

Senate

COMMITTEE ON FEDERAL, STATE AND LOCAL GOVERNMENTS

Minutes of Meeting -- March 12 and 13, 1973

The twenty-second meeting of the Committee on Federal, State and Local Governments was held on the 12th of March, and continued to the 13th of March, 1973.

Committee members present: Chairman James Gibson
Lee Walker
John Foley
Stan Drakulich
Coe Swobe
Chic Hecht

Also present were:

William C. Thornton
Senator Raggio
Senator Monroe
Senator Brown
Senator Lamb
Senator Young
R. E. Hansen, Real Estate Division
Mike Melner, Department of Commerce
Mike Marfisi, McCulloch Corporation
Charles Ball, Horizon Corporation
Assemblyman Hafen
Joe Midmore, Builders Association
Noel Manoukian
Press

Chairman Gibson called the meeting to order at 3:00 P.M. He stated that the first bill to be considered would be SB-392.

SB-392 Provides that land zoned and later annexed by city retains zoning classification.

Mr. William C. Thornton, attorney from Reno, appeared before the committee to testify on this bill. He explained that the people he represents are seeking annexation on some property in the City of Reno. The problem in this bill is that it involves a local annexation matter which is presently under consideration by the Reno City Council. He pointed out that the state by an enabling act, turned over zoning to the cities.

Mr. Thornton went into the different sections of the bill and what the ramifications of the legislation would be. He requested that if this legislation is passed, a provision be added that it not apply to any cases that are presently in the process of an action. Senator Raggio and Senator Young as two of the co-sponsors of the bill, both spoke in support of this legislation and the need for it. Mrs. Phillips from Reno also spoke, indicating that the people in the area concerned would be in support of this bill.

SB-259 Regulates land sales developers and reorganizes the real estate education, research and recovery fund.

Mr. Melner, head of the Nevada State Department of Commerce, testified that the largest problem faced by the department in all of its divisions is the land sales problem, particularly the Real Estate Division and the Consumer Affairs Division. The kind and amount of complaints received by the department are phenomenal. From federal reports and information available to the department, the State of Nevada has the largest activity and abuses in land sales than any other state in the union. Although there are many honorable business concerns and quality developments in the state, there are still those who use high pressure, no investment or low investment, the marginal developer who sells undeveloped, unreachable waste land -- these are the people the department is concerned about and the ones that SB-259 is aimed at. The main thrust of this legislation is to give some enforcement and restraint on land sales activities in the state.

Mr. Hansen, head of the Real Estate Division, also testified that Nevada has a disproportionate share of complaints regarding misrepresentation and abuses in land sales activities. He then presented colored slides depicting some of the land that marginal developers have tried to sell.

Chairman Gibson requested that Mr. Hansen go over the bill and explain how it is written in order to meet the problems we are now facing in fraudulent land sales. Mr. Hansen then read and explained all the new language in the bill and its purpose. A copy of the proposed amendments to this bill as submitted by the Department of Commerce are attached herewith as Exhibit "A".

Senator Young testified, indicating that he had been on a subcommittee which had heard evidence such as Mr. Hansen had

presented and several recommendations were made at that time. One such recommendation was that each contract of sale on a lot should be recorded, unless the contract provides for the giving of a deed within 90 days.

Mr. Wells O'Brien, representing McCulloch Properties, testified on SB-259. McCulloch's position on this bill is that they are not opposing it. They have prepared a few amendments which they would like to have added to the bill.

Jay Fihn, Director of Sales at the Aladdin Hotel in Las Vegas, addressed himself to the committee only to indicate the economic impact of this legislation on one hotel in the state. There is a sales organization at the Aladdin which spends in excess of one million dollars a year -- this organization guarantees continued revenues to the hotel and to the State of Nevada.

The next witness to testify was Mr. Douglas Deaner, representing the Nevada Land Bank company. He went on record as being in opposition to SB-259. Mr. Deaner went over the various sections of the bill and stated his objections. He emphasized that he felt the penalties in the bill were too severe. The committee also heard testimony from Mr. David Coster, representing the American International Development Corp. and Mr. Bob Bowers, representing the Nevada Realtors Association. Mr. Bowers stated the realtors were in favor of the concept of SB-259 with amendments. Chairman Gibson then adjourned the meeting until March 13, 1973.

(Recess)

Chairman Gibson called the meeting to order at 7:00 P.M. The purpose of the meeting was to continue the hearing on SB-259. Mr. Marfisi, also representing McCulloch Properties, was first to be heard on this bill. Mr. Marfisi reiterated some of the points Mr. O'Brien made previously, and then went over some of the administrative procedures under the proposed legislation.

Mr. Leslie Gray, representing the Virginia City Historic District Commission and Comstock Foundation spoke in support of SB-259, stating that he felt we needed some good strong regulations in the state. Mr. Charles Bell, representing Horizon Corporation, spoke in opposition to this bill as it is presently written. Mr. Joe Midmore, representing Builders Association, and Mr. Don Steinmeyer, representing Kaiser Etna Western Homes, both asked that "Condominiums" be exempted from this bill.

Senate Committee on Federal, State, and Local Governments

Chairman Gibson then stated that the committee would try to get together and digest all the information they had been given and have the amendments drawn up as soon as possible.

The committee then turned to other bills previously considered in other hearings and took action on them as follows:

- SB-127 Senator Swobe moved to "Amend and Do Pass," seconded by Senator Dodge. Motion carried.
- SB-124 Amend and bring back to committee for further consideration.
- SB-126 Amend and bring back to committee for further consideration.
- SB-120 Have amendments drawn up.
- SB-128 Senator Drakulich moved to "Hold Indefinitely," seconded by Senator Swobe. Motion carried.
- SB-50 Senator Drakulich moved to "Hold Indefinitely," seconded by Senator Walker. Motion carried.
- AB-1 Senator Foley moved to "Amend and Do Pass," seconded by Senator Swobe. Motion carried.
- AB-4 Senator Drakulich moved to "Amend and Do Pass," seconded by Senator Foley. Motion carried.
- AB-18 Wait until the Board of Regents can be heard.
- AB-224 Senator Swobe moved to "Amend and Do Pass," seconded by Senator Foley. Motion carried.
- AB-189 Senator Drakulich moved to "Amend and Do Pass," seconded by Senator Swobe. Motion carried.
- SB-300 Senator Dodge moved "Hold Indefinitely," seconded by Senator Swobe. Motion carried.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Mary Jean Fondi,
Committee Secretary

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Local Govt.

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Sec. 5. NRS 119.110 is hereby amended to read as follows.

119.110 "Subdivision" means any land or tract of land in another state, [or] in this state or in a foreign country from which a sale is attempted, which is divided or proposed to be divided over any period into [50] 10 or more lots, parcels, units or interests, [for the purpose of sale as part of a common promotional plan and where any subdivision is offered by a single developer, or a group of developers acting in concert, and such land is contiguous or is known, designated or advertised as a common unit or by a common name such land shall be presumed, without regard to the number of lots covered by each individual offering, to be part of a common promotional plan.] including but not limited to undivided interests, are offered, known, designated or advertised as a common unit by a common name or as a part of a common promotional plan of advertising and sale. For the purposes of Section 17 of this act, "subdivision" means any land or tract of land in another state, in this state or in a foreign country from which a sale is attempted, which is divided or proposed to be divided over any period into 10 or more lots, parcels, units or interests, including but not limited to undivided interests, and also any other land, whether contiguous or not, if 10 or more lots, parcels, units or interests, including but not limited to undivided interests, are offered, known, designated or advertised as a common unit by a common name or as a part of a common promotional plan of advertising and sale.

Sec. 5a NRS 119

For the purposes of this chapter "unit" shall mean the smallest salable portion of a subdivision.

Sec. 8 NRS 119.150 is hereby amended to read as follows:

119.150 1. The division shall, prior to issuing any license under this chapter to any person or broker, fully investigate all information placed before it as may be required pursuant to [NRS 119.140] this chapter and, if in the judgment of the division it is necessary, shall inspect the property which is the subject of the application. All reasonable expenses incurred by the division in carrying out such investigation or inspection shall be paid by the applicant and no license shall be issued until such expenses have been fully paid.

2. Payments received by the division pursuant to this section shall be deposited in an investigative account. The administrator may use this account to pay all reasonable expenses of agents and employees of the division in making any investigation under this section or for the enforcement of any other provision of this chapter, without limitation by the provisions of NRS 281.160. The administrator may advance money for such expenses when appropriate.

3. Each expenditure from the investigative account shall be audited, allowed and paid as other claims against the state are paid.

Sec. 9. NRS 119.160 - Item 3 shall be amended as follows:

3. If the administrator of the division finds that grounds for denial exist, he shall issue an order so stating to the owner or subdivider no later than 30 days after receipt of the information required to be filed by NRS 119.140. If the administrator of the division issues an order of denial, the owner or subdivider may appeal such order to the director of the department of commerce who shall, within 5 days of the receipt of such appeal determine whether grounds for denial exist. If the director finds that grounds for denial do exist, he shall confirm the denial. If the director confirms the denial, the subdivider or developer may appeal to the commission which shall conduct a hearing and either confirm the denial or order a license issued within 30 days of the receipt of the appeal.

Sec. 10. NRS 119.180 - all items are as printed in the bill with the exception of the following:

1.(b)(1), page 7, reads as follows:

(1) Complete an application in such form and containing such reasonable information as the division may require. The division shall, in addition to any other exam provided for by this chapter or any other chapter, examine any real estate broker or salesman charged with the performance of duties for the solicitation or sale of land under this chapter.

Item 4, page 7, reads as follows:

4. The information required to be provided by NRS 119.140 shall be given to each purchaser by the broker or [registered representative] salesman prior to the execution of any contract for the sale of any such property. The broker shall obtain from the purchaser a signed receipt for a copy of such information and, if a contract for disposition is entered into, the receipt and a copy of all contracts and agreements shall be kept in the developer's files within the State of Nevada for a period of [7 years] 3 years or 1 year after final payment has been made on any contract for the sale of property, whichever is longer, and shall be subject to inspection by the division. In addition to any other penalties prescribed by this chapter, failure to comply with the provisions of this subsection shall constitute a misdemeanor.

Sec. 14 NRS 119.220 is hereby amended to read as follows:

The administrator or director may appoint a hearings officer to conduct any hearings authorized under the provisions of this chapter.

Sec. 17, Item 1, line 2, delete the words: "or lot, parcel, unit or interest in any such subdivision"

This constitutes the only change in Section 17.

Sec. 20. Costs of administration of this chapter incurred by the division shall be paid through the investigative account or directly from the general fund in the state treasury on claims presented by the division and approved and paid as other claims presented by the division and approved and paid as other claims against the state are paid; but the total amount of such claims shall not exceed 60 percent of the total amount of money collected pursuant to this chapter. The division shall comply with the provisions of the State Budget Act in order that legislative authorization for budgeted expenditures may be provided.

Sec. 29. Subject to the provisions of this chapter, the division shall collect the following fees at such times and upon such conditions as it may provide by rule and regulation:

For each real estate broker's examination to represent a developer	\$25
For each real estate salesman's examination to represent a developer....	25
For each annual registered representative's license to represent a developer	25
For each transfer of a registered representative's license to represent a developer	10
For each developer's permit per subdivision	500

This \$500 fee shall not apply to any subdivision having 9 or less lots, parcels, interests or units nor to any subdivision where the lots, parcels, interests or units being offered or disposed of are in excess of 45 acres.

At the time of the original filing, each developer shall pay an additional \$5 for each lot, parcel, interest or unit in any one subdivision in excess of 100, but not exceeding 250 such lots, parcels, interests or units; \$4 for 251 through 500 lots, parcels, interests or units in any one subdivision; \$3 for 501 through 750 lots, parcels, interests or units in any one subdivision and \$2.50 for all lots, parcels, interests or units in excess of 750 in any one subdivision.

Delete Section 30 through and including Section 45.

645.842 There is hereby created in the state treasury the real estate education, research and recovery fund. A balance of not more than \$20,000] \$50,000 shall be maintained to be used for satisfying claims against persons licensed under this chapter, as provided in NRS 645.841 to 645.8494, inclusive. Any balance over \$20,000] \$50,000 at the end of any fiscal year shall be set aside and used by the administrator, after approval of the commission, for real estate education and research.

[Sec. 47] Sec. 31. NRS 645.843 is hereby amended to read as follows:

645.843 Upon renewal of every real estate broker's and real estate salesman's license on or before April 30, 1970, and on or before April 30 of each year thereafter, every licensed broker and salesman, when renewing any such license, shall pay in addition to the renewal fee, a fee of \$15. Such additional fee shall be paid into the state treasury and credited to the fund, and shall be used solely for the purposes provided in NRS 645.841 to 645.8494, inclusive.

[Sec. 48] Sec. 32. NRS 645.844 is hereby amended to read as follows:

645.844 1. When any person obtains a final judgment in any court of competent jurisdiction against any licensee under this chapter, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required under this chapter and which cause of action arose on or after July 1, 1967, such person may, upon termination of all proceedings, including appeals in connection with any judgment, file a verified petition in the court in which the judgment was entered for an order directing payment out of the fund in the amount of actual damages included in the judgment and unpaid, but not more than \$10,000 per claimant

No other change Section 32 up to:

3(g) He has posted a bond to guarantee costs should his application be denied, in the amount of 10 percent of the actual damages he seeks from the fund.

[Sec. 49] Sec. 33. NRS 645.845 is hereby amended to read as follows:

645.845 1. Whenever the court proceeds upon a petition as provided in NRS 645.844, the administrator may answer and defend any such action against the fund on behalf of the fund and in the name of the defendant and may use any appropriate method of review on behalf of the fund.

[Sec. 50] Sec. 34. NRS 645.846 is hereby amended to read as follows:

645.846 If the court finds after the hearing that the claim should be levied against the portion of the fund allocated for the purpose of carrying out the provisions of NRS 645.841 to 645.8494, inclusive, the court shall enter an order directed to the administrator requiring payment from the fund of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in NRS 645.841 to 645.8494, inclusive.

[Sec. 51.] Sec. 35. NRS 645.847 is hereby amended to read as follows:

645.847 If the administrator pays from the fund any amount in settlement of a claim or towards satisfaction of a judgment against a licensed broker or salesman, the license of such broker or salesman, together with the license of such broker or salesman under chapter 119 of NRS, shall be automatically suspended upon the effective date of an order by the court as set forth herein authorizing payment from the fund. No such broker or salesman shall be granted reinstatement until he has repaid in full, plus interest at the rate of [4] 6 percent per annum, the amount paid from the fund on his account. Interest is computed from the date payment from the real estate fund was made by the administrator.

[Sec. 52] Sec. 36 NRS 645.848 is hereby amended to read as follows:

645.848 1. If, at any time, the money deposited in the fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the administrator shall, when sufficient money has been deposited in the fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of [4] 6 percent per annum. Any sums received by the real estate division pursuant to NRS 645.841 to 645.8494, inclusive, shall be deposited in the state treasury and credited to the fund.

[Sec. 53] Sec. 37 NRS 645.8491 is hereby amended to read as follows:

645.8491 When the administrator has paid from the fund any sum to the judgment creditor, the administrator is subrogated to all other rights of the judgment creditor and the judgment creditor shall assign all his right, title and interest in the judgment to the administrator and any amount and interest so recovered by the administrator on the judgment shall be deposited to the fund.

[Sec. 54] Sec. 38 - No other change.

[Sec. 55] Sec. 39 NRS 645.8493 is hereby amended to read as follows:

645.8493 The bond required by NRS 645.844 shall be furnished in accordance with chapter 20 of NRS and shall be conditioned upon compliance with the requirements of NRS 645.841 to 645.8494, inclusive. Recovery against the bond shall be authorized by the court if, after proceeding upon a petition, it rules in favor of the administrator on behalf of the fund.

[Sec. 56] Sec. 40 - No other change.

S. B. 392

SENATE BILL NO. 392—SENATORS SWOBE, YOUNG,
WILSON AND RAGGIO

MARCH 8, 1973

Referred to Committee on Federal, State and Local Governments

SUMMARY—Provides that land zoned and later annexed by city retains zoning classification. Fiscal Note: No. (BDR 22-1531)

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

AN ACT relating to planning and zoning; providing that land already zoned by a local government and annexed by a city retains such zoning classification and that unzoned land annexed by a city takes the most restrictive zoning classification; 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. NRS 278.260 is hereby amended to read as follows:
2 278.260 1. The governing body shall provide for the manner in
3 which such regulations and restrictions and the boundaries of such dis-
4 tricts shall be determined, established and enforced, and from time to time
5 amended, supplemented or changed. However, no such regulation,
6 restriction or boundary shall become effective until after a public hearing
7 in relation thereto, at which parties in interest and citizens shall have an
8 opportunity to be heard. At least 15 days' notice of the time and place of
9 the hearing shall be published in an official newspaper, or a newspaper of
10 general circulation, in the city, county, or region.
11 2. *If a land use classification has been established and land use*
12 *restrictions imposed by another local government upon land subsequently*
13 *annexed to a city, that classification and those restrictions shall remain in*
14 *effect and be enforced by the city until changed pursuant to subsection 1.*
15 3. *If land annexed by a city is not subject to a land use classification*
16 *or restrictions imposed by another local government, it shall take the most*
17 *restrictive land use classification existing within the annexing city upon*
18 *such annexation and such classification shall continue until changed pur-*
19 *suant to subsection 1 of this section.*
20 SEC. 2. This act shall become effective upon passage and approval.

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S. B. 259

SENATE BILL NO. 259—SENATORS LAMB AND GIBSON

FEBRUARY 16, 1973

Referred to Committee on Federal, State and Local Governments

SUMMARY—Regulates land sales developers and reorganizes the real estate education, research and recovery fund. Fiscal Note: Yes. (BDR 10-389)

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

AN ACT relating to the regulation of certain enterprises engaging in the sale of real estate; providing for stricter licensing and regulation of certain developers and their agents; providing for more complete disclosure of certain provisions relating to land sales; providing equitable remedies; reorganizing the real estate education, research and recovery fund to include land sales; 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. NRS 119.010 is hereby amended to read as follows:
2 119.010 As used in this chapter, unless the context otherwise
3 requires, the words and terms defined in NRS 119.020 to 119.110, inclu-
4 sive, and sections 13 and 14 of this act have the meanings ascribed to
5 them in such sections.
- 6 SEC. 2. NRS 119.040 is hereby amended to read as follows:
7 119.040 "Developer" means:
8 1. The owner of subdivided land who, *on his own behalf or through*
9 *an agent or subsidiary*, offers it for sale. [or]
10 2. The principal agent of an inactive owner.
- 11 SEC. 3. NRS 119.080 is hereby amended to read as follows:
12 119.080 "Purchaser" means any person who *acquires or attempts to*
13 *acquire* an interest in any portion of a subdivision.
- 14 SEC. 4. NRS 119.090 is hereby amended to read as follows:
15 119.090 "Registered representative" is any person who is employed
16 or engaged by a developer to represent a company for compensation.
17 [Except as provided in paragraph (b) of subsection 1 of NRS 119.180,
18 "registered representative" does not include a real estate salesman
19 licensed in the State of Nevada.]
- 20 SEC. 5. NRS 119.110 is hereby amended to read as follows:
21 119.110 "Subdivision" means any land or tract of land in another
22 state, [or] in this state *or in a foreign country* from which a sale is
23 attempted, which is divided or proposed to be divided *over any period*
24 into [50] 10 or more lots, parcels, units or interests, [for the purpose of