

Background Brief and Study Plan

SJR 4 study of state-owned properties at Virginia City, Nevada City, Reeder's Alley

*based on SJR 4 text and recommendations and requests made by members of the
Environmental Quality Council on June 19-20, 2013*

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Introduction

The Environmental Quality Council (EQC) requested SJR 4 for consideration by the 2013 Legislature upon completion of a study conducted during the 2011-2012 interim of state parks and outdoor recreation and heritage resource programs. SJR 4 reflects the Council's decision to continue the portion of the previous interim's study that focused on the Montana Heritage Preservation and Development Commission's (MHC) management of state-owned properties at Virginia City, Nevada City, and Reeder's Alley in Helena.

At its June, 2013, meeting, the EQC reviewed the relevant findings and recommendations that resulted from the previous interim study and the specific items for study requested in SJR 4. Members agreed to dedicate .25 FTE staff time to the study, requested additional information, and provided direction for the study's next steps.

Following is a summary of the items requested for review in SJR 4, a timeline showing when and how the state of Montana acquired these properties, a summary of the statutes that govern the MHC, a breakdown of the different areas of study, and a proposed study approach based on the Council's action and on staff resources.

SJR 4

SJR 4 requests the following of the entity conducting the study:

1. provide continued oversight of the Montana Heritage Preservation and Development Commission and its management and operation of state-owned sites at Virginia City, Nevada City, and Reeder's Alley;
2. review the implementation and impacts of the Commission's restructuring and newly adopted business plan;
3. review in greater detail the myriad properties and artifacts the state purchased at Virginia City and Nevada City to determine whether the statutory mission for the sites should be redefined or whether recommendations should be made regarding deaccession of any properties or artifacts;
4. identify overall preservation needs at Virginia City, Nevada City, and Reeder's Alley and make recommendations regarding the scale and scope of those efforts based on available resources;
5. review marketing efforts and identify other ways to make Virginia City, Nevada City, and Reeder's Alley better known to residents and nonresidents alike;
6. review the Commission's funding and revenue and make recommendations for improving overall finances, especially funding for preservation and maintenance work;
7. identify opportunities to integrate and better coordinate the administration of state-owned sites at Virginia City, Nevada City, and Reeder's Alley with other recreational and heritage resources, including state parks; and

8. evaluate the makeup of the Commission and whether its membership, powers, and duties should be restructured or redefined, including whether some duties should be transferred to the Department of Commerce, to which the Commission is attached.

Timeline of State Acquisition and Management of Properties

- 1997: Montana Legislature authorizes purchase of the Bovey properties in Virginia City and Nevada City for \$6.5 million.
- MHC created, administratively attached to Montana Historical Society.
- 1999: Owners of Reeder's Alley property in Helena approach MHC to consider accepting donated property.
- 2001: MHC proposes to State Board of Land Commissioners that state accept Reeder's Alley; Land Board approves.
- Legislature makes changes to MHC membership requirements and staffing (Ch. 308, L. 2001).
- 2003: Legislature moves administration of MHC from Historical Society to Department of Commerce to take advantage of the department's tourism, promotion, and economic development resources (Ch. 485, L. 2003).
- 2006: MHC accepts donation of the Pioneer Cabin and Caretaker's House in Reeder's Alley, on the condition that the property "be used exclusively for the public purpose of the historic preservation ... [of the properties], and the public display of the Pioneer Cabin and the artifacts contained therein."

Relevant Governing Statutes

SJR 4 references the statutory mission for the state-owned sites that are the subject of the study and the statutory composition of the MHC. The statutory mission for the sites and the makeup of the MHC is found in Title 22, chapter 3, part 10 of the Montana Code Annotated. The full text of the statutes is attached to this document.

22-3-1001. Purpose.

The stated statutory purpose of Title 22, chapter 3, part 10 is to acquire and manage properties that:

- possess outstanding historical value;
- display exceptional qualities worth preserving;
- are genuinely representative of the state's culture and history; and
- demonstrate the ability to become economically self-supporting.

The MHC is required to manage properties "in a manner that protect the properties and encourages economic independence."

22-3-1002. Montana Heritage Preservation and Development Commission.

- The MHC consists of 14 members-- 9 appointed by the Governor; 1 appointed by the Speaker of the House; 1 by the President of the Senate; 3 serving by virtue of position

as directors of Historical Society, Department of Commerce, and Fish, Wildlife, and Parks.

- The MHC is administratively attached to the Department of Commerce.
- The MHC may employ an executive director who has responsibility for the selection and management of staff, recommending property purchases, and overseeing the management of the property. The MHC may also employ a curator and any other staff the MHC and director determine to be necessary
- The MHC shall prescribe the duties and salary of the staff.

22-3-1003. Powers of commission -- contracts -- rules.

- The MHC may enter into contracts, not to exceed a term of 20 years, with private organizations.
- Contracts are not subject to state procurement laws, but must provide for payment of prevailing wages.
- State architectural and engineering review and approval are not required for renovation of historic properties unless specifically required in an appropriation.
- Management activities must be undertaken to encourage profitable operation of properties.
- Properties may be leased.
- MHC may not contract for construction in excess of \$300,000 without consent of the legislature, unless the MHC has determined that waiting for consent would cause unnecessary damage to the structure or would result in significant increase in cost for the activity in the future.
- The MHC shall require that a portion of any profit be reinvested in the property and that a portion be used to pay administrative costs.
- The MHC shall deposit any portion of profit not needed for administration and restoration in the Cultural and Aesthetic Trust until the Trust reaches \$7,750,000. Once the Trust reaches that balance, any remaining profit must be deposited in the general fund.¹
- No general fund money may be provided for operations and maintenance of Virginia City and Nevada City beyond what was appropriated for the purchase.
- MHC shall establish a subcommittee to review and recommend the sale of personal property from the former Bovey assets.
- MHC shall adopt rules for acquiring and selling real and personal property. The rules

¹ At the beginning of FY 2014, the balance in the Cultural Trust was \$12,867,351.

must require that certain factors, listed in 22-3-1003(8)(a) through (i), be considered. Those factors include whether the property in question:

- ▶ represents the state's culture and history;
 - ▶ can become self-supporting;
 - ▶ can contribute to the economic and social enrichment of the state; and
 - ▶ lends itself to historical interpretive programs.
- Except in the case of sale of personal property from the former Bovey assets, proceeds from any sale must be placed in the Montana Heritage Preservation and Development Account.
 - A recommendation for sale or acquisition of real property must be presented to the Land Board.
 - The MHC may establish trust funds to benefit historic properties, the interest from which must be used to preserve and manage assets. Funds from the sale of personal property from the former Bovey assets must be placed in a trust fund, and interest from the trust fund must be used to manage and protect the remaining personal property.

22-3-1004. Montana Heritage Preservation and Development Account.

- The MHC shall deposit any federal money received into the account.
- Money must be used for purchase of properties in Virginia City and Nevada City and for restoration, maintenance, and operation of historic properties in Virginia City, Nevada City, and other historically significant properties in Montana in need of preservation.

Other relevant statutes deal with funding sources for the MHC and with assessing and reporting on maintenance needs of state-owned heritage properties. A "heritage property" is defined in section 22-3-421 as "any district, site, building, structure, or object located upon or beneath the earth or under water that is significant in American history, architecture, archaeology, or culture."

61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration fees -- disposition of fees.

Of the \$6 fee that is added to each light vehicle registration (unless a registrant opts out), 38 cents must be used for the operation of state-owned facilities in Virginia City and Nevada City.

15-65-121. Distribution of tax proceeds.

The amount of \$400,000 each year of the revenue collected from the lodging facility use tax must be deposited in the Montana Heritage Preservation and Development Account established in 22-3-1004.

22-3-422. Duties of preservation review board.

Included among the board's duties is to "accept reports from state agencies and the Montana university system on the first Tuesday in February of every even-numbered year on the status and stewardship of the agencies' and the university system's heritage properties as required in 22-3-424 and make recommendations regarding management of the properties."

22-3-424. Duties of state agencies.

All state agencies are required to compile a list of heritage properties managed by the agencies, assess the maintenance needs of the properties, describe stewardship efforts in which the agencies have engaged to maintain the properties, and prioritize those maintenance efforts.

90-1-102. Functions of department of commerce -- state planning.

The Department of Commerce shall, among other duties, "locate and maintain information on prime sites for industrial, agricultural, mineral, forestry, commercial, and residential development and on sites of historical importance and make recommendations for protecting and preserving those sites."

Study Areas

Background and History

- state acquisition
- historical and cultural significance of properties (much of which for Virginia City and Nevada City was provided during the 2011-2012 study)

MHC statutory structure, function, funding

- statute text
- legislative intent
- funding sources
- administrative affiliation with Department of Commerce
- rules

MHC administration of Virginia City and Nevada City

- business plan
- staffing
- marketing
- maintenance
- historic preservation
- inventory (contract with MPA)
- business owners and tenants, residents, others (input, recommendations, leases)

MHC administration of Reeder's Alley

- maintenance
- historic preservation
- marketing, tourism promotion as compared to the needs of Virginia City, Nevada City
- interaction with City of Helena/Lewis & Clark Co.
- tenants and lease rates

Options for EQC consideration

- Request legislation for changes to statutes governing MHC structure, function, funding, duties, administrative attachment to Department of Commerce.
- Request legislation for changes to statutes governing Department of Commerce responsibilities with regard to MHC, Virginia City, Nevada City, and Reeder's Alley.
- Request legislation for changes to statutes governing state-owned heritage properties.
- Provide Council recommendations through final report regarding MHC administration of sites and management of properties.

- Provide Council recommendations through final report for budget items or consideration of long-range planning or other state funds.
- No action.

Proposed Approach and Tasks

June 2013 EQC meeting:	Review of 2011-2012 study findings and recommendations; member information requests; Council recommendation for study priority and focus.
June-September 2013:	Staff research on state acquisition of properties, history and status of Reeder's Alley, including deeds, land titles, etc.; staff research on member questions; staff preparation of study plan document; staff tour of Reeder's Alley.
September 2013 EQC meeting:	EQC tour of Reeder's Alley; review MHC funding sources and revenue; review 2013 season; discuss Reeder's Alley maintenance needs and prioritization; review inventory project and contract with the Montana Preservation Alliance; Council member recommendations, questions.
September 2013-January 2014:	Staff follow-up on member information requests; invite stakeholders to January meeting; develop questions and discussion items for panelists for review by Council members; begin to develop options for Council consideration and discussion (statutes, budget, financing, mission); staff to attend MHC meeting.
January 2014 EQC meeting:	Panel discussion including business owners, residents, local government officials, MHC members, other interested individuals, on ways to improve operations and achieve self-sufficiency requirement-- what's working and areas for improvement, as well as recommendations from panelists on statutory changes or budget items; initial presentation of options for Council action; Council member input and recommendations on options; update on inventory project.
January 2014-March 2014:	Staff to prepare summary of panel discussion; conduct additional research on various options for Council action.
March 2014 EQC meeting:	Marketing focus -- how are properties being marketed and what are the marketing strategies and goals of the Department of Commerce with respect to these properties? Include Department of Commerce input, comments, possible panel involving DOC, MHC, tourism industry; MPA inventory project update; demonstration of mobile applications, videos, promotional materials; further refining of options by Council members.

March 2014-May 2014:	Staff research on options for Council action; additional requests for information; begin preparation of any requested legislation and final report.
May 2014 EQC meeting:	Presentation of final report outline and results of research on options for Council action, if members have chosen to pursue any. Additional input and comment from business owners, agency staff, local governments; inventory project update.
May 2014-July 2014:	Staff research, bill drafting, preparation of report.
July 2014 EQC meeting:	Council review of study materials to be submitted for public comment.
July 2014-September 2014:	Staff to collect public comment.
September 2014 EQC meeting:	Final recommendations; final approval of any bill drafts, budget recommendations or final report recommendations; and final public comment on Council recommendations.