# 9-1-1 Advisory Council Minutes

**Sept. 13, 2018**

**1:00 p.m. – 3:30 p.m.**

**State Capitol, Room 472, Helena**

**Members/Alternates:**

Tim Bottenfield, State CIO and Chairman

Adrianne Beck, PSAP >30K

Delila Bruno, DMA/DES

Kimberly Burdick, MAPCO

Bob Drake, MSVFA (Alternate) ☎

Alex Duman, AT&T

Michael Fashoway, MSL (Alternate)

Geoff Feiss, MTA

Peggy Glass, PSAPS <30K

Lisa Kelly, CenturyLink ☎

Gary MacDonald, MACO

Pat Roos, MSPOA

Curt Stinson, MACOP

**Staff:** Quinn Ness, DOA/PSCB; Don Harris, DOA/SITSD; Rhonda Sullivan, DOA/PSCB and Wing Spooner DOA/PSCB; April Grady, DOA/SITSD

**Guests:** Kyle Balke, Geodata Services ☎; Sandra Barrows, Barrows Consulting ☎; John Bemis, CenturyLink (Alternate); Liz Brooks, Flathead Co. (Alternate) ☎; Sarah Donley, JVC Kenwood; Gary Evans, VisionNet (MTA Alternate) ☎; Dorothy Gremaux, City of Lewistown (Alternate) ☎; Dan Hawkins, DHS/OEC; Chuck Lee, Fallon Co.; Tim Nixdorf, Triangle Communications ☎; Chris Lounsbury, Missoula Co. ☎; Shantil Siaperas, MACO (Alternate); Steve Stanley, Lake Co.; and Robin Wall, Geodata Services ☎

# Welcome: Tim welcomed all the members and guests.

# Action Item: Adoption of Meeting Minutes

Motion:Gary MacDonald made a motion to approve the June 14, 2018 minutes. Geoff Feiss seconded the motion and asked that the final sentence of Item 3) on page 2 be deleted to eliminate confusion. Gary MacDonald changed his motion to approve the June 14, 2018 minutes as amended. Geoff Feiss seconded. The motion carried.

**Council Administration:**

* ***Advisory Council Handbook***: A link to the Governor’s2016 *Serving Montana* handbook was posted on the 9‑1-1 Advisory Council’s website. It provides some guidelines for serving as a Governor’s appointee to the Council.
* ***Council Member Alternates:*** Quinn pointed out that staff maintains a list of Designated Alternates for 9-1-1 Advisory Council Members. A list of alternates was sent to members prior to this meeting. Quinn asked members to notify staff of any alternates and/or changes.

**Implementation of House Bill 61 Status Report:** Quinn reviewed the September 1, 2018 version of this status report and noted that the Council needs to be aware that some dates in the statute will be exceeded. As we approach the next legislative session, a clean-up bill will need to be considered so those dates can be amended, and progress can continue. Awareness of those dates is needed. Geoff Feiss asked about how the agency calendar works and the date by which a clean-up bill would need to be submitted. He also asked if the department was going to recommend a legislative package. Quinn said he is not aware of those dates at this time, but he is communicating with the Governor’s Office of Budget and Program Planning and is involved in discussions regarding the potential for introducing legislation. If the Governor’s Office is not comfortable with the need for the clean-up bill, the council will be notified before the legislative session. Council members can potentially introduce bills on behalf of the agencies/associations they represent to accomplish the same goal. Council members will be kept informed as more information is obtained on the Governor’s Office budget and legislative process.

**Certification of PSAPs Status Report:** Quinn said that he and Rhonda Sullivan have been actively working with local governments and PSAPs on the certification process. Historically, there has been some confusion with the local government that hosts or operates a PSAP and what their PSAP service area is. The confusion can be largely attributed to terminology. For example, the City of Helena hosts the certified PSAP. Its service area is Lewis and Clark County. The Sept. 1, 2018 handout entitled “State 9-1-1 Program: Certified PSAPs” was prepared to help eliminate some of this confusion. One change has been made to reflect that Chouteau County’s service area includes a portion of the Rocky Boy’s Reservation. All the previous PSAPs and local governments that we were distributing funds to in state fiscal year (SFY) 2017 applied for certification and have been certified.

One of the significant changes in HB61 was that tribal governments are not eligible to receive funds directly from the State 9-1-1 Program. So, a process was developed in Rule where funds allocated to the tribes could be distributed to a local government and then sub-distributed to the tribes. As directed by the formula process in HB61, we must look at who was receiving allocations in SFY 2017 and what percentage of the total funds they received at that time. That percentage will be used moving forward until 2021, at which time another allocation process is required to be developed.

In SFY 2017, three tribes were receiving 9-1-1 Program fund allocations: the Blackfeet, Rocky Boy and the Northern Cheyenne. In the history of the program, Roosevelt County has had a long-standing agreement with the Fort Peck tribal government. However, several tribes including those on the Flathead Reservation, Fort Belknap, Fort Peck, the Crow, previously did not host a PSAP or did not receive 9‑1-1 allocations. Clarifications regarding service areas are located at the bottom of the Certified PSAP handout. For example, Big Horn County’s service area does not include the area within the legal boundaries of the Northern Cheyenne Reservation. Glacier County does not include the area within the Blackfeet Reservation, etc.

There has been a lot of ongoing discussion about this issue and some concerns have been expressed about the process that was implemented through Rule. Don Harris, the department’s legal counsel, has assisted with a review of an MOU between Glacier County and the Blackfeet Tribe to try to provide some guidance. Don was thanked for his assistance. We are encouraging the parties to execute these MOUs before November 1st. If we have agreements in place, then we can distribute funds to those counties and they can transfer the funds to the tribe. We may have some instances where the county and tribe may not be able to come to terms. If so, we will hold the tribal allocation of the funds in the account and work on a potential legislative solution.

We are ready now to allocate and distribute funds for the first quarter of SFY 2019, which is the current SFY. As a reminder, Quinn explained that there is a delay between the collection of the funds and when they are actually remitted to the department. In current 9-1-1 law, the subscribers pay their $1.00 9‑1-1 fee monthly. Providers collect and hold three months of 9-1-1 fees, and they have a month to remit those fees to the Department of Revenue. Currently, the telecommunications companies have been collecting 9-1-1 fees for the months of July, August and September. Then they have a month to remit those fees. Then the DOR transfers those fees to the 9-1-1 Program’s Quarterly Distribution Account in November. Then, 9-1-1 program staff executes the distribution of the collected fees to the local governments. This information is on the handout entitled “State 9-1-1 Program Quarterly Distribution Allocation Percentage.” This shows the percentage that local governments are going to be allocated. The minimum distribution percentage that goes to an individual local government is 1.07%. On a quarterly basis, we will identify the total amount that is available to be distributed. That amount will be multiplied by these percentages to determine how much funding will be distributed to each local government.

Shantil Siaperas, MACo, said she is pleased to hear that tribal funds will be held if an agreement cannot be arrived at between a county and a tribe, and she is happy to hear that the department would be willing to work on a legislative fix, and MACo would be happy to help.

Curt Stinson asked if there are unintended consequences for the way the Rule was laid out? What is causing the problems? Quinn indicated that by law the Department can only distribute funds directly to a local government. The Department also has a monitoring process that requires local governments to annually submit their financial reports. The 9-1-1 Program reviews them, and if there are any questions, additional documentation is requested, such as an invoice. If a determination is made that an expenditure is not allowable, then, the local government would be required to pay the expended state 9-1-1 back. If a local government has already transferred the funds to a tribe, the question is raised as to who is the responsible entity for how the funds are spent? There are some local governments that have concerns about maintaining the reporting requirements and whether they would be able to have a tribe re-pay the funds to the local government if it is determined that the funds were spent for a non-allowable purpose.

**Statewide 9-1-1 Plan Status Report**: Quinn reported that an announcement was sent out a few days ago that the department selected Federal Engineering (FE) as the contractor for development of the Statewide 9-1-1 Plan. Meetings with them will start next week. FE will start gathering information from the certified PSAPs to develop the plan. We were hopeful that the contract would be executed by the beginning of September, so we are on track. It is an aggressive timeline because the $350,000 appropriation that was provided for in HB 61 expires on July 1, 2019. We want to fully expend all the funds by that date. The Statewide 9-1-1 Plan is a critical part of implementing HB61 because a lot of the other requirements, such as 9-1-1 standards and the ESInet, hinge on the Plan’s completion. FE will be working with the certified PSAPs in developing the inventory, standards and design, so this information can help guide us with the NG911 infrastructure grant program. It can also be used as a guide for the 9-1-1 grant program as well.

A question was posed as to whether six months for the contractor to develop the plan is enough time. Quinn said that all the respondents expressed concern about the limited amount of time to do the Plan, but the FE proposal did provide for the Plan to be developed within that timeframe. Quinn clarified that the desire was to have the contractor complete the work within six months so that the next three months can be used as a contingency to ensure that allocated funds are spent on time. If a legislative clean-up bill is introduced, we would extend the time period for the plan development. How much extra time would be reasonable? We would want to engage with the contractor of course. We want the contractor to perform a lot of on-the-ground work (i.e. PSAP inventory) in Montana. Given the amount of geographic area to cover, travel time and the volume of PSAPs to assess, an extension of 6-12 months has been suggested. Montana’s contract laws would allow for this.

**9-1-1 Grant Program Status Report**: Quinn reported that the adoption notice was distributed, and he thanked everyone for their input. He believes the rules will do a good job of guiding the 9-1-1 grant program. Geoff Feiss and MTA submitted comments. Quinn explained that after the 9-1-1 Advisory Council approved the rules drafted by the sub-committee, they must be submitted to internal rule reviewers and to the Legislative Services Division’s legal counsel, which did provide some recommendations on amendments to the rules. Within state government, all administrative rules go to the SAVA (State Administration and Veteran’s Affairs) Interim Committee for review. A member of the Committee, Senator Dee Brown, expressed concerns about the grant reporting requirements, and thought status reports should be more frequent than quarterly. Quinn explained that once a grant award is made, when a grant recipient submits a drawdown request, a status report also has to be submitted. The frequency of these requests is typically monthly. So, in the rule amendment, we provide for monthly status reports to be submitted with drawdown requests. If there is a grant recipient who has not submitted a drawdown request, the recipient must submit a status report at least quarterly. The rules were officially adopted on Sept. 7, so we are on course for opening the grant program on Oct. 1, 2018.

Geoff thanked the department for putting together the rules and taking into consideration MTA’s comments. Geoff said the rules went to the legislative counsel, which recommended a change in NEW RULE III regarding the application process. The legislative counsel deleted reference to the application process “by reference.”

Don Harris said when we responded as a department to the legislative counsel’s comment, the department commented that the application form did not contain any substantive requirements that were not already in the rules. So, it was felt that removing the “adopted by reference” language was appropriate. The thinking was that if there were going to be any substantive requirements, they should be in the rules. Anything changed in the rules will have to go through the rule-making process. Quinn clarified that the specific reference was just to the application form. So, the application form can be amended. However, any changes made to the application form cannot impose any new requirements on the applicants.

Quinn reported that staff and SITSD accounting personnel are working on the fiscal processes. He explained that previously for quarterly distributions there were three accounts: Basic, Enhanced and Wireless Enhanced. So, PSAPs received three individual distributions, each of which amounted to 75% of the total funds. Under HB 61 there is only one account, and it represents the full 75% of the total 9-1-1 funds. PSAPs will receive one distribution moving forward. Since the Basic, Enhanced and Wireless Enhanced accounts have been abolished, we need to ensure that these accounts are cleared of all monies.

Once these accounts are cleared, we are required to transfer the remaining balance from the previous wireless provider cost-recovery account to the grant account. Moving forward, 25% of total 9-1-1 funds collected will go into the grant account. Once the funds are transferred, we will have a total of how much money is available in the grant account. The department’s first step is to issue a public Notice of Funding Availability (NOFA), which is targeted to occur on Oct. 1. The rules provide 60 days to submit applications. The 9‑1-1 Advisory Council will establish a grant application review process at the December meeting.

Chuck Lee, Fallon Co., clarified that if the grants open on Oct. 1, then the application period will end near the end of November. He asked if there is anyone he can contact to see if a grant proposal idea is feasible? Quinn said that interested parties can continue to contact either Rhonda or himself. Eligibility is provided in statute. Geoff said PSAPs can also consult with telecom providers.

**NG911** **Infrastructure Grant Program ARM Draft**: Geoff indicated that the subcommittee has postponed development of Administrative Rules for NG911 Infrastructure Grants until the Statewide 9‑1-1 Plan is developed. Five million has been put aside by HB 61 to upgrade the statewide 9-1-1 network to an NG9-1-1 ESInet and to update about 16 PSAPs to IP capability so that the state will be able to have NG911 capability. However, the Statewide 9-1-1 Plan is needed to provide guidance on what is the best way to spend that five million dollars to upgrade our PSAPs and build an ESInet.

Quinn clarified that the subcommittee did meet and started drafting NG911 Infrastructure Grant Program rules and ran into difficulty because of the lack of availability of the Statewide 9-1-1 Plan and the information it will contain. Quinn wanted to make sure the Council is aware that the subcommittee will delay this rule-making effort until the Plan is complete. This item in the status report has been moved out to next year. If the Statewide 9-1-1 Plan is completed and adopted in June of next year, then that is when we will begin the rule drafting process. Clean-up legislation will be needed to amend the dates outlined in HB61 because the five million dollars will expire June 30, 2019. So, the date will need to be amended. The Administrative Rules Process takes about a year. In addition, local governments will need time to implement grant-funded projects, which will include a procurement process. A procurement process can take six months to a year to complete. Then, the selected contractor must perform the work and funds need to be expended. That’s why the expiration date will need to be amended.

There are two separate purposes of the two 9-1-1 grant programs. The 9-1-1 Grant Program is not specific to NG911. Allowable costs include legacy 9-1-1 projects. The NG911 Infrastructure Grant Program is for NG911. In future years, once the Statewide 9-1-1 Plan is in place, the Council can consider potentially amending the 9‑1-1 Grant Program NG911 grant program rules.

If a clean-up bill is not drafted and passed to amend the expiration date, the five million dollars in the NG911 Infrastructure Grant Program account would be transferred to the 9-1-1 Grant Program account.

If the date is not amended, the entire five million would transfer to the 9-1-1 Grant Program. The Council could potentially fund NG911 projects from the 9-1-1 grant account/program. The money does not go away; it does not go to the General Fund.

John Bemis, CenturyLink, indicated there was some danger of losing 9-1-1 funds in the last legislative session and asked if that is a potential future risk? Quinn said that this is always a concern. We are hopeful that 9-1-1 Grant Program awards can be made at the March 2019 Advisory Council meeting, so we can provide information to the legislature that at least those funds are obligated under grant contracts. The legislature still has the authority to transfer funds, even those under contract. It’s a standard clause that is included with all grant contracts, (i.e. the grant award is “contingent on state funding.”) Would the five million be at a greater risk of being diverted because we have not yet adopted rules? Potentially. All 9-1-1 funds are at risk for review by the budget office or by the legislature. We need to continue to have awareness about this risk. If there is a legislative proposal to transfer any 9-1-1 funds and you are not in support of it, you can work within your given company or association to lobby appropriately.

If clean-up legislation is drafted is there any way to try to also protect the 9-1-1 funds? Quinn doesn’t believe that any state statute can limit the authority of the legislature, especially when their core authority is the appropriation of funds. Don Harris reiterated that the legislature makes the law, and at any time they can change it.

# Public Comment: Wing Spooner announced that the Montana APCO Conference is coming up in Bozeman starting Oct. 31 through Nov. 2. She encouraged Council representatives to send members of their PSAPs to it. They are still looking for vendors as well. If anyone has questions, ask Kim Burdick or Peggy Glass. Registration is available on the Montana APCO website, which is <https://www.mtapco.org/>.

# Quinn said if anyone is a new member and is interested in receiving reimbursement for travel expenses, please speak with Wing Spooner or Rhonda Sullivan about submitting a travel claim to be reimbursed.

# Meeting Schedule: The next meeting will be held on Thursday, December 13, from 1:00 to 3:30 p.m.

# Adjournment: The meeting adjourned at 2:08 p.m.