

SENATE JUDICIARY COMMITTEE

MINUTES

Meeting of April 10, 1969 was called to order at 9:00 a. m. by Senator Monroe, Chairman.

Committee members present: Senator Monroe, Chairman  
Senator Swobe  
Senator Dodge  
Senator Bunker  
Senator Hug  
Senator Christensen  
Senator Young.

Legislative counsel present: Frank Daykin

Guests: Jacquelin Sage, Plumb Lane Action Committee, Reno, Nevada  
Zena Ervin, Plumb Lane Action Committee, Reno, Nevada  
Jean Myles, Hunter Lake Anti-Rezoning Committee, Reno, Nev.  
Mary Porter, Hunter Lake Anti-Rezoning Committee, Reno, Nevada  
Bernard Porter, Hunter Lake Anti-Rezoning Committee, Reno, Nevada  
SB 519- Beatrice Gardner, Hunter Lake Anti-Rezoning Committee, Reno, Nevada  
Robert Gardner, Hunter Lake Anti-Rezoning Committee, Reno, Nevada  
Betty C. Miller, Hunter Lake Anti-Rezoning Committee, Reno, Nevada  
Ronald Wiggins, 700 Ibis, Reno, Nevada (Grace Warner School)  
Edward VanGorder, Hunter Lake Anti-Rezoning Committee, Reno, Nevada  
Frank Marfisi, Principal Grace Warner School, Reno, Nevada.  
Jerry Carr Whitehead, Hunter Lake P. T. A., Reno, Nevada.  
Dr. Robert K. Miles, Hunter Lake P. T. A., Reno, Nevada.  
Rudy Kelso, Pleasant Valley, Washoe County, Nevada.  
Tom Cooke, Attorney, Reno, Nevada

SB 514- Roland Oakes,  
Thomas Hutchings,  
Lou Paley, Nevada State AFL and CIO.

AB 654- Mel Close, Assemblyman,

Chairman Monroe opened the discussion on SB 519 (Provides for limitation of applications for rezoning.) He remarked this was generally known as the "Eagle Thrifty Bill".

Mr. Tom Cooke, Attorney, stated all those present to testify on this legislation had been directly or indirectly involved in the "Hunter Lake vs Eagle Thrifty Market" case in Reno. They had their day in court, resulting in a 3 to 2 decision, however the Supreme Court decided it was not a judicial problem but a legislative problem.

A zoning body shouldn't be allowed to reverse a variance denial unless an applicant can show a substantial change in conditions. An applicant should have a right to appeal, but there should be some finality. You can't file the same action in a court of law time after time because you don't like the decision.

This concerned every part of the state where there were zoning laws. The state should move in to protect the stability of neighborhoods and of zoning. It is more than just a local problem and should not be handled at the local level. Citizens are all effected by zoning changes. It had a great bearing on property values.

Mr. Cook suggested the following changes be made. Line 6, subsection 2, after "commission" the words "and the governing body" should be inserted. The same change to be made on line 10. On line 14 "commission" should be stricken and "the governing body" inserted.

Senator Dodge asked Mr. Cooke if this couldn't be handled by a city ordinance or a county ordinance.

Mr. Cooke advised it could be done by each adopting their own ordinance. He had been to the city council in Reno and asked this be done, however they were not in favor of it.

Senator Swobe advised there was a city ordinance that you had to wait for a six month period before you could file the second time. He had tried to have the county adopt the same but was not successful. He felt this problem should be handled at the local level.

Mr. Cooke stated this was more than a local problem. The legislature should move in and protect the residents and the stability of neighborhoods and zoning. The city and county are not doing a thing about it at the present time. The residents are mercy of anyone persistent enough to file appeals over and over again. It is unfair.

Senator Hug felt it effected the schools as well as private residences. People had to be on their toes all of the time to keep track of the filings with the board. A change could be made at any time if they were not there to protest it. Once it was permitted there was nothing that could be done about it.

Senator Monroe stated a change of condition could also be a change of the members of the boards who might have different outlooks on the zoning as their former members. A change of political parties could be made by the voters if they did not like the way the zoning was being handled. He gave as an example the Beautification Program in Carson City and all of the objection to it.

Senator Dodge felt this could not effect the larger communities as much as it would the smaller communities.

Chairman Monroe asked for remarks by others present.

Mrs. Zena Ervin stated she lived on the corner of Arlington Avenue and Plumb Lane in Reno. They had purchased this property thinking it would be a residential area and had put a lot of money and time into improving their home. They had been approached twice to permit changing the zoning for a service station to go in across the street. She was tired of running to meetings and objecting to the zoning changes. A master plan was made for this area but no one can count on it as they can change the zoning almost at will. She had a phone call from a Reno Councilman telling her she should get used to living by a service station as it eventually would go in.

Mrs. Jacquelin Sage agreed with the remarks made by Mrs. Ervin. She was tired of having to fight continuously over rezoning.

Mrs. Jean Myles remarked she was tired of constant harassment. They did not purchase their home with plans to have a commercial business move in close to them.

Mrs. Mary Porter was in favor of this bill. She was tired of being harassed and tired of signing and getting signatures on petitions to keep the zoning from being changed.

Mr. Bernard Porter stated he was a resident of the Hunter Lake area. The major investment for most families was their home and he felt there should be some protection to an area where there were no plans for commercial zoning.

Dr. Robert K. Myles remarked he owned a home in the Hunter Lake area. He felt the general attitude was "let one lot be zoned commercial and they should let other lots go commercial". He cited the Wells Avenue district. One or two businesses were allowed on Wells Avenue and soon the entire street was commercial businesses but now those locations were being deserted for shopping areas. Most of those that lived on Wells Avenue were forced to sell their property as they could not do anything about the rezoning. He is in favor of this bill.

Mrs. Beatrice Gardner stated she had been a part of many of the rezoning fights. She told the committee members they had been in campaigns and now how trying they could be, but what if they had to conduct a campaign every six months. If your opponent wins just once, you have had it. There must be a limitation on how many times they can try.

Mr. Robert A. Gardner felt when a district allowed rezoning it was rezoned for perpetuity. An applicant only has to win once and

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the area would be opened for commercial businesses. Under this bill they only had three times to try. He felt the legislation should be passed for the protection of the citizens.

Mr. Jerry Whitehead advised he had worked on briefs and had spent a lot of time researching the 3 to 2 decision. He could find nothing on any other state having a case where rezoning was allowed. He felt there should be some stability in decisions of rezoning and should be controlled by either an ordinance, case law or by statute.

Under this bill the owner of a piece of land can not go back again and again and again to have the land rezoned. It got so bad in Reno they were sending zeroxed copies requesting the change.

Mrs. Betty C. Miller stated she was known as the "Paul Revere of Hunter Lake" as she always alerted everyone when they should be protesting. She has been fighting the rezoning for personal reasons and like so many people present today she feels there should be a change made for the property owners protection. They have a responsibility as citizens to protect the schools as well as their own property.

Frank Marfisi, Principal of Grace Warner School, is on the other side of Reno from the Hunter Lake Area. Their situation was unique as it was a request for rezoning across from the school and an excess of 350 students would be using the parking lot for a cross-walk.

Mr. Rudy Kelso of Pleasant Valley was concerned about the rezoning and use of a gravel permit close to the Pleasant Valley School that endangered the students and would cause a flooding problem. If there had not been something done to stop the use of this yesterday by Washoe County officials they would have found some legal means to stop them.

Mr. Ed VanGorder of the Hunter Lake area has fought this for many years and he is getting tired of it. They all had a responsibility to protect the school children.

Mr. Ronald Wiggins purchased a home in a new development area in Reno. In the master plan there was an area set aside for a park. New homes were built and people moved in thinking they were out of the commercial area and had invested their money in a residential section. Now there was a request to take the park area for a shopping area. It is always up to three or four people to do the fighting for the group but some day those people were going to get tired of fighting and let the property be rezoned.

Senator Dodge asked if there was a shopping area included in the master plans.

Mr. Tom Cooke replied that in most master plans a shopping area could be included, but they were definitely planned and most residents

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did not want a shopping area put in just any place.

Senator Bunker remarked he had been fighting "City Hall" in Las Vegas for a number of years over rezoning a piece of land he owned and he finally gave up and sold the property. He was tired of fighting it. That is the reason he was a co-author of this bill.

Chairman Monroe thanked all present for coming and for their testimony.

Those present to speak on SB 519 left the meeting.

Roland Oakes had discussed SB 514 (Extends immunity from suit by persons receiving industrial insurance) with Mr. Hutchings from the Nevada Industrial Commission and had information the committee had requested. Of the states that have workmen's compensation, Nevada, Alaska, North Dakota, Washington, Ohio and Wyoming, four have a remedy in their legislation similar to this bill. Ohio has a choice of purchasing thru the state or the individual can purchase his own coverage from an insurance agent. Washington has a remedy but it differs somewhat from this. As long as a contractor was covered, the owner would have the same protection.

Last September or October Mr. Oakes discussed this with Mr. Webb Brown and was advised that organized labor would not oppose this.

He stated the reason for this being introduced late in the session was due to the difficulty in working out suitable language.

Mr. Hutchings stated Mr. Gray and Mr. Oakes spent considerable time in the offices of the Industrial Commission researching and studying this so it could be presented. The Industrial Commission takes the position that any one who toils should be covered by workman's compensation. They recommend passage.

Senator Young felt strongly that anyone who was responsible for an accident, whether it was directly or indirectly, should be liable. He felt that workman's compensation did not pay enough to take care of a persons needs when injured and he should be entitled to sue all responsible parties and recover, even tho the amount paid to him by the NIC would be refunded out of the amount of settlement.

Mr. Oakes stated the Industrial Commission was not concerned who paid the premiums to cover the workers but were concerned over the workers who were hurt whether they were negligent or not.

Mr. Lou Paley, a representative of the Nevada State AFL and CIO felt an architect and construction engineer had their own jobs in the construction of a building. If an architect drew plans and they specified the construction of a roof, and the roof caved in and injured

a workman the architect should be held responsible and not immuned from suit. He felt the same about an engineer. The owner should not be held responsible as he has hired the architect to draw the plans and the contractor bid for the job on the basis of the plans.

Senator Dodge moved the bill be put out with a "do pass".

Senator Young and Senator Bunker would like to hear more testimony before they vote on it. Senator Bunker felt it would be better than having a fight on the floor.

Senator Young will contact others to testify.

AB 456 - Provides for expungement of certain criminal records.

Chairman Monroe stated he had received a letter from Mr. Bill Raggio, Washoe County District Attorney, stating he was opposed to this.

Senator Dodge would like to hear his reason for the opposition.

Mr. Daykin stated he was presuming but it could be that it had an effect on the Prosecution and Habitual Criminal Act. After 15 years if there are no repeat convictions, the record of the criminal could be wiped out.

Senator Dodge would like to have Mr. Raggio in.

AB 637 - Conforms election dates for incorporated cities.

Mr. Daykin stated this would effect all cities and change the city elections so they all are held at the same time.

Senator Dodge asked if there was some relationship where it would be adviseable for all city elections to be held at the same time.

Mr. Daykin stated he had never seen before where the election dates were not uniform. It simplified the procedures.

Senator Dodge discussed this with Curt Blythe and he had no objection.

Senator Dodge moved "Do pass".  
Senator Swobe seconded.  
Motion carried.

AB 654 - Permits employment agency to charge fees to employers.

Assemblyman Mel Close explained this would prevent an employment agency from charging both the employer and the employee service fees. This is the time of specilized employees and an employment agency might have to go out of state to find a qualified person. This would permit it legally. He had been contacted by a firm from Pennsylvania wanting to establish a business in Nevada but did not feel they could do so without this legislation. There is a risk in the minds of those wanting

to come into Nevada.

Chairman Monroe asked if passage of this would induce outsiders to come in and be competitive to our local established firms.

Mr. Close stated it was not the responsibility of the legislature to interfere with private enterprise. Competition should be encouraged especially when new services can be offered. That is progress.

Chairman Monroe thanked Mr. Close for coming in. Mr. Close left the meeting.

Chairman Monroe opened further discussion of SB 514.

Jerry Whitehead was asked to read the bill and state how he felt about the provisions. He stated he did not feel the architect should be relieved of his responsibility. He does not pay any part of the industrial premium and yet he could be relieved of any of his own responsibility and negligence. He did feel that the owner should be immuned.

Senator Dodge remarked there were two separate sections to this bill, one covering the architect and the engineer and the second on the owner. He suggested the section on the architect and engineer be removed (Section B.)

This was agreeable to Mr. Oakes. He felt it was important to protect the owner.

Senator Dodge moved to take out section B and "do pass".  
Senator Swobe seconded.  
Motion carried.

SB 519 was discussed. Senator Dodge would like to hear testimony from the other side also. This was agreeable to all.

AB 449 - Provides right of contribution for joint tortfeasors.

It was pointed out that if a judgment was made against one defendant and there were two responsible there was no way for the second person to be brought into the action by the first party, as told to the committee by Mr. Reid.

Mr. Jerry Whitehead stated he did not think that was right that the second person could be brought into the action.

There being no time-left the meeting adjourned at 11:00 a. m.