

Senate

COMMITTEE ON FEDERAL, STATE AND LOCAL GOVERNMENTS

Minutes of Meeting -- February 7, 1973

The eighth meeting of the Committee on Federal, State and Local Governments was held on February 8, 1973, at 2:45 P.M.

Committee members present: Chairman James Gibson
John Foley
Coe Swobe
Stan Drakulich
Carl F. Dodge
Chic Hecht

Also present were:

John Sparbel, State Planning Board
Bill Hancock, State Planning Board
Debbie Shelter, Washoe Homeowners Group
Pam Wilcox, Washoe Homeowners Group
Robert Bowers, Nevada Association of Realtors
Paul Argeros, Nevada Association of Realtors
Gene Milligan, Nevada Association of Realtors
James Friedlander, Carson River Basin Council of Governments
George Oshima, Washoe County Public Works Director
John Poli, Lyon County Commissioner
Nancy Poli
Senator Cliff Young
Senator William Raggio
Wally Warren, Sierra Pacific Power
John Meder, Carson City Supervisor
Joe Midmore, Builders Association
Bob Warren, Nevada Municipal Association
Bill Adams, City Of Las Vegas
Press representatives

Chairman Gibson called the meeting to order and requested Senator Young to come forward and testify on the bills before the committee.

SB-123 Provides for seismic safety in preparation of master plans.

Senator Young explained that SB-123 (as well as SB-127, 128, and 129) were drafted as the by-product of a Legislative Commission Subcommittee that was established last year. SB-123

amends NRS 278.160. He noted that language on page 2, line 16 of the bill should be omitted with reference to "Tsunamis and seiches". The suggested addition to this bill is merely something that can be considered by the planning agency, whether it is the commission or the city or county.

Mr. Adams, representing the City of Las Vegas, stated that as far as the City is concerned, they are aware of the problem and are in agreement with the idea of providing seismic safety with the only reservation that there should be some standards established to be used statewide. Senator Young replied to this suggestion that they had viewed this only as enabling legislation for the cities and counties to consider this as one of the component parts of possible master plans. Mr. Meder, representing Carson City, concurred that the basic idea behind this legislation was good and they would be in agreement with it.

SB-127 Enables counties and cities to use hearing examiners in zoning appeals.

Senator Young stated that again, this bill would be "enabling" legislation only. The actual thrust of this bill is to enable cities and counties, if they so desire, to use hearing officers in lieu of the Planning Commission or the Board of Adjustment. This is a concept that has been used in Montgomery County, Maryland with good acceptance there. Other areas where it has been used are apparently satisfied with it. This legislation would relieve boards and commissions from listening to lengthy arguments on zoning application requests for change. Senator Dodge questioned as to whether by doing this (using a hearing examiner) we would be insulating the planning commission from the people of the community? Senator Young pointed out that the planning commission and board of adjustment would still review the findings and could still have further hearings of their own, if necessary.

The various factions present commented on this legislation as follows: Mr. Adams of the City of Las Vegas commented that they have used this idea, at least in part, as an administrative relief, which has worked to the advantage of everyone concerned. Mr. Meder of Carson City said that they would support this type of legislation. Mr. Knisley suggested that the qualifications for the hearing officer should be a little better defined, as well as the provisions for the report should be expanded. Mr.

Milligan, representing the Nevada Association of Realtors, said they would like to go on record as supporting the bill with some reservations pending minor revisions. Mr. Midmore, representing the Builders Association, went on record as saying they would support the bill subject to amendments as suggested by Senator Young with regard to original applications -- i.e., the hearing officer would be a professional staff member of the planning commission or equally well qualified. Mr. Friedlander, representing the Carson River Basin Council of Government, spoke in support of this bill. Mrs. Pam Wilcox, representing the Washoe County Homeowners Association, stated that they are in general agreement with the thrust of this bill, but feel that stricter guidelines are needed. This opinion was again expressed by Debbie Shelter, also representing the Washoe Homeowners Group.

Chairman Gibson then requested Senator Young have the suggested amendments made on this bill, and then return it to committee for further consideration.

SB-129 Enables cities and counties to adopt official map of public streets, watercourses and public grounds.

Senator Young spoke on this bill also, stating that this is called an "Official Map Act," which has been patterned after a statute enacted in Pennsylvania. It merely provides in essence that a city or a county can develop an official map showing where roads will be situated, where parks or public facilities will be located -- this will be adopted pursuant to a public hearing and then will be effective for a year during which time no building or development can occur in the areas indicated on the official map. After that period of time the owner can apply if there is a hardship and the official map will not preclude private development. He also noted that there is some language that should be amended and clarified in the proposal.

The Carson River Basin Council of Governments representative, Mr. Friedlander, stated that in his opinion this is one of the most valuable tools you can give to a city or county enabling them to carry out a master plan. An understanding should be made between the definition of a "Master Plan" and an "Official Map". Mr. Friedlander's only objection to this bill is the "one year only" provision, as most counties cannot act that fast. He made two suggested changes: (1) define what constitutes public ground, which should include schools, state buildings and railroad rights-of-way, in addition to other public needs;

and (2) include a provision which enables the local government to require the subdivider to provide the public grounds and streets, and make improvements in compliance with the Official Map.

Mr. Sparbel of the State Planning Board and Mr. Bowers of the Nevada Association of Realtors spoke on this bill. Mrs. Wilcox, representing the Washoe Homeowners Group again spoke on SB-129, stating that they felt this legislation was certainly needed.

Following discussion, it was decided that further testimony should be heard. Mr. Warren noted that the cities would like to be heard at a future date on this matter. Senator Young noted that he had some amendments clarifying ambiguous language in the bill which he would submit to Chairman Gibson.

SB-128 Enacts Flood Plain Management Act.

Senator Young commented that the greatest deficiency in this bill is that it is about 75 years too late, but the anticipated growth in the State will still present a substantial problem. There is some opposition to this bill from the Department of Conservation and Natural Resources, and they are presently preparing some type of land management bill which they will present to the legislature, but may not include anything on this particular Act.

What this bill does in effect is put upon the Department of Conservation a responsibility for developing a Flood Plain Management Plan. They have a responsibility to collect and distribute information, coordinate local state and federal activities, and assist local governmental units in flood plain management. It also says that when the director indicates there is sufficient technical information to delineate the flood plains and flood ways, he shall notify the affected local governments that this information is available, and there is then a responsibility upon the local governments to develop a flood plains management plan to cover the public hazard that he foresees. The bill provides variance procedures and method of establishing criteria, and is patterned after a bill enacted in Minnesota. To date we have not provided for any type of flood plain management program in this State.

Senator Young then referred to a letter from the Department of Conservation and Natural Resources with attached Memorandums, copies of which are attached hereto.

Senator Young also noted that something may have to be done particularly in the small counties, in the way of funding to help them get their plans under way.

Comments heard from other people present were as follows: Mr. Knisley stated that this legislation is long overdue. However, there is now in the planning stages a statewide planning act, which will cover this field. He suggested that the committee await the completion of this Act before anything is done on this bill. Senator Gibson noted that he had a letter from the State Highway Engineer stating that he supports this legislation with an amendment of the definition of "regional flooding". Mr. Friedlander, Carson Basin Council of Governments, stated that their members would support the intent of this bill. Mr. Warren, Nevada Municipal Association, indicated that they are in support of the intent of this legislation. They would also like to see some guidelines that would give cities more direct assistance in reference to dollar figures, what type of funds might be available, et cetera. Mr. John Meder, Carson City Supervisor, distributed maps showing the 100-year flood plain delineation for Carson City. Mrs. Wilcox, Washoe Homeowners Group, stated that they are strongly in support of this legislation. Mr. Hancock, State Planning Board, stated that they would support the legislation, but prefer a 50-year storm recurrence interval in lieu of the 100-year interval now stated in the bill.

Chairman Gibson stated that the committee would be taking into consideration all of the testimony which had been heard and that further hearings on these matters will be held in the near future.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Mary Jean Fondi
Committee Secretary

Address Reply to
Nye Building
Telephone 882-7482



STATE OF NEVADA

Department of Conservation and Natural Resources

OFFICE OF THE DIRECTOR
CARSON CITY, NEVADA 89701

February 7, 1973

The Honorable James I. Gibson
State Senator
Nevada State Legislature
Carson City, Nevada 89701

Dear Senator Gibson:

I am enclosing three independent evaluations of S. B. 128 prepared by members of Roland Westergard's staff. These evaluations point out rather clearly that S. B. 128 would be a premature action in controlling land use within the State of Nevada.

I would recommend that flood plain management be one of the elements to be defined in the State Comprehensive Land Use Plan, and that its implementation be achieved through implementation of that plan when it is completed.

Passage of this legislation at this time could seriously handicap the land planning effort in that available State forces would be required to implement this complex program and would have little time to devote to the overall land planning effort.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Elmo".

Elmo J. DeRicco
Director

EJD:m
encl.

cc Bob Stewart
Noel Manoukian
Senator Cliff Young
Roland Westergard

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

OFFICE MEMORANDUM

To: Roland
From: Starr
Subject: SB-128

Date: February 6, 1973

GENERAL:

Two main considerations are brought to mind immediately upon reading this bill.

1. It has become abundantly clear in the past two years while dispensing information on flood plain management and flood insurance to the seventeen counties that they are not interested in devoting any time or talent to the establishment of laws, acts, etc. regulating flood plain management. One city only, Las Vegas, was interested enough to comply with liberal Federal regulations to qualify for flood plain insurance. No other city or town had any interest. In order for the Director to supervise a constructive program in any political subdivision he must have the cooperation and particularly the interest of the particular city, town or county. Without their interest, they will not inform him of the important factors to be considered in any flood plain management program. He can't beat the information and cooperation out of them, they must be interested enough to furnish pertinent information that should be considered in a flood plain management program.

The interest, the driving force, the desire to establish such a program must come from the political subdivisions themselves. The Director should be no more than a coordinator of their proposals. There has to be something to invoke the interest of all the political subdivisions. The present act gives the Director power to regulate flood plain management regulations. To be successful such an Act has to stimulate or require the interest and desire of the subdivision to comply.

2. The second thought that occurs after reading the Act is the considerable amount of manpower that will be required by the Director to implement the terms of the Act.

More specifically:

Sec. 4-1. "...assistance to local governmental units". This will require a great deal of time.

Sec. 12-1(c). "Assist local government units in their flood plain management activities....". This will require much time.

1-51

SB-128 (General - Continued)

Sec. 12-1.(d). "Do all other things within his lawful authority which are necessary or desirable to manage the flood plains..."
Manpower is required.

Sec. 12-2 ".....conduct periodic inspections...". This will require considerable time.

Sec. 18. The drafting of rules and regulations will require considerable time.

It appears that it will require at least one knowledgeable employee on a full-time basis to perform the duties required of the Director.

3.) Legislation in conformance with the Federal program would insure eligibility for flood insurance of anyone within the state, whereas legislation not in compliance with the Federal program offers no such protection.

S.B. 128 is particularly weak in Sections 15 and 16. Section 15 makes the local governments responsible for determining the areas of greatest flood damage potential, and I doubt seriously that any local government would be able to adequately designate such areas (if for no other reason than lack of experience and flood prediction knowledge). Then Section 16 makes the State government responsible for delineation of flood plains based upon information supplied by the local governments. The plan won't work.

Finally S.B. 128 appears to make the State particularly vulnerable for flood damage liability. For example, what happens if flood plains within a county are delineated (based upon information supplied by the county) and some time later a business or home outside a flood plain is built and then destroyed by flooding (not at all unlikely in Nevada where local flashfloods can occur anywhere). Might not those whose property was flooded, claim that the State was liable because they allowed building in a "flood prone area"? However, if the Federal program was in effect statewide, insurance against flooding would be available for anyone (either inside or outside of flood plains), and if a loss due to flooding was not covered, it would be nobody's fault but the property owners.

Section 12

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

OFFICE MEMORANDUM

To: Roland
From: Brian
Subject: Comments concerning Senate Bill 128 -
Flood Plain Management Act

Date: February 5, 1973

I would consider Bill 128 almost totally inadequate for its intended purpose, primarily because of its failure to recognize the use of the Federal flood insurance program in flood plain management. I recognize the hesitancy of State legislators to propose or enact legislation which might result in Federal intervention into State and local affairs. However, in the area of flood plain management, I don't believe the Federal program can be ignored. In fact, I think its inevitable that the Federal flood insurance program will eventually be forced upon the States whether they like it or not (as evidence, see HUD News of Sept. 27, 1972, specifically Pg. 2a., Sec. 202 in Dept. of Housing & Urban Development file), and it would seem prudent to enact legislation now which recognizes the Federal program.

I personally believe that there are too many advantages to participation in the Federal program to just ignore it and attempt to enact a state controlled flood plain management system. A few examples of such advantages are:

1.) The Federal program provides the expertise of such Agencies as the Corps of Engineers, SCS, and the USGS in flood plain surveys and delineation. Determination of flood plains and floodways is a highly complex and costly process, and it seems imprudent not to make use of that expertise, particularly when it is at no cost to the state as in the case of the Federal flood insurance program.

2.) Flood plain management requires a great deal of coordination with the local governments, in addition to a certain amount of policing. Without additional manpower (which S.B. 128 does not provide) it would be virtually impossible for the state to do an adequate job. Here again the resources of the Federal Government would be an assist for the State.

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

OFFICE MEMORANDUM

To: Starr
From: Bruce Rice
Subject: S.B. 128 Comments

Date: February 5, 1973

Sections 1 through 13. (See 12.2 below)
Appear to be consistent with policy

Section 14.

The various requirements should be made to comply with the criteria developed under the National Flood Insurance Act. If flood plain ordinances were adopted that did not meet these standards, existing property owners who are presently subject to flood damage would receive no benefits from the action. It would seem that this legislation should be aimed at aiding the existing property owners to whom flood plain information was not available at the time they built on the property. In addition, it is the existing property owners, not the potential owners and developers, who will bear the majority of the financial burden of enacting these ordinances.

Section 12.2.

As these will be local ordinances, the burden of enforcement should be placed on local governmental agencies.

Section 16.

If the ordinances were not made to conform with the National Flood Insurance Act, and federal assistance is not available, is the Director to be responsible for the gathering of necessary information and the delineation of flood plain boundaries?

Section 19.

This section should be omitted as it can be adequately covered under Section 18.2.

S. B. 123

SENATE BILL NO. 123—SENATORS YOUNG, HECHT,
SWOBE, RAGGIO AND WILSON

JANUARY 30, 1973

Referred to Committee on Federal, State and Local Governments

SUMMARY—Provides for seismic safety in preparation of master plans.
Fiscal Note: No. (BDR 22-320)



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT to amend NRS 278.160, relating to master plans, by adding as a category in the overall master plan a seismic safety plan.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

1 SECTION 1. NRS 278.160 is hereby amended to read as follows:
2 278.160 1. The master plan, with the accompanying maps, dia-
3 grams, charts, descriptive matter and reports, shall include such of the
4 following subject matter or portions thereof as are appropriate to the city,
5 county or region, and as may be made the basis for the physical develop-
6 ment thereof:

7 (a) Community design. Standards and principles governing the sub-
8 division of land and suggestive patterns for community design and devel-
9 opment.

10 (b) Conservation plan. For the conservation, development and utili-
11 zation of natural resources, including water and its hydraulic force, for-
12 ests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
13 and other natural resources. The plan shall also cover the reclamation
14 of land and waters, flood control, prevention and control of the pollution
15 of streams and other waters, regulation of the use of land in stream
16 channels and other areas required for the accomplishment of the conser-
17 vation plan, prevention, control and correction of the erosion of soils,
18 beaches, and shores, and protection of watersheds.

19 (c) Economic plan. Showing recommended schedules for the alloca-
20 tion and expenditure of public funds in order to provide for the econom-
21 ical and timely execution of the various components of the plan.

22 (d) Housing. Survey of housing conditions and needs and plans and
23 procedure for improvement of housing standards and for the provision of
24 adequate housing.

Original bill is 2 pages long.
Contact the Research Library for
a copy of the complete bill.

SENATE BILL NO. 127—SENATORS YOUNG AND SWOBE

JANUARY 30, 1973

Referred to Committee on Federal, State and Local Governments

SUMMARY—Enables counties and cities to use hearing examiners in zoning appeals. Fiscal Note: No. (BDR 22-555)

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to zoning appeals; enabling counties and cities to utilize hearing examiners in the review of decisions affecting variances and special use permits; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

1 SECTION 1. Chapter 278 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

3 SEC. 2. *The governing body of any county or city may appoint as*
4 *many full-time hearing examiners as in its discretion may be necessary*
5 *and appropriate to assist it in the discharge of its duties under NRS*
6 *278.010 to 278.630, inclusive, regarding the review of decisions made*
7 *affecting zoning variances and special use permits.*

8 SEC. 3. 1. *Hearing examiners appointed under the authority of sec-*
9 *tion 2 of this act shall possess the qualifications and receive such compen-*
10 *sation as is considered necessary by the governing body.*

11 2. *Hearing examiners shall serve at the pleasure of the governing*
12 *body.*

13 SEC. 4. *Upon the determination of any governing body that a hearing*
14 *examiner is to be employed and before any hearings are conducted utiliz-*
15 *ing his services, an ordinance shall be enacted setting forth rules of pro-*
16 *cedure for the processing and hearing of applications for the review of*
17 *decisions made affecting zoning variances and special use permits.*

18 SEC. 5. 1. *Any ordinance enacted pursuant to the provisions of sec-*
19 *tion 4 shall provide, in substance, the same notice of hearing and conduct*
20 *of hearing safeguards required by chapter 233B of NRS for contested*
21 *cases.*

22 2. *Provision in any such ordinance shall be made for the transmittal*
23 *to the governing body or zoning board of adjustment of the hearing*
24 *examiner's written report. The report shall include:*

25 (a) *Findings;*

SENATE BILL NO. 128—SENATORS YOUNG, HECHT,
SWOBE, WILSON AND RAGGIO

JANUARY 30, 1973

Referred to Committee on Federal, State and Local Governments

SUMMARY—Enacts Flood Plain Management Act.
Fiscal Note: No. (BDR 48-321)



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public health and safety; providing for statewide flood plain management; requiring the director of the department of conservation and natural resources to coordinate local, state and federal flood plain management activities; providing for the adoption of local ordinances; providing for injunctive relief; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Title 48 of NRS is hereby amended by adding thereto a
2 new chapter, to consist of the provisions set forth as sections 2 to 21,
3 inclusive, of this act.
- 4 SEC. 2. This act may be cited as the Flood Plain Management Act.
- 5 SEC. 3. The legislature finds and declares that:
- 6 1. A portion of the state's land resource is subject to recurrent flood-
7 ing by overflowing of streams and other watercourses, causing loss of life
8 and property, disruption of commerce and governmental services, unsan-
9 itary conditions, and interruption of transportation and communications,
10 all of which are detrimental to the health, safety, welfare and property of
11 the occupants of flooded lands and the people of this state.
- 12 2. The public interest necessitates sound land use development as
13 land is a limited and irreplaceable resource, and the flood plains of this
14 state are a land resource to be developed in a manner which will result
15 in minimum loss of life and threat to health and reduction of private and
16 public economic loss caused by flooding.
- 17 SEC. 4. It is the policy of this state and the purpose of this act to
18 guide development of the flood plains of this state consistent with the
19 enumerated legislative findings so that there may be provision for:
- 20 1. State coordination and assistance to local governmental units in
21 flood plain management.
- 22 2. Encouragement of local governmental units to adopt, enforce and
23 administer sound flood plain management ordinances.

SENATE BILL NO. 129—SENATORS YOUNG AND SWOBE

JANUARY 30, 1973

Referred to Committee on Federal, State and Local Governments

SUMMARY—Enables cities and counties to adopt official map of public streets, watercourses and public grounds. Fiscal Note: No. (BDR 22-549)



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public planning; enabling cities and counties to adopt surveys of existing and proposed public streets, watercourses and public grounds as the official map; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

1 SECTION 1. Chapter 278 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

3 SEC. 2. 1. *The governing body of each city or county may make or*
4 *cause to be made surveys of the exact location of the lines of existing and*
5 *proposed public streets, watercourses and public grounds, including wid-*
6 *enings, narrowings, extensions, diminutions, openings or closings, for the*
7 *whole of the city or county and, by ordinance, adopt such surveys as the*
8 *official map or part thereof of the city or county.*

9 2. *The governing body, by amending ordinances, may make additions*
10 *or modifications to the official map or part thereof by adopting surveys of*
11 *the exact location of the lines of the public streets, watercourses or public*
12 *grounds to be so added or modified, and may also vacate any existing or*
13 *proposed public street, watercourse or public ground contained in the*
14 *official map or part thereof.*

15 SEC. 3. 1. *Prior to the adoption of any survey of existing or proposed*
16 *public streets, watercourses or public grounds as the official map or part*
17 *thereof, or any amendments to the official map, the governing body shall*
18 *refer such surveys and amendments to the appropriate planning commis-*
19 *sion for review.*

20 2. *The planning commission shall report its recommendations on*
21 *such proposed official map, part thereof or amendment thereto within 40*
22 *days, unless an extension of time is agreed to by the governing body.*
23 *Before voting on the adoption of any proposed official map, part thereof*
24 *or amendment thereto, the governing body shall hold a public hearing*
25 *thereon. Notice of such public hearing shall be given by publication in a*