

SENATE PUBLIC RESOURCES AND ECOLOGY COMMITTEE

MINUTES OF MEETING

THURSDAY, MARCH 29, 1973

The meeting was called to order at 7:30 p.m.

Senator Wilson in the chair.

PRESENT: Senator Blakemore
Senator Dodge
Senator Young
Senator Bryan

S. B. 333 - Designates state land use planning agency and requires development of statewide land use planning process and land use program.

The amendments in front of the document, page 2, line 46 and 7 are the reasons why Section 11 was not replaced.

Page 4, line 19 the word may will be replaced by "shall".

Section, page four the word "shall" in place of may will be inserted.

Section 9, page 4, delete line 38 through 41.

Motion Senator Bryan, seconded Senator Dodge, Do Pass as amended, carried.

S. B. 131 - Creates Nevada Land and Water Use Act.

Motion Senator Young, Hold in Committee, Seconded Senator Dodge, carried.

S. B. 481 - Redefines contents of master plan and zoning regulations.

Senator Blakemore indicated that this bill might place an undue burden on the smaller counties.

Senator Echols stated that unbridled growth is unhealth whether it is in larger or smaller counties.

Motion Senator Bryan, Amend and Do Pass, Seconded Senator Echols and carried. Senator Blakemore voting no.

Chairman Wilson ordered the record to show as follows: That the Amend and Do pass with the mandatory language in Section 5, paragraph 6, on Page 4 at line 24, which reads, "Before approving a tentative map, the governing body shall find that the subdivision:" - the approval of the committee of that language is based upon a rulling of the Nevada Supreme Court in the case of Shelly v. McKenzie, wherein the court ruled in substance that extremely little evidence was necessary upon which

a county commission could base a finding as to the requirements of this bill which appeared in paragraph 6, section 5, in the Shelley vs. McKenzie decision, the evidence upon which the finding was based consisted of the comment of one of the county commissioners that he was familiar with the area, had examined it and in his opinion that particular area should be commercially zoned, that no one would want to build houses out there because of the traffic problem. The Supreme Court sustained the ruling on that small amount of evidence and supported the finding made by the County Commission which was taken on appeal to the District Court and thereafter to the Nevada Supreme Court.

It is with this decision in mind and that standard of evidence necessary to support a finding that the committee has approved the mandatory language appearing in paragraph 6, of Section 5 of S.B. 481.

Senator Blakemore stated that he felt it could be amended in such a way as to have a time limit to protect Nye County and give them a chance.

S. B. 489 - Changes and clarifies and administrative responsibilities for control of air pollution.

Elmo DeRicco, Director of Conservation, Ernest Gregory, Director of Environmental Health and D. Michael Clasen, attorney for both agencies appeared to discuss this legislation. They presented some proposed amendments, which amendments are attached hereto as exhibit B.

Substitutions to the proposed amendments are made as follows:

Section 22, the words, "1,000 Tons" should read, " within the source of the Commission test.

Page 4, lines 40 through 47 omitted.

Section 25 is returned to original language.

Section 21, change "shall" to "may".

First closing bracket on page 7 will be moved up to the end of line 5.

The commission will consist of 9 members.

Page 8, lines 37, 38 and 39, that language is for the purpose of judicial review, the body may agree upon a statement of fact in lieu of testimony.

Insert on line 16, "may be chairman of the appeals board."

Section 18, line 6, "may be subpoenaed by the appeals board."

Page 9, line 33, change "shall" to "may"

The bracketed portion of the first paragraph of the amendments on page 3, reading "or person designated by or pursuant to a county or city ordinance or regional agreement or regulation to enforce local air pollution control ordinances and regulations" is moved over to Section 10, Page one of the amendments.

Page 11, line 7, take out "445.591." and insert, "233B.130".

Page 13, strike lines 46 and 47, beginning with the word, "the."

Page 14, line 27, add the word "emission" before the word, "standard".

Page 16, delete line 4.

A new section to be added at the end, will read as follows:

All laws, regulations and statutes promulgated by the state commission of environmental protection pertaining to air pollution control in force on July 1, 1973, shall remain in effect until such time as revised by the state environmental commission pursuant to NRS 445.401 to 445.601, inc.

Motion, Senator Dodge, Amend and re-refer to committee, seconded by Senator Blakemore, carried.

S. B. 548 - Broadens power of public service commission to protect natural resources of state.

Mr. DeRicco stated they had no objection to this bill.

Motion Senator Blakemore, Do Pass, seconded Senator Dodge, carried.

S. B. 434 - Expands state engineer's authority over exported water or energy generated from such water.

Conflicting language on page two was deleted.

Motion Senator Young, Amend and Do Pass, seconded Senator Echols, carried.

S. B. 428 - Extends authority of state engineer over domestic wells in certain areas or basins.

This bill makes it possible for the State engineer to approve or deny domestic wells in a designated area. It is enabling legislation.

The state engineer had reservations about this bill. It was suggested that the engineer already had this authority.

It was decided that the language on page two, line 1, beginning

with the word, "in" in line one and ending with the word, "use."
on line 6 be deleted.

S. B. 442 - Absolves state engineer from liability for water
safety or quantity and in inspection of dams.

Motion Senator Bryan, Do Kill, seconded by Senator Young,
carried.

S. B. 267 - Requires fishing, hunting or trapping licenses
to indicate whether license has been issued
special stamps, tags or permits.

Motion Senator Young, seconded Senator Bryan, Do kill, carried.

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Mae Lofthouse, Secretary

APPROVED:

Senator Wilson, Chairman

Suggested Amendments to S.B. 489

Section 2. 1. There is hereby created the health division appeals board.

2. The health division appeals board shall consist of five members to be appointed by the governor, one of whom shall be a member of the state board of health, one of whom shall be a member of the state /commission of environmental protection/ environmental commission, one of whom shall be an attorney licensed to practice law in the State of Nevada, /one of whom shall be a representative of industry/ and /one/ two of whom shall be /a/ private citizens representing consumer interests.

7. Any person who receives or has during the previous 2 years received a significant portion of his income, as defined by any applicable state or federal law, rule or regulation, directly or indirectly from one or more holders of or applicants for any permit required by Chapter 445 of NRS shall be disqualified from serving as a member of the appeals board.

Section 10. 1. "Director" means the director of the department of health, welfare and rehabilitation, or his designee.

2. "Department" means the department of health, welfare and rehabilitation.

3. "Health division" means the health division of the department of health, welfare and rehabilitation.

Section 11. The /health division/ department shall:

9. Institute proceedings to prevent continued violation of any order issued by the /control officer/ director and to enforce the provisions of NRS 445.401 to 445.601, inclusive.

Section 12. Page 3, lines 13, 17 and 22: delete /health division/ and replace with director.

Section 13. Page 3, lines 27 and 39: delete /health division/ and replace with department.

Section 14. Page 3, line 48; page 4, lines 5-6: delete /health division/ and replace with department.

Section 15. Within 20 days after receipt by the state health officer of the notice of appeal /by the state health officer/ provided for in section 14(2) of this act, the health division appeals board shall hold a hearing.

Section 22. 1. Existing or new stationary sources which can emit, before any air cleaning device is attached, greater than 1,000 tons per year of an air contaminant which has an ambient air quality standard are required to be continuously monitored and a copy of the data [will] shall be furnished to the [control officer] director once every month. The equipment used in monitoring the air contaminant [will] shall be in accordance with recognized methods and as approved by the [control officer] director.

2. In the absence of an approved or recognized method for continuously monitoring the specific air contaminant from a stack emission, the person responsible for the source shall perform a source emission test once every 6 months. The source tests [will] shall be performed in accordance with the procedures approved by the [control officer] director. A copy of these test results [will] shall be filed with the [control officer] director and these tests [will] shall be continued until a continuous monitoring method becomes available and is approved by the [control officer] director.

Section 23. 1. All new stationary sources which can emit, before any air cleaning device is attached, more than 25 tons per year of air contaminants which have an ambient air quality standard shall be given a stack source emission test in accordance with the procedures approved by the [control officer] director, before the issuance of an operating permit.

Section 25 A. NRS 445.421 is hereby amended to read as follows:

445.421 "Commission" means the state [commission of] environmental [protection] commission.

Section 26. NRS 445.426 is hereby amended to read as follows:

NRS 445.426. 1. "Control officer" means the chief of the bureau of environmental health of the health division of the department of health, welfare and rehabilitation. "State health officer" means the state health officer or his designee or person designated by or pursuant to a county or city ordinance or regional agreement or regulation to enforce local air pollution control ordinances and regulations.

Section 27. NRS 445.446 is hereby amended to read as follows:

NRS 445.446. 1. "Source" means any property, real or personal, which emits or may emit any air contaminant.

2. "Complex source" means any property or facility that has or solicits secondary or adjunctive activity which emits or may emit any air contaminant for which there is an ambient air quality standard, notwithstanding that such property or facility may not itself possess the capability of emitting such air contaminants. Complex sources include, but are not limited to:

- (a) shopping centers;
- (b) sports complexes;
- (c) drive-in theaters;
- (d) Parking lots and garages;
- (e) Residential, commercial, industrial, or institutional developments;
- (f) Amusement parks and recreational areas;
- (g) Highways
- (h) sewer, water, power, and gas lines;

and other such property or facilities which will result in increased air contaminant emissions from motor vehicles or other stationary sources.

Section 28. NRS 445.451 is hereby amended to read as follows:

445.451. 1. The state [commission of] environmental [protection commission] is hereby created [.] as a division of the state department of conservation and natural resources. The commission shall consist of:

- (a) The director of the Nevada department of fish and game.
- (b) The state forester firewarden.
- (c) The state engineer.
- (d) The executive director of the state department of agriculture
- (e) [The state health officer.] One member of the state board of health to be designated by that board.

- (g) [Two gubernatorial appointees with knowledge and expertise, one from the area of industry and one from the area of conservation.] Three members appointed by the governor from the general public.

- (h) [One gubernatorial appointee from the public at large.]

Section 29. Page 6, line 8: delete [health division] and replace with department.

Section 33. Page 8, line 10: delete [health division] and replace with department.

Section 36. Page 10, lines 1,2,6,&15:delete [control officer] and replace with director.

Section 37. NRS 445.496 is hereby amended to read as follows:

445.496 1. The commission shall require, with respect to all sources of air contaminant, including complex sources, that plans, specifications and such other information as the commission may

(cont. p. 5)

direct be submitted to the control officer director not later than a specified interval prior to the construction or alteration of a building or other structure if such construction or alteration includes the establishment or alteration of a source or complex source of air contaminant.

Section 38., p. 10, line 48; page 11, line 2:

delete control officer and replace with director.

page 11, line 6-7: 4. Any decision or order of the appeals board may be appealed as provided in NRS 445.591 233B.

Section 41A. NRS 445.521 is hereby amended to read as follows:

445.521. 1. No applicant is entitled to the granting or renewal of a variance as of right.

2. Judicial review may be had of the granting or denial of a variance as provided in NRS 445.591 NRS 233 B. 130.

Section 42. page 12, lines 6, 19 and 25:

delete control officer and replace with director.

Section 44. NRS 445.546 (4) is hereby amended to read as follows:

445.546. 4. Powers and responsibilities provided for in NRS 445.461, 445.476 to 445.536 445.526, inclusive, 445.571 to 445.581, inclusive, and 445.601 shall be binding upon and shall inure to the benefit of local air pollution control authorities within their jurisdiction.

Section 44. Section 44 A. NRS 445.556 is hereby amended to read as follows:

445.556. 1. If a county required to establish or participate

in an air pollution control program fails to do so, or if the commission believes that a program previously approved is inadequate, it shall hold a public hearing. If it finds that an adequate program has not been adopted or that a program has become inadequate, it shall fix a time within which necessary corrective measures are to be taken.

2. If the prescribed measures are not so taken, the commission shall direct the [health division] department to administer an adequate air pollution control program within the county, which shall be a charge on the county, and may supersede any existing county air pollution control program.

Section 45. Page 13, lines 30, 33-35, 38, 42, 45-46; Page 14, lines 2 and 6:

delete [control officer] and replace with director.

(line 13, P. 14) 5. If the local ordinance so provides a local [control officer] air pollution control board or its authorized officers may exercise the power conferred by subsection 3 within the territorial jurisdiction of the local government. If [he] it does so, [his] its order shall expire by limitation 24 hours after it takes effect, unless sooner affirmed, modified or set aside by the appeals board.

Section 46. Page 14, line 31:

delete [any control officer] and replace with the director.

Section 46 A. NRS 445.581 is hereby amended to read as follows:

445.581 1. It is a condition of the issuance of any operating permit or any registration required by the commission or pursuant to any local air pollution control ordinance that the registrant or holder of the operating permit agrees to permit inspection of the premises to which the permit or registration relates by [the control officer] any authorized officer of the department at any time during the registrant's or holder's hours of operating without prior notice. This condition shall be stated on each registration or application form and operating permit.

Section 47. Page 15, line 5: delete [health division] and replace with department.

Section 49. NRS 445.601 is hereby amended to read as follows:

445.601 1. Any person who violates any provision of NRS 445.401 to [445.536] 445.526, inclusive, and 445.546 to 445.601,

inclusive, or any rule or regulation in force pursuant thereto, other than NRS 445.576 on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the appeals board of not more than \$5,000. Each day of violation constitutes a separate offense.

2. The commission shall by regulation establish a schedule of administrative fines not exceeding \$500 for lesser violations of any provision of NRS 445.401 to ~~445.536~~ 445.526, inclusive, and 445.546 to 445.601, inclusive, or any rule or regulation in force pursuant thereto.

3. Action pursuant to subsection 1 or 2 shall not be a bar to enforcement of the provisions of NRS 445.401 to ~~445.536~~ 445.526, inclusive, and 445.546 to 445.601, inclusive, rules and regulations in force pursuant thereto, and orders made pursuant to NRS 445.401 to ~~445.536~~ 445.526, inclusive, and 445.546 to 445.601, inclusive, by injunction or other appropriate remedy, and the appeals board or the director has power to institute and maintain in the name of the State of Nevada any and all such enforcement proceedings.

4. All administrative fines collected by the appeals board pursuant to this section shall be deposited in the general fund of the county where the violation occurred.

5. Any person aggrieved by an order issued pursuant to this section is entitled to review as provided in ~~NRS 445.591~~ NRS 233 B.

Section 53. Section 28 of this act shall not become effective if section 20 of Assembly Bill 472 is enacted into law.

Section 54. Section 41 A of this act shall not become effective if section 29 of Senate Bill 488 is enacted into law.

Section 55. Sections 1 to 7, inclusive, of this act shall not become effective if sections 1 to 13, inclusive, of Senate Bill 488 are enacted into law.

~~ASSEMBLY~~ / SENATE AMENDMENT BLANK

Amendments to ~~ASSEMBLY~~ / Senate

Bill / ~~ASSEMBLY~~ No. 481 (BDR 22-1740)

Proposed by Committee on Ecology and Public Resources

Amendment N^o 4774

"Resolves conflict with SB 123"

Amend section 1, page 1, line 12, by deleting brackets.

Amend section 1, page 2, by inserting between lines 15 and 16:

"(i) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures."

Amend section 1, page 2, line 16, by deleting "(i)" and inserting: "(j)".



Amend section 1, page 2, line 21, by deleting "(j)" and inserting: "(k)".

Amend section 1, page 2, line 24, by deleting "(k)" and inserting: "(l)".

Amend sec. 4, page 3, line 36, by inserting "governmental" before "financial
and after "long-range".

Amend the bill as a whole by adding a new section designated sec. 4.5

following sec. 4 to read as follows:

"Sec. 4.5. NRS 278.260 is hereby amended to read as follows:

278.260 The governing body shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However, no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At

least [15] 10 days' notice of the time and place of the hearing shall be published in an official newspaper, or a newspaper of general circulation, in the city, county, or region."

Amend sec. 5, page 4, by deleting line 3 and inserting:

"be no planning commission [.] together with a filing fee in an amount as determined by the governing body."

Amend sec. 5, page 4, line 10, by deleting "30" and inserting: "[30] 65".

Amend sec. 5, page 4, by deleting line 14 and inserting:

"approved [.] or that approval was withheld because the land proposed to be subdivided was not suitable for such development. If approval is withheld, the report shall state the reasons why the land was not considered suitable."

Amend sec. 5, page 4, by deleting line 21 and inserting:

sion in regard to the tentative map . [, and make such findings as are not'

Amend sec. 5, page 4, line 23, by deleting "thereto." and inserting:
"thereto.]".

Amend sec. 5, page 4, line 24, by deleting "find".

Amend sec. 5, page 4, by deleting line 25 and inserting:

"make such findings as are not inconsistent with the provisions of NRS 278.1
to 278.630, inclusive, or local ordinances adopted pursuant thereto, includi
but not limited to, findings that the subdivision:".

Amend sec. 5, page 4, by deleting lines 28 and 29 and inserting:

"(1) The topography of the land and its relation to the flood plains or
areas subject to flooding or water damage;".

Amend sec. 5, page 4, by deleting line 33 and inserting:

"(4) The effectiveness of sewerage plans; and".

Amend sec. 5, page 5, line 1, by deleting "esthetics,".

Amend sec. 5, page 5, by deleting line 3 and inserting:

"(i) Is in conformance with any duly adopted land use plans."

Amend sec. 5, page 5, by deleting line 7 and inserting:

"approval is by [unanimous vote] a majority vote of its members and made with
the time limit provided".

Amend the bill as a whole by adding a new section designated sec. 5.5
following sec. 5 to read as follows:

"Sec. 5.5. NRS 278.410 is hereby amended to read as follows:

278.410

1. The final map shall be clearly and legibly drawn in black waterproof india ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession, but affidavits, certificates and acknowledgments may be legibly stamped or printed upon the map with opaque ink.

2. The size of each sheet of the map shall be 24 by 32 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

3. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end.

4. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

5. The final map shall show all survey and mathematical information and data necessary to locate all monuments, and to locate and retrace any and all interior and exterior boundary lines appearing thereon, including bearings and distances of straight lines, and radii and arc length for all curves, and such information as may be necessary to determine the location of the centers of curves.

6. Each lot shall be numbered, and each block may be numbered or lettered.

7. Each street shall be named.

8. The exterior boundary of the land included within the subdivision shall be indicated by [colored] graphic border.

9. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys.

10. The final map shall also satisfy any additional survey and map requirements of the local ordinance."

Amend sec. 6, page 6, by deleting lines 15 through 18.

Amend the bill as a whole by adding new sections designated as sections 7 and 8 following sec. 6 to read as follows:

"Sec. 7. NRS 278.480 is hereby amended to read as follows:

278.480

1. Any person, firm or corporation desiring the vacation or abandonment of any street or portion thereof shall file a petition in writing, signed by not less than three freeholders owning lands within the area affected by the proposed vacation and abandonment, with the governing body having jurisdiction.

2. If there be a planning commission, the governing body shall refer the petition to the planning commission, which shall report thereon to the governing body as set forth in NRS 278.240.

3. Whenever any streets are proposed to be vacated, the governing body shall cause the streets to be posted with a notice setting forth the extent of the proposed abandonment and setting a date for public hearing, which date shall be not less than 30 days and not more than 40 days subsequent to the date of posting of the street.

4. If, upon public hearing, the governing body is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street to be vacated. The governing body may make such order conditional, and the order shall become effective only upon the fulfillment of the conditions prescribed.

5. The order shall be recorded in the office of the county recorder, if all the conditions of the order have been fulfilled, and upon such recor-

dation title to the street shall revert upon the payment required in subsection 6, to the abutting property owners in the

proportion that the property was dedicated by such abutting property owners or their predecessors in interest. In the event of a partial vacation of a street where the vacated portion is separated from the property from which it was acquired by the unvacated portion thereof, the governing body may sell such vacated portion upon such terms and conditions as it deems desirable and in the best interests of the city. If the governing body so sells the vacated portion, it shall afford the right of first refusal to each abutting property owner as to that part of the vacated portion which abuts his property, but no action shall be taken by the governing body to force such owner to purchase such portion and no such portion shall be sold to any person other than such owner if such sale would result in a complete loss of access to a street from such abutting property.

6. The abutting property owners shall pay for title to the proportionate part of the street such consideration as the governing body determines to be reasonable.

7. Any easement for light and air adjacent to any vacated street is vacated upon the vacation of the street.

[7.] 8. In any vacation or abandonment of any street or portion thereof, the governing body may reserve and except therefrom any easements, rights or interests therein which the governing body may deem desirable for the use of the city or of any public utility.

Sec. 8. This act shall become effective at 12:01 a.m. on July 1, 1973."

Amend the title of the bill by deleting lines 3 and 4 and inserting:

"regard to proposed subdivisions; providing for abandonment or vacation of streets upon payment of reasonable consideration to the governing body; and providing other matters properly relating thereto."