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Transcript for Episode 21: Mixed Bag: Constitutional Empowerment of Montana's Local Government

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[Begin Mixed Bag-Empowerment of Local Government in 1972 Constitution]

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[Music]

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Narrator: From the beginning of Montana's distinctive yet troubled history, the Treasure State was dominated both economically and politically by powerful outside interests who shipped in capital and bought control of the State.

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Historians tell us that as the Anaconda Company and its friends ran Montana, economic and political power flowed out into the hands of distant capitalists and corporations.

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Policy was determined in far off New York City and control of the press was rigid. Anaconda's corporate dominance in Montana's political affairs was unique in American history. For its first 75 years, Montana was a one-company State. But then big winds of change roared across the Treasure State; between 1965 and 1980 Montanans ripped off their copper collar, transforming Montana from a corporate colony into a free modern State.

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The people finally controlled their own destiny. The pitched battle between the people and the established power structure was not easily won but fired In a Crucible of Change a new Montana was born. Join Evan Barrett and real history makers of the time as they shine the light on this remarkable era.

00:01:20

Evan Barrett: Welcome back to *In the Crucible of Change*. You know they say that the government that's closest to the people is the government that's the best, so that assumes automatically that we're talking about Local government. And Local government is literally where the rubber meets the road. Local government takes care of the streets. They fix the potholes. They pick up the garbage. They deliver the water. They take care of the dogs. And

then they do important things like economic development and things like that, too; so Local government is a critical structure in government. The Local government by the nature of the Constitution of Montana and the configurations of government is a creature of the State. The State is the sovereign entity under the Federal Constitution and the State empowers the Local government to do what they can do or do what they can't--and tell them what they can't do. And that is usually in the hands of the Legislature.

00:02:16

So when the Constitution was being rewritten, when the Constitutional Convention was being called, and this is one of a series of programs *In the Crucible of Change* that is related to the Constitution, they took up Local government as well. How--what should we do with Local government? Should we make it more flexible? Should we give it more authority? Should we make them look at new ways of doing it, new structures; those were the challenges that were facing the Constitutional Convention Delegates. And in--and in preparation for that there were a lot of studies and a lot of things provided to them. And we're going to talk about those today. We have a--a great group of panelists today to deal with Local government and the Constitution and the implementation of the constitutional provisions by the Legislature and the Executive Branch of State government. So that's what we're going to go into today and we have a great group of folks here today.

00:03:16

Mike Micone is here; Mike is the former Mayor of Butte. He's a Butte native. Mike was the Mayor--elected Mayor in 1969 as an Independent, as a way to get elected in a crowded field. And once you got elected you flipped back to your Democratic credentials and you were reelected twice again and then a third time as a--the third time was--. Let's see; you were elected in '70--'69, '71, and '73 and then the consolidation of Local government occurred and you became the--the first ever Chief Executive of Butte/Silver Bow under the new form of government. Now Mike also--Mike by the way is from Butte but a Carroll College graduate. And later was in State government as in the Department of Commerce doing Local government, community development work, a little economic development work; ultimately you were head of the Department of Labor under Governor Stevens and you were under Governor Judge for a while, and you retired a number of years ago and we're so happy you were able to come up here because you're in Henderson, Nevada now. We're so glad you were able to be here.

00:04:31

Mike Micone: Pleasure to be here Evan.

00:04:32

Evan Barrett: And Jerry Holloron; Jerry comes out of Corvallis, got his degree in Journalism and was the--was a member--was a writer for the lead newspapers as--with their State Bureau when we first met way, way back when. And he moved from the State Bureau to the Constitutional Convention staff and wrote the study on Local government. And then when the actual Constitutional Convention occurred you were the staffer for--for Local government. And so we look at you to be the expert about what really came out of the Constitution. You then left and went to the UMJ School for quite a while and then ended up writing back to newspaper work in Seattle, Tacoma area until you retired.

00:05:17

Jerry Holloron: Right.

00:05:17

Evan Barrett: And thank you for coming all the way from the West Coast to this wonderful warm and wet climate in Montana. No; we're so dry here this--we can't even blow up the fireworks in Butte now. *[Laughs]* So but thank you and we're going--it's good to see you and we've been on the phone quite a bit but it's the first time we've seen each other in a lot of years.

00:05:38

Jerry Holloron: Right.

00:05:39

Evan Barrett: I'm so happy you're here.

00:05:40

Jerry Holloron: Thank you.

00:05:41

Evan Barrett: And Mike Shields; Mike is an Anaconda native, Carroll College again, so the Carroll is outnumbering us UM guys today because--. The--after graduating from Carroll College you were doing what you do in Montana when you haven't got your--any place to go when you graduated and you went back and were working the summer at the smelter when you got a call from Dale Harris who--who had moved from the Constitutional Convention to heading up the Local government Commission under Governor Judge's Office.

00:06:15

Mike Shields: That's right.

00:06:16

Evan Barrett: And they were the implementers if you will and so all the sudden you went to work in the--for a couple years implementing and doing it mostly in Eastern Montana, but you have a distinguished career beyond that. You went to work with Senator Baucus for four years in DC. You came back and got a Master's at UM. You worked for Lieutenant Governor Turman for--for what was it six years, and he was in charge of Local government for the Schwinden Administration essentially because he was a former Mayor from Missoula. Yeah and then you went back to DC, worked for Environment and Public Works and then the EPA until you just retired--

00:07:01

Mike Shields: Last year.

00:07:03

Evan Barrett: --last year. And what happened; you came back to Montana?

00:07:05

Mike Shields: That's right.

00:07:06

Evan Barrett: It has a great draw. You know it's really interesting; you guys are really wonderful examples of the--the--the strength we have in Montana which is great people who are drawn to public service. It's--it's really something that we wonder about these days when people demonize public service and demonize government that in fact real-talent can--you know comes into government and makes a difference. And so thank you all for joining us. I want to start with you Jerry because we want to talk about the Constitution, about the elements of the Constitution, the things that were the problems with Local government, the opportunities with Local government, and what the Convention Committee ended up doing and kind of how it played out at the Convention. If you want to just give us a little primer on what you guys ended up doing--?

00:07:58

Jerry Holloron: I think that when you think back at the 1889 Constitution which is--or the one that the--the New Constitution replaced--

00:08:09

Evan Barrett: Clark's Constitution. [*Laughs*]

00:08:12

Jerry Holloron: Right; yeah. It was about twice as long, the Local Government Article as the 19--as the New Constitution was. And it also dwelt on counties pretty much; cities were hardly even mentioned. And with such things as location of county seats, of--very specific on county formation, so the needs have changed greatly in--in terms of the Constitution and what a Constitution should say on Local government.

00:08:54

Evan Barrett: Well I might say that for our viewers that at the time of that Constitution there weren't a lot of counties in Montana. There were just great big areas and then later there were like you know 20--25 counties and this 56-county thing actually happened what in the '30s I believe.

00:09:11

Jerry Holloron: Right; the '20s and '30s I'd say. You know I think the interesting thing is that--that many of the--the counties today of the 56 counties and certainly this was true in 19--the 1970s, too when the New Constitution was written, many of the--many of the counties today and then have fewer residents than they did in 1920. You know we--we talk a lot about growth and we--we think of growth all the time in terms of getting bigger and in Montana in terms of the government much of what has happened is that the counties now have fewer people than when they were first formed.

00:09:57

So you have a whole range of--of different problems that--that I'm not sure are being particularly effectively addressed.

00:10:05

Evan Barrett: You know it's interesting that the--I often tell people when they'd ask about Montana and I'd say well you know the movement of people have been from rural to urban, from east to west, although that's changed a little bit with the Balkan situation now and from Butte to out of state because we were such a big area that mining people often went out of state to find a job.

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But you're--you're right about that but there was a heavy emphasis on counties. I interrupted and--

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Jerry Holloron: And the--there was a lot of--a lot of the language really had to do with--without directly saying what powers cities and counties should have, kind of creating a framework and the framework that was created was a--as in many other States that the Local governments could do only what the Legislature had specifically said they could do. In other words, if a city wanted to collect revenue from garbage collection for example, there would have to be a State law authorizing that to happen. It was even worse for counties; for counties not only did the Legislature have to authorize them to do it, it spelled--it would have to spell out exactly how they could do it.

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So they were even more tightly bound than were cities. The--the impetus I think from--from Local government for new provisions really came from counties and cities that were really sort of fed up in a sense with the Legislature over the years of--because they depended so much on the Legislature to authorize them to do things. And the Legislature arguably I think was very reluctant to authorize cities and counties to do anything.

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Evan Barrett: Well cities and counties were envisioning a form of maybe possible freedom, a little more freedom.

00:12:23

Jerry Holloron: Well I think very--

00:12:25

Evan Barrett: Through a Constitutional Convention.

00:12:26

Jerry Holloron: --definitely they were and I think they were envisioning ways to get more money and a problem that I don't think the Constitution has created--has changed.

00:12:37

Evan Barrett: Mike you were practicing in the counties back then [*Laughs*] and the city--?

00:12:40

Mike Micone: Yeah; and what Jerry says is correct. We--we in Local government almost at times felt as though we were going to the Legislators and begging them to allow us to do things, things that were important, things that our residents wanted, and the Legislature really couldn't understand what we were getting at. Or else, they just said we don't want to be bothered with those guys, so let's just get rid of them.

00:13:11

Evan Barrett: Well while we're kind of generally in this discussion of this, I think--I often think about because--because Local government still is kind of the stepchild and maybe there's a different word before a stepchild of--of the Legislature. And they still are constrained a lot by the Legislature although less so than they were but--but they're still constrained a lot. And the attitude of the Legislators is that they don't trust Local government officials. And so it's a great irony that the--the electorate is enlightened when they vote for a Legislator but they apparently don't know what they're doing when they--well the same voters vote for Local government. So that's kind of--I guess that's just the real world we operate in, too. So that what was you saw in 1889 was that kind of focus, the Old Constitution, and when you did that big study that you did to try to open the doors and open the eyes up for Con-Con Delegates what did you see as the kind of things that needed to be done?

00:14:16

Jerry Holloron: I think one of the main areas was the attempt to clarify what power Local governments had. The 1889 Constitution handled the matter with silence pretty much. And which was later interpreted as meaning that cities and counties could do, only as I said, what the Legislature had specifically told them they could do--would authorize. And so I think the Delegates wanted to address that question. I think there was a general feeling among the Delegates that the Legislature had not been as free with Local governments as it should have been, in other words had not authorized them to do enough.

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So I think there was--there was a sense of needing to get away from that allocation of power question and try to--try to solve that somehow or at least address it. And there was a similar effort in terms of the structure of Local government. The Legislature before the New Constitution, the Legislature under the Old one, the Old Constitution had authorized some alternative forms of government but there weren't that many of them, of--there weren't that many alternatives offered, there weren't that many that had been adopted, and there was a real sense I think that to come up with some sort of constitutional language that would give flexibility and I think there is--if there is a word that can sum up what--what the framers of the 1972 Constitution attempted to do was to give Local governments flexibility.

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And part of the--part of the way of doing that is to simply clean out a lot of the undergrowth of the Old Constitution. As they said, the--the Local Government Article in the New Constitution, the 1972 Constitution is I think less than half as long as the provisions in the Old 1889 Constitution. And a lot of those changes were designed to attempt to directly give some flexibility to Local governments. The extent to which you can directly give that flexibility without--without the Legislature interfering or having a direct say is--is arguable. You know maybe the Legislature should run Local governments. My personal view is they shouldn't but **[Laughs]**--but maybe they should.

00:17:22

Evan Barrett: Well you know the Con-Con actually and I think the net result of this thing was that they delineated a whole bunch of flexibility possibilities but it still was kind of filtered through the legislative process to get it implemented.

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Jerry Holloron: Right.

00:17:40

Evan Barrett: Which then created some constraints I think on the same--so some of the flexibility never happened because the Legislature didn't give a lot of flexibility when they had the option.

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Mike Shields: The premise was always as Jerry and Mike can describe--was referred to as Dillon's Rule and it didn't refer to Dillon in Beaverhead County but it was a Court case in Kansas in the early 20th Century and it was basically Local governments could do only what they were prescribed to do or allowed to do. So there was an effort to--to broaden that and give--give them more latitude to deal with it. The Legislature in some ways continued to be reluctant to do that. But they did provide some options in the form of charters and self-governing powers, trying to adapt the form of government to reflect the changes of the late 20th Century, things that weren't even considered in 1889. And so that was basically the impetus for the--the title that came out of the Constitutional Convention and

then subsequently the enabling legislation passed by the Legislature created the State Commission on Local Government. And the Commission was a gubernatorial commission, was chaired by Harold Gerke who was then Speaker of the House--

00:19:22

Evan Barrett: But also had been a former Mayor of Billings, correct?

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Mike Shields: Most of the folks on the--on the Commission had some tie to Local government. Long time Legislator from Helena, Glen Drake was the--the Co-Chairman and they set about implementing the legislation that the Legislature had passed. You had the 56 counties and 126 cities and towns who were required to create these study commissions. And the Commission implemented that; there was a good deal of research done primarily by the government, Bureau of Government Research at Missoula and at Montana State. Lauren McKinsey at Bozeman, Jim Lopach and Peter Cohen at Missoula--did a lot of the background information for the Study Commissioners.

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In addition, the Commission had--which I think is sometimes missed but it was a large piece of the agenda and that was the Local government code was voluminous, you know very prescriptive and what the Commission tried to do was a recodification of all the Local government statutes. And as a consequence put on the table State assumption of some of the services, Courts, welfare; that was all included in an enabling Bill, House Bill 122 and the wrap on 122 was it was over 700 pages. And--

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Evan Barrett: Light reading. [*Laughs*]

00:21:10

Mike Shields: --one Legislator said I haven't read 700 pages in my life and I'm not going to do it now. [*Laughs*]
The--the Bill was introduced with a good deal of fanfare but was really unsuccessful. I'm happy to say that portions of it were enacted in--in later Sessions, but that was--that was the process and that was you know--they were trying

to come to grips with the fact that Local governments were confronting serious problems and the form of government and the powers of government were you know ill-equipped to deal with them. And in many ways we're dealing with them now, the counties in the Balkan, exponential growth, inability to deal with the infrastructure, caps on bonding, caps on taxation, and as a consequence you know they're back before the Legislature attempting to deal with it.

00:22:17

Evan Barrett: Now the flexibility that you were on the Commission staff trying to provide some guidance to Local governments on as they reviewed their own structure those were things that are in many cases articulated by the Constitution, right? The charter, self-governing, those issues were--came out of the Committee did they?

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Jerry Holloron: Yeah; sort of. Before the Convention, Local governments again could do only what the Legislature said they could do and they had to have a structure that had been already approved by the Legislature. That could be a City Manager, it could be a City Council; but it had to be the structure was set by the Legislature.

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Evan Barrett: Specifically by the Legislature.

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Jerry Holloron: Right; the New Constitution allowed that and in fact again kind of tried to shove the Legislature into approving even more potential forms of government but it also provided for self-government powers and self-government structure in which a Local government could write its own charter, in other words it added--the 1972 Constitution added the provision where voters in this--in a city or county could write their own form of government, design their own form of government which had not been allowed before.

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Evan Barrett: This is very interesting that part of the theme of this whole series is about the change when the copper collar was removed from Montana when essentially economic and political control was pretty much absolute with the Anaconda Company, not without a lot of fighting but still they always seemed to prevail and that through the Constitution and the election of certain kinds of leadership and reorganizing the Executive Branch and modernizing the Legislative Branch that essentially--and passing a lot of interesting laws in the early parts of the '70s that there was a shift in power away from the old power of the Anaconda Company and its buddies, corporate and powerful organizational buddies, to the people. And essentially that's what we're talking about here was choices were given to people which heretofore were totally subject to legislative control and the Legislature seemed much more controlled by the lobbyists for certain entities than perhaps by the people. So that's an overall thrust of this whole series and this seems to be part of that.

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However, whether or not it came to complete fruition is a challenge. And one of the things about the legislative restriction on Local government which is at least partially lifted by the Constitution may have had to do with the fact that the Constitution, the Convention itself could not have any active Legislators be members. The Supreme Court ruled if you're an active--now there were some former Legislators there but--but if you were an active Legislator you could not run for the Constitution. In fact, there was some great consternation in the halls in Helena when that decision came out as I recall.

00:25:38

Male: Yes.

00:25:39

Evan Barrett: Because the Legislators said we want to be there because we know what's best. We know what's right. You remember that Mike, the--the--?

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Mike Micone: It's always a case that particularly when someone is in office for a number of years that they always know what's best for the people. The people really don't know what's best for themselves. It's we, who are

educated in the system that know best and we see that in Local government also. And but with the Legislature it was quite evident that they were perturbed that no Legislators could run.

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Evan Barrett: Now the old trust the people--ultimately that's what you end up doing in a democracy is you--and if--and if the people have open choices. Now you had talked about the charter, self-governing possibilities; what about consolidation?

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Jerry Holloron: Actually the 1889 Constitution allowed city and county consolidation--to an Amendment it allowed it. The New Constitution allowed two things. One is for the Legislature to design systems of Local government that would allow for consolidation, which is what the 1889 Constitution also did. But it also allowed cities and counties to design their own form of Local government and combine with a vote of the people. And that had not been allowed in Montana before self-government charters is what the Montana Constitution now calls them. So that's--that's what it allowed. It--I think there was an assumption that more counties and cities going through the Local government review process would--would move toward that--toward city/county consolidation. That really didn't happen.

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Evan Barrett: Well let's--we're going to talk about the two cases of consolidation that actually occurred and maybe a couple that failed in a few moments but can you--can you take off you know a little bit on the review because it seems to me that the--the Constitution mandated people involvement through this review process. Can you--?

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Jerry Holloron: It did and I think that--that was probably the main unique Local government feature of the--of the--of the Montana Constitution that to my knowledge no other State had approached it this way was to require that--I think it was within what two years of adoption of the Constitution--every city and town and county in the State

would have to review their form of Local government. And that was to be done through a Local Commission which was elected by the people to independently decide in [Inaudible] and I think that's incorporated and Darby, in Missoula, in Billings, and in counties of--to look at their form of Local government and decide whether they wanted to keep it or wanted to change it.

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And also it provided in the Constitution that every 10 years as--as clarified through Amendment, every 10 years the Montana residents of a specific county or city would have to vote on whether they wanted to review it again. But the first time around, they had to set up a Local Government Study Commission.

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Evan Barrett: And they have to have the option every 10 years.

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Jerry Holloron: Yes.

00:29:36

Evan Barrett: And people can opt no; for example I know in Butte they did--every 10 years they had a Commission and then this recently 2 years ago they had a vote and said no. We're not even going to bother looking at it this time so--but the choice was there. Now you were--when that first two years when all these Local governments were reviewing themselves that's when you were out there doing your job.

00:30:01

Mike Shields: Part of the staff for the Local Government Commission we did a good deal of outreach. You had 642 Study Commissioners across the State and I think--

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Evan Barrett: They were--now those are each Local government had a Study Commission, so you add up them all together and there were 642?

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Mike Shields: Right; 642 individuals were involved in the process. And you know a lot of the major cities, Missoula, Billings, Butte, you know they--they started from day one and basically grabbed the ball and--and ran with it. A lot of them were rural places. The impetus or the--the State Commission knew that they would need help, need assistance not from the standpoint of trying to prejudice it one way or the other but just to inform them as to here are the options, here's how you go about writing a charter, how you propose it on the ballot--that type of thing. So three of us were designated to you know assist those Study Commissioners or Study Commissions with that task.

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And it--I think it's important to remember the context. It was right around the Bicentennial so there was a--an attempt I think to you know take advantage of the--the civic process with the Bicentennial and try to encourage people to get involved and take a look at it. And I think you know the intent of the Constitution, the framers of the Constitution was really fulfilled in that you had this group of people who really had not been involved in government before by--in most cases, took the task fairly seriously, and I think that's evident in the fact that the Commissions, the actual Commissions did propose some major changes in their form of government, in the powers of those Local governments. The voters saw it differently. The vast majority of the charters went down to defeat. There were instances where areas proposed unification and consolidation of city and county governments. They were successful in two instances and I think it's indicative; the two smallest counties--

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Evan Barrett: Physically--

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Mike Shields: --geographically did it and primarily dominated by one major city so I think it made the task there much more logical and more palatable to the electorate.

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The other interesting things was most of the success of the Local charters and changes that were made were done at either the Primary Election or in Special Elections during the course of '76 which tended to mean voter

turnout tended to be lower and as a consequence I think most of the people who had an interest in seeing the change were motivated to go to the polls. Those proposals that were part of the General Election and it was a Presidential Election year so turnout was relatively high, tended to go down.

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Evan Barrett: Go down; yeah. That's not uncommon.

00:34:00

Mike Shields: No.

00:34:00

Evan Barrett: That's not uncommon. In fact the election of the Constitutional Convention Delegates was a--done at a Special Election and--and the implement--and the vote to approve it occurred at a Primary Election which again constrained the turnout. Well it is interesting; now all those people--now you--would you say that--that maybe looking at 122 and it was a big Bill that didn't make it or looking at the implementation of these Review Commissions that there had been a lot of big changes going on and maybe folks were saying maybe enough is enough or something? I mean I'm asking--that's an evaluation I'm asking you about but--.

00:34:49

Mike Shields: I think there's credibility to that and--from the standpoint of just you know you'd had the Cong. You had done Executive Reorganization. This was the '70s; there's a good deal of turmoil nationally. And by the time the Local government review process came about a lot of that impetus may have dissipated.

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But another way of looking at it is perhaps voters, local residents saw no need for change; that they were content with the--the type of government that they had.

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Mike Micone: You mentioned that those charters that went up at the General Election for the most part were defeated, but I believe Butte, Silver Bow, and Anaconda, Deer Lodge both came up in the General Election. And our charter in Butte--in Butte, Silver Bow passed fairly not landslide by any means but by a significant number of votes. So--

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Evan Barrett: But you had the--a product of a Commission and you as Mayor were strongly supportive of that consolidation?

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Mike Micone: I was.

00:36:21

Evan Barrett: Often Mayors will say wait a minute; I don't know. Or County Commissioners say I don't know. What happened with your County Commissioners? Were they onboard or were they--?

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Mike Micone: Well it was difficult to get the County Commission at the time even to join with the City of Butte to unify the Study Commission, we didn't want--there were nine elected from the county, there were five elected from the city; we didn't want those two bodies meeting separately and coming up with different ideas. One had come up with consolidation and the other come up with the City of Butte disenfranchising or something. So it was difficult to get them to even to agree to unification of the Committee. But we were able to get that done and from that point on they stepped aside and--and were not involved. The City of Walkerville which had the option and it was their prerogative to opt out, they took that approach of we didn't want to be involved in the Joint Study Commission so they did their own review. So we embarked--

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Evan Barrett: The consolidated government was put on the ballot but came out--since the Commission met together they came up with a recommendation. Is that it right there or what--?

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Mike Micone: Yeah; this is the original--or this was a charter that was submitted to the two governments and to the people of Butte, Silver Bow and as you can see it's a pretty thin document. But I have to say they did a tremendous job in covering all the bases, even the base that the people of Butte loved to elect their officials. They don't care for that much for appointed officials and so when consolidation came before the voters in the early '30s the only thing it called for was a Commission and an appointed Manager to oversee the government. Well they were not about to turn that much authority to an appointed official so they turned it down. It came before the voters again in 1963. The same form of government and again it was turned down. So I believe the Montana--the '72 Constitution really provided Butte with the opportunity to look at--and we didn't talk about consolidation. We talked about unification. And the unification to us meant being able to sit down our residents, writing our own charter, having the self-government powers that the Legislature had granted to those cities that had a charter and allow our residents to make that decision. And so it--that constituted the vote--the Constitution just opened the door for us to move forward because it was certainly obvious to me in my first two years of office that if we didn't unify with Silver Bow County we're going to be in dire financial straits and go bankrupt. And we certainly didn't want that to happen.

00:39:53

So we embarked on it and our Study Commission was created or it was made up of business people, professionals, firefighters from the Volunteer Fire Department, I think also from the paid Fire Department, housewives, retired people, and they elected as their Chair Dr. Robert [Inaudible], who did a tremendous job--

00:40:25

Evan Barrett: Very respected position.

00:40:27

Mike Micone: --of holding that Committee together. And so their charter was presented; I can say with some difficulty on my part on what they put into that charter because being a Mayor and being in charge of all the departments in the city and appointing those department heads found it a little difficult to understand how we were going to operate a government that had 12 elected officials. And we had all of the--the traditional county departments being elected. On top of that we--the charter provided for the appointment of a Public Works Director, the Public Works Director in charge of all the parks, road work, anything that had the physical nature of improving the city.

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Now let me tell you, I--I finally acquiesced because our Study Commission decided that they wanted to get unification passed under--

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Evan Barrett: You could tweak it later but let's get it done.

00:41:49

Mike Micone: Yeah; we can tweak it later and they're still--

00:41:53

Evan Barrett: Tweaking it is still needed sometimes today.

00:41:55

Mike Micone: I think they're still tweaking it. *[Laughs]* But I thought the interesting item in the charter talked **[inaudible]** of the powers of the Executive.

00:42:09

Evan Barrett: Now keeping in mind that the Executive you would think would be empowered to execute everything; get it done.

00:42:15

Mike Micone: Not only that but the Executive was responsible for it.

00:42:19

Evan Barrett: Right; well after Forrest had gotten that done through the--the State government, although there were a lot of elected officials retained but still substantially he was able to consolidate all that at the State level, what did--what did--?

00:42:32

Mike Micone: We had--we had 12 departments or 10 departments I'm sorry--12 elected officials would have included the Judiciary. But the final thing they put in the powers of the Chief Executive, the Chief Executive shall be responsible for coordinating policies at the Council of Commissioners which a Mayor does that with the City Council anyhow and with all elected and appointed department heads. In other words, it was a Chief Executive's responsibility to make sure that all the elected officials were living within the policies that our Council of Commissioners created and that the Chief Executive created. Now let me tell you; that is an awful difficult situation because at--at times it can come down to how many votes did you get in the election? Well I got 10,000. Well I'm sorry; I got 12,000 so I got more votes than you.

00:43:37

Evan Barrett: Yeah; so what are you doing trying to tell me what to do?

00:43:38

Mike Micone: So that's the type of thing--. And of course as you know all elected officials have a certain amount of ego and pride and so the first two years of the consolidation were somewhat trying because I spent my time working not only with the Council of Commissioners to create policies that were going to be workable and good for our residents, but also working with the department heads who had their own agendas to try to get them to understand that the legislative body is going to set the policies not the Executive Branch. And you belong to the Executive Branch.

00:44:26

So it--it was a difficult time, but it made progress. And I think today we can say that those elected officials are working--to my knowledge hand-in-hand with the Council and Chief Executive.

00:44:45

Evan Barrett: I think that's an interesting reflection that the elected officials being retained by you guys in Butte at the Local level when you were making a choice you thought politically let's not get rid of these elected officials. It might endanger the charter because people want to vote for--for--. The same thing occurred in the Constitution itself where most of the State level elected officials were retained and part of the reason was the very same thing. If we take away a bunch of these positions we might lose the Constitution. And in the case of the Constitution it was a pretty close vote.

00:45:28

Jerry Holloron: Right; in the 1889 Constitution provided a long list of officials each county had to elect. And one of the main things I think that the Constitutional--excuse me--Constitutional Convention Committee, Government Committee had to decide was whether to name in the Constitution all those elected officials again.

00:45:59

Evan Barrett: Which locks them in?

00:46:01

Jerry Holloron: Right and--and what--what the Delegates did was to say that--required the Legislature to provide for alternative forms of government and say that one of the alternative forms of government had to include these--that long list of elected officials thinking that it would just become one of a number of options.

00:46:25

Evan Barrett: Kind of splitting the baby so to speak, you know to try to get the vote.

00:46:29

Jerry Holloron: Of course what happened is in voter--a review of Local government in each county and city almost all of them said--voted in favor of keeping the former government they--they had which includes the long list. But I should mention that the--the New Constitution, not new now; it's what 50 years old?

00:46:50

Evan Barrett: Forty-three years old, yeah.

00:46:50

Jerry Holloron: It's new to me. That the Constitution also gives pretty broad power to the County Commissioners now to combine those offices if they want to; for example the Lewis and Clark County Commission if it wanted to could combine a number of the now-elected officials. I don't know to what extent that's been used but it is--it is possible; again it's an example I think of the Constitutional Convention Delegates trying to give the flexibility to Local governments. I'm not sure to what extent the Local governments have used that flexibility.

00:47:36

Evan Barrett: Well but as we've talked about, the people being empowered you can do it--make a textbook case for all kinds of efficiencies and government and everything else and if the price of that textbook case is--you don't get to have as many elections. People were kind of saying no; we like those little elections, even if it may not be efficient.

00:48:01

Jerry Holloron: I'm not sure that--that--that voters when--and I think this is fine. I'm not sure the voters want really when it comes down to it that much efficiency. Things may run--run more smoothly that way but you lose something in terms of democracy I think and--and to some extent I guess you know if they--if they want to elect the long list of officials, fine.

00:48:30

Evan Barrett: How did that work out now? Didn't--wasn't there a study done by Professor Lopach and those guys after it was all--all this effort at the Local review? What did that--and you were working on the front end of it. What--what happened?

00:48:45

Mike Shields: Well as defined by Lopach and Curran, 71-percent of the counties proposed major change and I believe major change included opting for self-governing powers. The cities, 53-percent of the Commissions proposed major change. In reality, the voters turned most of those down. So they--what you had is those who had taken the time over the course of two years to--to study the forms of government and everything had gone through a hearing process, there were hearings that were mandated by the Legislature for the Commission, so they couldn't go and close themselves up in a room and--and propose something. They had to have a public vetting process.

00:49:43

Mike Micone: Yeah; and I think it's important as far as Butte is concerned, we had the media at--we--the Study Commission had the media at every one of their meetings. And so they were able to give both sides of the story and I guess whoever was the--the dominant one on that particular issue that night, it registered with the voters, and--at least for a short period of time.

00:50:15

Evan Barrett: Well it might--maybe it's fair to say that the ability to consolidate and to review and to make the changes that Butte and Anaconda both did provided a--an opportunity at a time when change appeared to be to the electorate necessary for survival.

00:50:35

Mike Micone: I think that's probably true. And--

00:50:39

Evan Barrett: Because you guys were--Butte was being so economically challenged with the changes the Anaconda Company were going through that everyone could see happening that plus maybe a little bit of messing around in some of the Local government, not the city under you but--

00:50:56

Mike Micone: Yeah; I think Anaconda and Butte you're correct, recognized that if we're going to survive in the future we've got to make a drastic change. The Butte experience, we were able to convince the people of the fact that this change was really necessary because our voters I think we had something like 75-percent turnout for the-- the vote on the charter which is a phenomenal number. But it showed that the people were interested; they were reading the news articles that were written. Every time the Study Commission met--and by the way, that Study Commission we had were meeting almost on a weekly basis for two years. And when they finally wrote their report I'm sure there was a huge sigh of relief on the part of the 14 individuals.

00:52:00

Evan Barrett: Yeah; how did I get into this? [*Laughs*] It--well you know but again, the--the call to public service for those 642 people was very important to Montana and the reflections of the voters ultimately casting their decisions on it, I guess that's what democracy is all about. But that--but it's very interesting that you said Jerry that you thought perhaps this Local government review may be unique to Montana as a constitutional provision.

00:52:31

Jerry Holloron: Right; it was at the time it was adopted.

00:52:34

Evan Barrett: Maybe people copied it.

00:52:35

Jerry Holloron: Whether within the last 45--50 years other States have adopted it I'm not sure. But I do; I--I feel-- I'm not sure that the Delegates would feel this way, I think some of them would--that just the fact of requiring

people to have the Local Commissions whether the results are approved or not by the voters is--is probably worth it. I don't think the--the fact that so many of the proposals failed at the polls--almost all of them--is any--is a sign that the process didn't work. I think you know--it's a sign that the process did work and people wanted to keep what they had.

00:53:22

Evan Barrett: Yeah; the voters essentially said let's keep what we have. We're happy with it. That's a decision of the people. And certainly change isn't automatically required, but--

00:53:34

Mike Micone: Yeah; and I--you know I know back in my time as Mayor there were a couple of areas of consolidated like down in Dade County in Florida, they consolidated and I believe in Indianapolis, they consolidated. But it was done by the Legislature. They just went to the Legislature and said we want to consolidate the city and county and the Legislature said okay. I--I **[Laughs]**--I think the people of Montana have--have shown there's a better way to do it and we may not always agree with officials that say we want to unify issues or we want to do away with this, but at least they have had their voice. And that as far as liberty in our country that's the greatest liberty we can have is to exercise--

00:54:29

Evan Barrett: Well we're getting--we're not at the end here but we're getting closer to the end of this program. The hour always goes so fast. I want to ask each one of you to kind of personally reflect upon this time and your participation. And Jerry what--your--your involvement in the Constitution what did that mean to you; what are your kind of reflections on it?

00:54:49

Jerry Holloron: Well it's--it's strange to look back at it now because I think of all this as happening yesterday but it happened **[Laughs]** 50 years ago. I think--I think the main thing that I--that I still haven't figured out was what it was that happened during that era, the late '60s and at least the first half of the '70s in which Montana really was

pretty progressive about the number of changes, not just the Constitution although it probably was the main one, and I don't really know what happened.

00:55:35

Evan Barrett: Why?

00:55:34

Jerry Holloron: I don't know why it happened. I'm not sure whether it was the same force behind every--all the changes or not.

00:55:42

Evan Barrett: We--again the sub-title of this series is you know *In the Crucible of Change, Montana's Dramatic Period of Progressive Change*, and it wasn't just change but it was progressive change. And you're saying you walked away saying I don't know--it sure happened but I'm not sure why, huh?

00:56:01

Jerry Holloron: Exactly. And one of the--you started out in the program I think mentioning this, too that one thing I personally will--am very proud about is the fact that the Convention staff had what 12 or 13 I guess people doing research on it and all of them if my recollection is right, all of them were from Montana. This wasn't a matter of going out of state and hiring people to come in and do--it was Montana people who did this.

00:56:37

Evan Barrett: Mike your--your reflections on this period real quickly and then--?

00:56:44

Mike Micone: Well I think the people of Montana were very enlightened and smart to pass the New Constitution. My time and involvement with the changing the charter in Butte, probably one of the things I remember most about

my Administration, the 10 years I spent there. So that Constitution gave us the opportunity and the City of Butte is very thankful for it.

00:57:19

Evan Barrett: And Butte made more of it than almost anybody. Mike what are your thoughts?

00:57:24

Mike Shields: I think--I think just the fact that we had a--a civic process that brought together local folks to look at the functions of their government, I think they came away with a better appreciation of what the constraints are on a Mayor. I don't think initially people really realized the--the legislative presence was so dominant and I think through the process people appreciated the fact that there were limitations on Local officials that they may not have been aware of at the beginning of the process.

00:58:09

Evan Barrett: Well you know our time is just about up and I want to say that it's been such a pleasure to have all three of you here because you are the real experts about what went on and what in terms of the creation of the possibility of change, the implementation of the possibility, actually doing it--these are things that make a difference to folks. And we want them to look back on that period and see Local government and how it was affected. So you coming and joining us today has been a big important part of this message, and so for those of you that are with us every week, we want to tell you we look forward to seeing you in the next episode.

00:58:50

[Music]

00:59:49

[End Mixed Bag-Empowerment of Local Government in 1972 Constitution]