

JOLIET COMMUNITY LIBRARY

Drawer G
Joliet, MT 59041



Joliet, Montana
November 1, 1990

Sheila Cates
Montana State Library
1515 East Sixth Avenue
Helena, Montana 59620

Dear Sheila,

I am glad I was able to talk with you at the State Library Commission meeting on Oct. 24th in Laurel about the status of the Joliet Library as a public library. However, later I began to think there may be some confusion about different documents.

Early this year I mailed you a copy of a contract our library has with our county commissioners. This is a contract we submit every year to obtain funds and to state our intent to provide library services to county residents. I sent this to show the annual commitment made by our county commissioners. This, however, is not our interlocal agreement. I assumed you already had a copy of the interlocal agreement. I am enclosing copies of each of these documents.

Our interlocal agreement between the Library and the School District covers the accountability about which you expressed concern. This document was signed by the Attorney General's office in February of 1986.

In addition to these contracts, I would like to tell you what else we have done to establish ourselves as a public library. We created a Library Board of Trustees in 1984 (named "the Committee" in our interlocal agreement to avoid confusion with the School Board of Trustees). Our Bylaws and Policies were drawn up in 1985. The Carbon County Library Board accepted us as the third county library in 1987 and we have been receiving county funds since that time. We have also been a member of the South Central Federation of Libraries since 1986 and have been included in the 1989 and 1990 Plans of Service.

The Joliet Community Library has the support of the community, the county, and the South Central Federation.

Frankly, we were stunned in 1989 to find out our State Library Commission did not consider us to be an official Montana Public Library at the time that HB193 funds were appropriated. Why were we not informed of a possible problem before that time? Why, over one year later, have we still not gotten any specific answers to our questions?

The 1991 Legislative Session is almost upon us and we feel we need these answers now to make changes, if they are truly needed. We were denied badly needed funds under HB193 in 1989 and we do not want that to happen again in 1991.

We feel we have been more than patient in this matter, but time is running out. Please consider resolving this dilemma as soon as possible.

Sincerely,



Lisa Gruber
Chairman

Joliet Community Library

JOLIET COMMUNITY LIBRARY

Drawer G
Joliet, MT 59041



AGREEMENT

This agreement made and entered into this 1st day of July, 1990, by and between the Joliet Community Library Committee and the County of Carbon, a Subdivision of the State of Montana:

WITNESSETH

For and in consideration of the mutual covenants and agreements stated herein the above parties agree as follows:

That the Joliet Community Library Committee will make library services available to all residents of Carbon County during the year beginning 1st July 1990 and ending 30th June, 1991.

The County of Carbon, on behalf of the Trustees of the Joliet Community Library shall pay to the Joliet Community Library, the sum of Five Thousand Three Hundred Forty Dollars (\$5340.00), and said sum due and payable in two installments on the following dates:

\$2340.00 Due on the 1st December 1990

\$2340.00 Due on the 1st May, 1991

All books and any other printed materials available in the Joliet Community Library, located in the Joliet Middle School, in the Town of Joliet, Montana, shall be equally available to all residents of Carbon County, Montana.

That all Policy Rules of the Joliet Community Library shall apply equally to all Carbon County, Montana residents, and there shall be no difference in rules and regulations for any and all County residents.

In the event that the Joliet Community Library fails to make its services equally available to residents of the County, the County of Carbon may refuse to make payments until all defects have been eliminated.

The County of Carbon shall share no power in setting policies or regulations for the Joliet Community Library.

The parties agree that this Agreement is not automatically renewable, and that a new Agreement for support for the Joliet Community Library will be negotiated for the year 1991 - 1992, prior to 1st June, 1991.

The Committee Chairperson signs on behalf of the Joliet Community Library Committee but assumes no personal liability for the actions of the Committee.

IN WITNESS WHEREOF, the parties have hereunto annexed their hands and seals the day and year first written above.

JOLIET COMMUNITY LIBRARY

BY _____
Committee Chairperson

THE COUNTY OF CARBON, MONTANA

BY _____
Chairperson
Carbon County Commissioners

INTERLOCAL AGREEMENT FOR THE ESTABLISHMENT OF FINANCIAL SERVICES

This interlocal governmental agreement is entered into this 26th day of January 1987 between Joliet Public School District #7, Joliet, MT 59041, hereinafter referred to as the District and the Joliet Community Library Committee, Joliet, MT 59041, hereinafter referred to as the Committee.

WHEREAS the Committee is comprised of four (4) citizens of the community and three (3) members of the District staff;

*→ How this met 22-1-30? ?
Jus to 7, met 5 Jerome ?*

WHEREAS the Committee has need of proper accountability of allocated tax monies;

WHEREAS the Committee has need to make some type of arrangement in order to provide proper accountability of allocated tax funds;

WHEREAS the District presently has an accepted method of accountability of tax funds which is capable of handling the financial accountability of the Committee;

NOW THEREFORE, this agreement is entered into pursuant of the following provisions:

1. The District shall provide all financial accounting services necessary for the Committee.
2. The service provided shall include paying part-time personnel, submitting proper payroll charges and withholdings to required agencies, and dispersing other monies as approved by the Committee.
3. The District will provide all necessary guidelines for proper documentation of accountability in accordance with the procedures and methods of the district clerk.
4. The Committee will provide all necessary time cards, purchase orders, receipts, and/or any other documents required by the district clerk for records of accountability.
5. The Committee will have its semi-annual allocations of tax monies from Carbon County transferred to the District for the sole purpose of providing accountability of expenditures, payment of wages and all other accounts approved by the Committee. Monies from fund raisers, donations and grants will be accepted and transferred in the same manner.

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22-1-309

6. The District will have no authority over the Committee for the purpose of establishment of policy concerning the disbursement of funds of the Committee. The disbursement of funds will be accomplished in accordance with the disbursement schedule of the district clerk.
7. The District shall have no authority over the selection of books, etc., and/or other matters of the Committee.
8. The administration of the Committee will be accomplished by the Committee in accordance with its statement of policy.
9. The Committee will, in mutual agreement with the District, provide the necessary monies to cover the cost of an audit of the Committee records. The audit may be done in conjunction with the required audit of the District's financial records.
10. The acquisition of property valued at more than One thousand dollars (\$1,000.00) will be accomplished by bid. Items of lesser value will be purchased at the discretion of the Committee.
11. If termination of the Agreement is necessary all properties purchased by the Committee and/or donated to the Community Library shall be disposed of at the discretion of the Committee.
12. This agreement is for a period of one year and may be extended from year to year at the request of each of the parties upon thirty (30) days prior to the expiration of the agreement on July 1 of each year.
13. If any provision of this Agreement or any application of this Agreement to any employee or group of employees is held to be contrary to the law, then such provisions or applications shall not be deemed valid and subsisting, except to the extent permitted by law, but all other provisions and applications shall continue in full force and effect.

DONE AND DATED the 26th day of January 1987.

Pauline Letene
On Behalf of the Committee

Sharon M. Redden 1/26/87
On Behalf of the District Date

Notary Linda M. Blair
Residing at Joliet, Montana
Dated January 26, 1987
My commission expires 3/29/88

MONTANA DEPARTMENT OF JUSTICE
February 9, 1986
APPROVED TO FORM

Mike Grealy
Attorney General
By Judy Bromberg
Assistant

STATE OF MONTANA
DEPARTMENT OF JUSTICE
AGENCY LEGAL SERVICES BUREAU
444-2026

Joliet
interlocal
agreement

Model
interlocal
agreement

MEMORANDUM

TO: SHEILA CATES
Coordinator of Library Development
Montana State Library

FROM: JIM SCHEIER *JS*
Assistant Attorney General

RE: Interlocal Agreements and Public Library Service

DATE: December 3, 1990

You asked me to look into two questions concerning the provision of public library service through interlocal agreements.

Joliet Interlocal Agreement

The first question you had is whether the purported interlocal agreement between Joliet School District # 7 (District) and the Joliet Community Library Committee (Committee) is valid. Specifically, you inquired whether the Committee, which is actually functioning as the board of library trustees, is one of the entities authorized by statute to enter into interlocal agreements.

Section 7-11-104, MCA, provides, in pertinent part:

Any one or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity, or undertaking which any of said public agencies entering into the contract is authorized by law to perform.

Section 7-11-103, MCA, provides:

For the purposes of this part, the term "public agency" shall mean any political subdivision, including municipalities, counties, school districts, and any agency or department of the state of Montana.

The question is whether a board of trustees of a public library is a "political subdivision", and thus a "public agency" that is

authorized by section 7-11-104, MCA, to enter into interlocal agreements.

In 39 Op. Att'y Gen. No. 37 at 150-151 (1981), the Attorney General ruled that a municipal housing authority is a public agency that may enter into interlocal agreements, making the following observations:

The statutory provisions pertaining to interlocal agreements do not include a definition of "political subdivision." However, since the purpose of the interlocal agreement is to allow "political subdivisions" to provide services more efficiently, to the ultimate benefit of the taxpayers and citizens of Montana, a broad definition of the term is clearly appropriate.

Id. at 151. The Attorney General then reasoned that since housing authorities are, by statutory definition, "public corporations", and public corporations are included in at least two statutory definitions of the phrase "political subdivision" in the Montana Code Annotated, then a municipal housing authority is a public agency that may enter into interlocal agreements.

The Attorney General has also, in a more recent opinion, held that a rural fire district is a political subdivision which is authorized to enter into interlocal agreements. In 43 Op. Att'y Gen. No. 56 (1990), the Attorney General noted:

[A] fire district has been held to be a political subdivision. [Citations omitted]. It has also been held that fire districts operated by trustees are political subdivisions distinct from counties, and are thus governmental entities within the meaning of the Montana Tort Claims Act. [Citation omitted]. Rural fire districts operated by a board of trustees possess all the characteristics of a public agency as that term is used in the Interlocal Cooperation Act. Fire district trustees govern and manage the affairs of the fire district; have the authority to provide firefighting apparatus, equipment, housing, and facilities for the protection of the district; appoint and form fire companies; and prepare annual budgets. [Citations omitted]. Each district has political boundaries, and trustees are elected by electors within the fire district. [Citation omitted]. Based upon the delegation of powers and accountability to a local electorate, it is my opinion that rural fire districts . . . , are political subdivisions within the meaning of the Interlocal Cooperation Act.

Id. at 6.

I cannot find a similar basis to conclude that public library boards of trustees are public agencies, as defined in section 7-11-103, MCA. While the Montana Supreme Court has referred to a library board as an "adjunct of the local government", the Attorney General has, in a subsequent opinion, noted that a library board possesses "substantial autonomy from the governing body of the local governmental unit within which the library has been established." Municipal Employees Local 2390 v. City of Billings, 171 Mont. 20, 24, 555 P.2d 507, 509 (1976); 41 Op. Att'y Gen. No. 91 at 394 (1986). Although I agree that library boards are substantially autonomous entities when it comes to operating the library, I don't believe a library board of trustees is a "public agency" that is authorized to enter into interlocal agreements.

I cannot find a statutory definition nexus, similar to that found by the Attorney General in 39 Op. Att'y Gen. No. 37 (1981), which would support a similar conclusion that a library board is a "political subdivision". Further, in my opinion, a library board of trustees does not possess a separate political identity similar to that found by the Attorney General to exist in rural fire districts in 43 Op. Att'y Gen. No. 56 (1990). Unlike a rural fire district, a public library does not really have distinct political boundaries, nor are library trustees accountable to the local electorate.

A library board of trustees may, however, contract with other entities, including school districts, to give and receive library service. § 22-1-309(3), MCA. The purported interlocal agreement between the District and the Committee in this case was entered into to "provide proper accountability of allocated tax funds" for the provision of library services to the community. In my opinion, the interlocal agreement is valid as a simple contract with the school district for the management by the District of the fiscal details connected with the provision of library service. (Assuming that the library is a validly-created public library under the laws of Montana).

Model Interlocal Agreement

Your second request was that I review the model interlocal agreement that you prepared. Presumably, interlocal agreements may be entered between counties and school districts for the purpose of providing library services. See § 7-11-104, MCA ("any one or more public agencies [including counties and school districts] may contract . . . to perform any . . . service. . . which any of said public agencies entering the contract is authorized by law to perform). See also § 22-1-312, MCA, which provides that "boards of . . . educational institutions . . . , and local political subdivisions are . . . empowered to cooperate, merge, or combine in providing library service." However, when an interlocal agreement is entered between governmental units with general powers, the statutes dealing with administration of public

libraries apply, as you have anticipated in drafting the form interlocal agreement which you submitted to me.

Concerning the appointment and service of the board of trustees of the library so created, section 22-1-308 MCA, provides the framework for that procedure. In addition, the powers and duties of the board as set forth in the agreement should be consistent with section 22-1-309, MCA.

I have reviewed the draft interlocal agreement you provided, and based on that review I can find nothing that is patently inconsistent with the provisions of those statutes. If you have specific questions or concerns about any of the provisions of the draft agreement, give me a call and we can discuss them.

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Drawer G
Joliet, MT 59041



Joliet, Montana
November 1, 1990

Sheila Cates
Montana State Library
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Helena, Montana 59620

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Lisa Gruber
Chairman

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The Committee Chairperson signs on behalf of the Joliet Community Library Committee but assumes no personal liability for the actions of the Committee.

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JOLIET COMMUNITY LIBRARY

BY _____
Committee Chairperson

THE COUNTY OF CARBON, MONTANA

BY _____
Chairperson
Carbon County Commissioners

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- 22-1-309
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DONE AND DATED the 26th day of January 1987.

Pauline L. Stone
On Behalf of the Committee

Sharon M. Reardon 1/26/87
On Behalf of the District Date

Notary Linda M. Blair
Residing at Joliet, Montana
Dated January 26, 1987
My commission expires 3/29/88

MONTANA DEPARTMENT OF JUSTICE
February 9, 1986
APPROVED (AS) TO FORM

Mike Grady
Attorney General
By Judy Bromberg
Assistant