

GOVERNMENT AFFAIRS COMMITTEE

Minutes of Meeting - February 28, 1977

Present: Chairman Gibson
Senator Foote
Senator Faiss
Senator Gojack
Senator Hilbrecht
Senator Raggio
Senator Schofield

Also Present: See Attached

Chairman Gibson opened the seventeenth meeting of the Government Affairs Committee at 2:00 p.m. with all members present.

SB-244

Designates ichthyosaur as official state fossil. (BDR 19-435)

Senator Gojack introduced the committee to Professor James R. Firby, Associate Professor of Geology with the Mackay School of Mines. Professor Firby informed the committee on the history of ichthyosaur in Nevada and noted that a complete replica of this fossil is found in Berlin, Nevada (west of Gabbs). He further stated that since Nevada will be the only state to have the complete skeleton (approx. 55 ft. long) it is only fitting to have it be designated as the state fossil.

Joe Jackson, Nevada State Press Association, in jest, objected to this choice and gave the committee his written testimony for the selection of Reginald Bryn Armstrong. This was done merely to entertain the committee?

Motion of "Do Pass" by Senator Gojack, seconded by Senator Hilbrecht. Motion carried unanimously. (Ichthyosaur as State fossil)

Chairman Gibson informed the committee that he was recommending that SB-249 should not be processed, and should be held in committee.

Senator Hilbrecht indicated that since he had some reservations on this bill he would make the motion to indefinitely postpone SB-249, seconded by Senator Raggio. Motion carried unanimously.

SB-193

Provides for assessments for improving certain streets. (BDR 20-737)

Senator Hilbrecht informed the committee that he met with Mr. Smith and Mr. Knisley and they determined that they needed to develop an approach to deal with the bottleneck situation through the use of an adaptation of the assessment district approach rather than simply putting the cost on the adjacent landlord.

They also decided to mandate a legislative solution to planning in the future to do away with this problem. The technique ~~was~~ ^{Senate} ~~was~~

we decided upon was that in the state statutes note insular development as defined in the amendment (developments of an unusual shape or are not contiguous on the city) would be required to pay the costs of connecting principal traffic arteries to those developments so these problems would not develop in the future.

The committee went over the bill together and noted all the changes in addition to the ones that were brought out by Senator Hilbrecht.

Frank Daykin was on hand to further explain the changes in the bill.

Bob Warren was concerned that this new language might create a windfall situation for the person that owns the bottleneck area.

Senator Hilbrecht felt that the taxed land owners would share equally in the burden and Frank Daykin felt that in the next reprint of the bill the windfall situation that Mr. Warren brought up would be eliminated.

The committee decided to wait until the next reprint was available before taking action on this bill.

SB-43

Provides additional compensation to county assessors and employees who possess specified professional designation.
(BDR 20-286)

Senator Gojack indicated that she has been approached about this bill and feels that there are many groups who have special expertise that would want to be included in this bill also.

Senator Hilbrecht was concerned that this bill might tie the hands of local governments.

Motion to Indefinitely Postpone by Senator Gojack, seconded by Senator Hilbrecht. Motion carried unanimously.

SJR-1

Proposes to amend Nevada Constitution to permit variety in forms of county government. (BDR C-241)

Chairman Gibson asked the committee if they were ready for action on this bill and Senator Raggio stated that he was not sure of the need for this legislation and would reflect that feeling with a "no" vote.

Motion of "Do Pass" by Senator Foote, seconded by Senator Hilbrecht. Motion Carried with the exception of Senator Raggio's No vote.

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AB-4

Increases number of taxing districts in Carson City. (BDR S-624)

Chairman Gibson informed the committee that many people wished to give testimony on this bill so he would reschedule this bill to be heard again before the committee takes action.

Patricia Ferrera feels that this bill is too open and gives the city too much power. Wants more definitive language in the bill. She feels that this is going to affect so many people that they should be able to retaliate by petition if they are against it.

SB-166

Enables cities and counties to adopt official map of and reserve land for public streets, watercourses and public grounds. (BDR 22-516)

Senator Young, co-sponsor of the bill, testified for the committee that this bill in its amended form would still keep the intent of the bill and hopefully satisfy the committee and others that had misgivings. Senator Young passed out a memorandum written by Andrew P. Grose entitled "SB-166 and the Taking Issue". See Attachment A.

Senator Raggio indicated that the reference to Parks in the context of the bill worries him.

Senator Hilbrecht also indicated that he would like to delete Parks and would also like to change the term "water courses" to drainage systems.

The committee discussed the above and felt that public grounds could be bracketed out of the bill.

Frank Daykin suggested that we carry both "water courses" and "drainage systems" in the bill.

The committee also discussed the time limit on the official map and Senator Hilbrecht suggested that it be one year. In summary the committee felt that 1) Restrict application to public streets, drainage systems and water courses. 2) Implementation so that they would have to designate the primary plan that would constitute the official map. 3) In the implementation it would cause the official map to be in effect for one year and then expire. After the year they would have to go through the process all over again.

There was discussion about whether or not to leave in ~~section~~ ^{section} 8. Senator Hilbrecht felt that there should be language in the bill somewhere for the court to be able to intervene on the part of the landowner.

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Bob Warren, Nevada League of Cities, indicated to the committee that he had received letters from Sparks and Las Vegas endorsing this bill and that the other cities were also in favor of the bill.

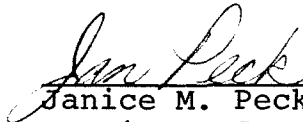
Debbie Sheltra, representing the Washoe County Home Owners Association as well as the Virginia Foothills Home Owners Association, she is against the bill as it now stands. Mrs. Sheltra feels that the official map should clearly spell out all the routes that might be used in the planning of a highway. This way the land on the first choice won't be ultimately used because the land will not be used for any project even though the other choices might be better. She also feels that each and every land owner that might be affected by the map should be notified by certified mail.

Chairman Gibson and the committee agreed with Mrs. Sheltra's suggestion of notification by certified mail but felt that holding all the routes open on a proposed highway would not be practical.

Chairman Gibson asked Mr. Daykin to work on the suggestions and the committee would schedule another hearing on the bill.

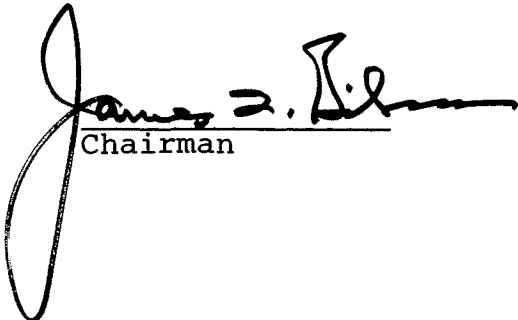
As there was no further business the meeting was adjourned at 3:45 p.m.

Respectfully submitted,



Janice M. Peck
Committee Secretary

Approved:



Chairman

STATE OF NEVADA
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February 20, 1977

M E M O R A N D U M

TO: Senator C. Clifton Young
FROM: Andrew P. Grose, ^{ag} Research Director
SUBJECT: S.B. 166 and the "Taking Issue"

The subject of "official maps" and their allowed usage is covered rather completely in American Law of Zoning, Vol. 3, 1968, Robert M. Anderson. I have copied the appropriate chapter for your review. To assist you, and possibly the Government Affairs Committee, I will summarize that chapter.

The use of official maps goes back well over a century and such a map was upheld by a Pennsylvania court in 1841 (Re Pittsburgh, 2 Watts & S 320 (1841, Pa.)). The U.S. Supreme Court upheld the use of official maps in 1897 (Baumann v. Ross, 167 US 548 (1897)).

Neither of these early cases addressed the prohibition of building permits for improvements on mapped streets. In 1936, New York's highest court upheld such a prohibition, recognizing the limitation on the use of one's property but holding that such a map would have little value if land in the beds of mapped streets could be developed without regard to the map. (Headley v. Rochester, 272 NY 197 (1936)). The New York Court 30 years later said that the map law did not constitute a "taking" (Rochester Business Institute, Inc. v. Rochester, 25 App Div 2d 97 (1966)). Appellate courts in Florida and Wisconsin held similarly (Miami v. Romer, 73 So. 2d 285 (1954) and State ex rel. Miller v. Manders, 2 Wis 2d 365 (1957)).

Other courts have recognized a taking under certain conditions such as where the part of a person's land left unaffected by

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the map is so small as to be unusable. (Re Sansom Street, 293 Pa. 483 (1928) and Kirschke v. Houston, 330 SW 2d 629 (1960)). Other courts have been unwilling to go beyond streets to other map elements such as parks (Miller v. Beaver Falls, 368 Pa. 189 (1951)).

Anderson says that nearly half the states have some version of an official map law. The origin of most of these is Model Planning Laws, Bassett and Williams, 1935. Those 1935 models included the concept of limitations on the improvement of land located on mapped streets, roads, etc.

Anderson concludes that courts have generally upheld the concept of official map laws that prohibit building permits for improvements that would conflict with the map. He tempers this with examples in which courts have ruled in favor of property owners whose property is made unusable or unsalable by virtue of the map. It comes down to a question of degree it seems as to when and if there is a "taking," and the facts of individual cases determine these answers.

Based upon Anderson's review, official map laws are in effect in Pennsylvania, New York, Utah, Rhode Island, Virginia, Connecticut, New Jersey, Florida, Texas, Wisconsin, Massachusetts, Illinois and Maryland among others not specifically cited.

If you want copies of any of the cases cited in the attached material from Anderson, let me know. You could make your own analysis of the application of those cases to S.B. 166. If, however, you want a staff analysis, you will have to ask Frank.

I found one other case not cited by Anderson in which a New Jersey court undertook to rewrite the official map law. In

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Lomarch Corp v. Mayor of Englewood, 51 N.J. 108 (1968), the New Jersey Supreme Court recognized the partial "taking" of a 1 year freeze such as you have in S.B. 166. There, the issue was parks. The court said the partial "taking" could be compensated by requiring the city to pay an option equal in amount to at least the taxes for the freeze period.

APG/jd
Encl.

STATEMENT OF POSITION RELATIVE TO SB 244 designating the itchthyosaur as the official state fossil.

We find it necessary to speak in opposition to this bill, because we have our own choice for state fossil and it isn't the itchthyosaur.

Some 150 miles east of here lies one of Nevada's unique state parks, the Itchthyosaur Fossil Area. Some 100 million years ago a huge fish, called Itchthyosaur roamed the inland sea that covered much of present day Nevada. The fossilized remains of these prehistoric creatures have been preserved, and one particular creature, fondly known as "Icky" rests in the park in regal splendor. Several thousand tourists pass his bier each year, paying reverence.

We submit that Icky has received enough honors from the sound state of Nevada. Yes, we believe that Nevada should have a state fossil. We can't think of a good reason why this should be, but apparently there are those who feel we should have a state fossil. We inkstained wretches of the press room today present a candidate in opposition to Icky. Our candidate, ~~is~~ no prehistoric marine reptile, is a living, breathing (well, almost), creature who over a long span of years has become the true epitomy of fossilization.

Our candidate even bore the nickname "Old Fossy" when he played in the streets of Las Vegas as a child. Later, working in restaurants, he was often thrown into the garbage with the fish bones and even today lives in terror of cats. His career of a fossil neared a climax on the Reno campus of the University of Nevada where he just missed the zero point in accomplishments if we disregard a few negligible items like service as editor of the Sagebrush and holding membership in Coffin and Keys and other campus service organizations. He slept away his days as the Lambda Chi house when he wasn't snoring his way through Prof. Higgle's journalism classes. After a brief sojourn in Woodland, he joined the Reno Evening Gazette staff as a reporter, advancing to assistant managing editor.

Around 20 years ago our candidate was assigned to cover the Nevada State Legislature. When he moved to the Las Vegas Sun he kept on covering the Legislature. The trouble was, after his first session of the Legislature ended, he never returned to the Gazette newsroom and after the latest session was over, he didn't go back to the Sun. He stayed in the press room. He slept through all the time the new legislative building was under construction and did not realize that the press room had been moved into the new building. This fossil, in fact, is so far removed from reality that he has drawn the assignment of chief honcho over the legislative pool, which might explain why there are claims that the coverage is loused up.

Members of the Senate Committee of Government affairs, and, Icky, cry your heart out, we give you as candidate for this high honor, the greatest fossil of them all - Reginald Bryn Armstrong.

SENATE

AGENDA FOR COMMITTEE ON.....GOVERNMENT AFFAIRS.....

Date Monday, 2-28-77 Time 2 PM Room 243

Bills or Resolutions
to be considered

Subject

Counsel
requested*

CORRECTED AGENDA - 2-22-77

SB-166 Enables cities and counties to adopt official map of and reserve land for public streets, watercourses and public grounds. (BDR 22-516)

SB-193 Provides for assessments for improving certain streets. (BDR 20-737)

SB-43 ^{I.P.P.}
^{Killed →} Provides additional compensation to county assessors and employees who possess specified professional designation. (BDR 20-286)

AJR-19 ¹⁹⁸⁸ Proposes annual sessions of the Legislature (BDR C-379)

SB-244 Designates ichtyosaur as official state fossil. (BDR 19-435)