.02. Appointment, Compensation, Terms and Qualifications.

A. Boards, Commissions and Committees shall be appointed by the Mayor with the consent of the council, unless otherwise provided by Federal or State law or interlocal agreement.

B. Board, Commission and Committee members shall serve without compensation.

C. Members of Boards, Commissions and Committees shall hold no other elected city office unless required by Federal or State law or interlocal agreement.

D. Terms shall be limited to (2) two consecutive (2) two year terms.

ARTICLE V—General Provisions

Section 5.01. Effective Date.

The effective date of this charter shall be January 12, 1987.

Section 5.02. Amendment Procedure.

This charter shall be amended only as provide by State law.

Section 5.03. Recall.

An elected city official may be recalled as provided by State law.

Section 5.04. Review of existing Ordinances. The Council shall review and where necessary revise or repeal all city ordinances to provide for their compliance with this charter. The Council may employ qualified persons to revise and update the ordinances when deemed necessary but must review and update the ordinances at least every (5) five years.

Section 5.05. Severability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstance shall not be affected thereby.

ARTICLE VI—Transition

Section 6.01. General Transition. Transition to this charter form of government shall be as prescribed by State law. The city council may provide for transition by ordinance,