



2016 State Legislator Candidate Questionnaire

The Missoula Organization of REALTORS® is the voice of the Missoula real estate industry. Our members would like to know your thoughts on priority REALTOR® issues. We thank you for being specific in your responses.

MOR has endorsed candidates in past elections, and may do so in these elections. If we consider an endorsement in your race, we will ask you and your opponent(s) to each meet with us for candidate interviews.

Please return the questionnaire by Friday, September 23 to Sam Sill at ssill@missoularealestate.com.

BACKGROUND

Name: Dick Barrett

Office You Are Seeking: Reelection in Senate District 45

Mailing Address: 210 Agnes

City & Zip Code: Missoula, MT 59801

Phone: 406 396-3256

Email: rnewbar@gmail.com

CAMPAIGN ORGANIZATION

Treasurer's Name, Address and Phone Number: Ruth Reineking. Please use my contact information.

Will you accept PAC contributions? No, thank you. I am not seeking MOR's endorsement.

ISSUES

The year to date median home sales price in Missoula County has risen to \$250,000. This is an all-time high, and well beyond what a median income family can afford. In a September 4, 2016 article in the *Missoulian*, UM chief economist Pat Barkey was quoted as saying that the housing supply was low because of restrictions on development, and that for prices to go down, developers need to be able to build large subdivisions for a relatively low cost. In 2014 and 2015, only two subdivisions were approved in Missoula County. This session, the legislature will consider policies that affect the ability of working families to afford a home.

1. Missoula County is treated as a closed basin, meaning that no new appropriations of water are allowed without first acquiring an existing water right for mitigation through

the DNRC permitting process. This process is unpredictable, lengthy, and often cost prohibitive. As a result, exempt wells had long been used to provide water for new homes, businesses, and industry outside of Mountain Water's service area. As long as the wells were not physically connected, they were exempt from the mitigation requirement. Exempt wells have a priority date and are subject to calls from senior water users. They account for less than 0.5 percent of the water appropriated in Montana each year.

A 2014 district court decision has severely limited their use by requiring DNRC to treat unconnected exempt wells as a "combined appropriation," requiring an existing water right for mitigation in Missoula County. This has drastically limited the ability of developers to build subdivisions with homes that working families can afford. **Should the legislature codify this new definition of combined appropriation from the court decision, or should the legislature codify the previous definition that was in place for over 20 years?**

I do not believe that the legislature is required to accept either definition. The legislature has addressed this issue in the past (albeit with little to show for it) and can continue to do so in the future. A combined appropriation could be defined in terms of the density and location of unconnected wells in the development.

The basic underlying issue is, of course, to prevent a development from impairing some senior water right. Even if senior water rights have the ability to make a call against wells on a development, that is hardly a solution. I assume that nobody, including especially the residents of the new development, want to have to stop using water in order that a senior irrigation right be fulfilled.

There are other solutions to this problem, including, for example, tailoring the amount of water that can be withdrawn by exempt wells to the particular circumstances. I would recommend, for example, that MOR examine how this issue was treated in the Salish Kootenai Water Compact.

2. Governing bodies are required by state case law to take a "hard look" when examining certain subdivision review criteria. Experience has shown that it is difficult for local governing bodies to know when they have applied the hard look standard. As the standard is currently interpreted by the courts, someone can always claim the governing body didn't look hard enough. This can result in an unfortunate situation where a governing body's conscientious review is overturned based on a distortion of the record or insignificant factors. **If elected, would you support legislation that makes it easier for governing bodies to meet the hard look standard?**

I have served on the Local Government committee during three sessions and have heard numerous bills regarding zoning, planning, permitting, and so forth. These are always complex issues, involving a variety of interests, and in my experience bills in this area

frequently require amendment and compromise in order to produce acceptable legislation.

All this is by way of saying that I cannot responsibly commit to supporting legislation “that makes it easier for governing bodies to meet the hard look standard” until I am better informed about the issue (frankly, this is the first time I have heard about it), have heard from other interested parties, and actually have the legislation in question on paper in front of me. I certainly support having the issue aired, and would welcome the opportunity to review legislation to address it.

3. The Legacy Ranch court decision from Ravalli County is spurring changes to local subdivision phasing and extension rules in Missoula County and other jurisdictions. In Missoula County, the rules will be changed to shorten the approval period, restrict extensions, and require additional public hearings for extensions. This will add uncertainty and increased costs to an already expensive development process. It will also bring about lesser quality neighborhoods by denying developers the ability to plan for street grid connectivity, large interior parks, sidewalks, and other infrastructure. This session, the legislature may consider clarifying subdivision law to provide governing bodies a better framework for handling phased developments. **If elected, would you support legislation that extends the approval period, clarifies that phased developments are allowed, and provides a more streamlined process for governing bodies to review extensions?**

Please see my answer to the previous question. The same reservations apply.