MEMBERS PRESENT: Chairman Dini
Vice Chairman Schofield
Mr. Craddock
Mr. DuBois
Mr. Jeffrey
Mr. May
Mr. Mello
Mr. Nicholas
Mr. Polish
Mr. Prengaman
Mr. Redelsperger

MEMBERS ABSENT: None

GUESTS: Mr. Bob Sullivan, Carson River Basin COG
Ms. Peggy Twedt, League of Women Voters
Mr. G. P. Etcheverry, Nevada League of Cities
Mr. Louis Test, City of Reno
Mr. Tom Young, N.E.A.T.
Mr. A. H. Cruickshank, Common Cause
Ms. Joyce Woodhouse, NSEA
Mr. Gene Milligan, Nev. Assoc. of Realtors
Mr. John Hawkins, Nev. Assoc. of School Boards
Mr. Chuck King, Central Telephone
Mr. Dan Fitzpatrick, Clark County
Mr. Wendell McCurry, Division of Env. Protection
Mr. Lew Dodgion, Div. of Env. Protection
Mr. Don Hataway, City Manager, Carson City
Mr. Bob Ritter, Nev. St. Press Assoc.
Mr. Pat O'Driscoll, Soc. of Prof. Journalists
Mr. Larry Werner, Carson City PUblic Works
Ms. Dorothy Kosich, Soc. of Prof. Journalists

Chairman Dini called the meeting to order at 8:00 A.M. The first bill to be considered is AB-29.

Mr. Wendel McCurry stated that AB-29 is a bill to revise Chapter 278A to clarify that PUD's must have the approval of the Division of Environmental Protection and the Division of Water Resources in the same manner as any subdivisions under Chapter 278. It specifically clarifies this by saying that a plan filed as a final map under Chapter 278.570 must have the same certificate as required for approval under Chapter 278.377.

Mr. McCurry confirmed in answer to Mr. Dini's question, that approval means a signature by the State Engineer's office and by the State Health Division. The State Health Division's approval is contingent upon written approval regarding water

pollution and sewage disposal by the Division of Environmental Protection. What brought this up was one interpretation that PUD's did not come under subdivision requirements and, therefore, the review of the state. This is now a law suit.

Mr. Dini asked how much time, in a regular subdivision, does it take for a state agency to certify this.

Mr. McCurry replied that it takes about three or four hours for the Division of Environmental Protection.

Mr. McCurry explained to Mr. Redelsperger that the procedure followed when the tentative maps are submitted to the local agency is that the tentative maps are transmitted from the local planning commissions to each of the agencies involved in reviewing the maps. This procedure, if followed, results in fewer delays with problems at a later date. These are sent simultaneously and the agencies then have fifteen days to respond as to whether they should be approved as submitted or whether they are subject to sewage disposal being made available or certain controls on drainage and erosion. Also, whether there is adequate capacity of the community sewer system to serve that subdivision. We also look at soil suitability for individual septic tank systems.

Mr. Dini stated that this is quite a bit more stringent for planning PUD's over regular subdivisions. In Chapter 278 and Chapter 235, they don't require the approval or certification of a tentative map, only to submit it for review. This goes one step further for approval, so we are making a substantial change in the existing law.

Mr. McCurry said that this is not the intent and I don't see that there is any more requirement placed on a PUD than a regular subdivision. The intent was to make the same requirement. In the one case that we were involved with, the interpretation was made that if you call it a PUD, it doesn't have to have state agency review.

Mr. DuBois asked if this is going to hold up the home building even further with more applications and in the long run increase the cost to the consumer.

Mr. McCurry indicated there would be none if the proper information is submitted at the outset. He further advised the committee that there is no economic impact. In all cases, except one political entity, we are going through the procedure now. When someone submits a PUD, it does get submitted to the state agencies for review. If the conditions are met, they are approved.

Mr. Nicholas asked which entity was the exception.

Mr. McCurry indicated that it was Carson City. They were faced with a water shortage and sewage capacity, therefore, subdivisions were not been approved. Carson City made an interpretation that if you called it a PUD, they didn't have to comply, so some subdivisions were filed as PUD's with the interpretation that the state didn't need to review them. The court ruled in favor of Carson City after a suit was filed. Under this law, however, Carson City would be included and the PUD's would be reviewed.

Mr. William J. Newman, State Engineer, testified that he confirmed the remarks made by Mr. McCurry. He indicated that there is a companion bill AB-61 that has a definition of planned unit developments. Perhaps they should be combined, so that we would have the definition with the requirements. The word 'certified' in Line 12 of AB-29 probably should be changed to 'approval'. We have direction in the statutes to approval, conditionally approve or disapprove subdivisions and condominiums that are submitted to the agencies for their approval. The problem we had was a circumvention of the subdivision, as we saw it, of the planned unit development concept. We had a subdivision submitted to us that was a typical subdivision - straight line lots and blocks - here in Carson City, and we disapproved it because of the availability of water. They changed the title of it and called it a PUD and by that, because the statute was not clear, they were able to get it approved through the City Supervisors. There are probably not more than several a month submitted for approval. There have been none since the law suit.

Mr. Dini asked how regular subdivisions are handled.

Mr. Newman replied that a regular subdivison tentative map is first submitted by the local entity. We have fifteen days in which to respond. We review water rights, water capacities, etc. We then either approve or disapprove. If approved, it is returned to the local entity and then the final map comes in. The final map is the one we sign and certify that it has been approved for recording. The tentative map has our review attached to it and copies go all state agencies, including the Real Estate Division for their public disclosure package.

Ms. Peggy Twedt, spoke on behalf of the League of Women Voters. Her testimony is attached hereto and forms a part of these minutes as EXHIBIT A.

Mr. Don Hatawa; spoke in opposition to the bill. In reply to the questions raised as to the time it takes to process these applications, especially in the larger counties and cities, the staff that we have on board check the same things that the

state goes through and we are duplicating, in my opinion, efforts throughout not only the PUD process, but also the subdivision process. It doesn't matter whether it takes thirty minutes or fifteen days, it is still a duplication of effort. When our planning commission reviews this, when the people involved with water review it, they look at the same processes and the same things that the state does. So, in my opinion, it is a duplication of effort and should be looked at that way. Secondly, the state Division of Environmental Protection and other agencies within the Department of Natural Resources do have a moratorium capability. If they do not feel that the local units of government, as in this case Carson City, are not doing the right thing, they can place a moratorium on the city and stop all growth, for that matter, regardless of whether it is PUD or subdivision review. In May, 1979, a moratorium was issued and it shut down all building permit processes. We are, as you may know, operating under a Growth Management ordinance in that every six months, we take a look at all the natural resources and other services we provide in the community and determine whether we have the capability of serving any additional growth. I feel that we have our house in order at our end and that everything that the state is doing is a duplication of effort on not only our part, but also the other large communities in the state. So we disagree with pulling the PUD review into the state level, but we have serious questions as to whether they should even be in the subdivision review.

Mr. Dini asked that in trying to assess the water resources the state should not have any part of the subdivision law. He indicated that because of some abuses in subdivisions developed where it was later found there was no water you have to have state review.

Mr. Hataway answered that the state has got to be involved in looking at the broad picture of water resources in the state. There is absolutely no question about that. When you get down to the PUD in this case or the subdivision in AB-29, it is too late to be looking at the broad picture. They should be doing that up front way before any subdivisions come in. On the individual process of subdivisions and particularly in the larger cities and counties, they have the staff. The smaller counties have real concerns about removing the state out of that process. The larger entities in the state have the capability and we are duplicating effort. The state still has the moratorium process to step in when local entities have gone beyond their bounds. The state needs to be involved in the overall water planning to determine if the resources are there, but not on an individual PUD or subdivision basis.

In answer to Mr. Craddock's question of how the state could handle overall water management, Mr. Hataway answered that the state does have an office of State Water Planning that Jim Hawk heads. I would hope that his division would be provided with adequate resources to do detailed studies of at least the basins in the state that are impacted on growth. The federal Geology Society did do a complete study in cooperation with the city and the state for our valley and determined that we had limited resources that we have to speak to. So, through a reasonable funding level for that particular division, planning could come on the individual basins.

Mr. Dick Heikka testified that he was not opposed to the PUD's coming under the same procedural requirements as subdivisions. I think that the Chairman here has expressed that there is a zinger in this bill which basically puts the state ahead of local government. The bill as drafted has two problems. We could be forced into a tremendous cost to determine the adequacy of a water-sewer system in order to overcome any objections by the state before we actually go to the Planning Commission. If the bill were left as drafted, we then would be forced to go to the Planning Commission and say, we have gone through all this expense and now have the state's approval, now we think you ought to approve it. It would put some burden on local government, as well as on the developer.

End of testimony.

Mr. Bob Sullivan testified on AB-104. The bill extends possible requirements for approval of certain parcel maps. Mr. Sullivan stated that the bill had been developed by the Council of Governments, principally on behalf of Douglas County. The county has the highest growth rate and has had parcel problems. The bill deals with requirements which may be imposed by a governing body. The current bill states that any reasonable improvement would be required if the parcel were a subdivision, with the exception that if the parcel keeps changing ownership, local governments cannot put a requirement on it as though it were a subdivision. This refers to parcels with four or less splits. If you have more than four, you are into subdivisions. The subdivision requirements should apply to the parceling mechanism, as well. Because the language states that the parcel has to be under the same ownership, we have problems. Our suggestion is to change the language in Line 15 of the bill, where it says 'under the same', to 'regardless of'. That is the intent.

Mr. Bryce Wilson, Douglas County Planning Commissioner, stated that the problem we have had in Douglas County is the continual reparceling of previously parceled parcels. As long as the

ownership changes, we are unable to impose the subdivision requirements, when obviously it is becoming a subdivision. Some of the changes of ownership are very close. We would like to see this loophole plugged by the language as Bob suggested and, perhaps, changed to 'regardless of ownership' on Line 15 or Line 16 and 17 changed to 'whether or not its ownership is changed'.

Mr. Wilson explained that this usually happens with a large land owner where he will chip off 160 acres and 320 acres and sell it. The other owner then in turn divides the acreage and first thing you know you have a subdivision, and with no controls. In certain areas, if somebody wants to split a ten acre piece and not do it right, we want to have the tool to keep it in the context of the surroundings. We cannot control it now because of the loophole in the language. It is a pre-planned exchange of ownerships in order to subvert the sub-division law.

Mr. Wilson stated that the area around Johnson Lane is a good example of parceling and reparceling. There is no planning out there at all. Everyone has a well and septic tank down to acre lots. There has been no control.

Mr. Dini stated that the best thing to do is to post this matter in another week when the Douglas County Planning Director can testify. Mr. Wilson had indicated that he is very close to the picture with technical and practical expertise. He indicated that it would be set for hearing for next Wednesday and get the planner in.

End of testimony. Mr. Wilson asked that the resolution be entered for the record and is attached hereto as EXHIBIT B.

The next bill to be heard was AB-57 - Changes notice required for public meetings and provides new exemptions.

Mr. Prengaman indicated that the bill commends the open meeting law and changes the notice requirement for public meetings and provides two new exemptions. At the present time, written notice of all meetings must be given at least three working days before that meeting is held. This would propose to amend it changing three working days to seventy-two hours. It would exclude from this Chapter meetings where a public body is meeting with its attorney to discuss any pending or proposed legal action or proceeding and/or, with a meeting with a public body to discuss acquisition or disposition of property. This bill has been requested by the Nevada League of Cities.

Mr. Echeverry stated that they are asking for open and public meetings of local and state government bodies. For clarification, we wish the law to be amended to require seventy-two hour advance notice of meetings and place and to exempt meetings between public bodies and their legal counsel for the discussion of litigation and property transactions. We have had varied opinions on what constitutes three days from attorneys throughout the counties and cities. Some say three working days and you can have a meeting on the fourth day. Some say you have to wait the fourth day. We asked for an opinion and it states that the three working days have to be over and apart from the day of the meeting, which means actually four working days. You take three days times 24, is still 72. If you wait the fourth day, you have 96. That is our argument which we would like clarified. Saturdays and Sundays are already excluded, which we don't want to change. The League of Cities does not want to weaken the open meeting law.

Mr. Dini stated that all the cities and counties in the state are really operating well with the law that is in existence now, they have learned how to live with it. Why should we tamper with something that is not posing a problem. You haven't shown me in any instance that local governments have a problem in complying with this law.

Mr. Echeverry stated that it was not their intent to weaken the law but to clarify it. Somewhere down the line, some of the small counties will have a problem getting to the general public and will not be able to comply with the law. The MX situation will be a problem when their officials want to call a meeting and there is no time for notice. This has already happened.

Mr. Dini reminded Mr. Echeverry that if they don't make a decision, there is no violation of the open meeting law. Mr. Echeverry said sometimes they have to make a decision. Mr. Dini stated that they could not make a decision because it is not an official meeting.

Mr. Schofield asked of the various opinions Mr. Echeverry received, which one did he accept? Mr. Echeverry replied that they went to the last page of the Attorney General's opinion, used that and went on the fourth day.

Mr. Louis Test, Reno City Attorney, stated that we have a hard time explaining to the council members in an open meeting what the legal ramifications are of an action that has already been filed. The terminology "any pending or proposed legal actions" is pretty broad, and I don't necessarily agree with it. When you are trying to work out a settlement, because of the pros and cons of the case, you definitely don't want the opposing counsel to know what those cons are in an open meeting. How do you sit down with a public body (elected officials) and protect the right of the public to know what is going on and at the same time give

the public that necessary legal protection to see that the public is adequately being represented by legal counsel. It might be more appropriate than 'any pending or proposed legal actions' to say 'after legal action has been filed against a governmental body or public body'. Then you could go into a closed session.

Mr. Dini asked Mr. Test to discuss Items F and G.

Mr. Test said he could not respond to Item G. He was mainly concerned with Item F, which deals with the attorney-client relationship. In an open meeting, the attorneys appreciate it being open. Because then you have to consider discussing with counsel the ramifications of any action that is about to be taken by the council. I think that makes they stop and think more about the actions that they are going to be taking. The problem that we run into, especially with self-insurance which is becoming the trend by local governmental agencies, is being able to protect the taxpayers when they are making a determination as to how to settle a case. If you have to sit there in an open meeting and discuss the flaws in the case with your opposing counsel sitting in that meeting, the liklihood of getting a settlement that would be beneficial to the taxpayer and the public in general is going to be extremely difficult. I feel we should consider incorporating into the open meeting law some type of an attorney-client relationship that everybody else enjoys, as long as a claim has been filed.

Mr. Etcheverry discussed Item G, which has to do with industrial development, in the buying and selling of property, where people have come in and outbid the city itself. If you are going to release a piece of property for industrial development and you want to tie it up for an industrial park, the inference is made in that direction under Item G.

Mr. Schofield asked if the wording could be changed to "acquisition or disposition of property with no official action to be taken".

Mr. Etcheverry answered that if they could first discuss it and come up with an agreement with the council and then come to a meeting with it would pose no problem. They want to have that flexibility.

Mr. Etcheverry was reminded by a member of the audience that some cities are on a four-day work week, as far as the open meeting law is concerned, which poses another problem.

Mr. Jeffrey indicated that he saw no problem with the disposition of property. In his experience it was all done in open meetings.

Jack Warnecke stated that the supervisors have their meetings on Thursdays. On Friday mornings we have the agenda meeting for the following week's meeting. We had our meeting last Friday morning for the agenda, posted it Friday afternoon, neglecting to think that Monday was a holiday and, therefore, by the definition of this bill, not a working day. We would have had to post our meeting notice for Thursday morning's meeting at 9:00 A.M. Friday morning. Our agenda meeting would then have had to be held on Wednesday before we had even had our meeting. That is why it is important that Section 2, Item 2 be changed to the seventy-two hours, because everytime you have a three-day holiday, you have this problem.

Mr. Bob Sullivan noted that is it the Legislature's intent to find our own little avenue as long as the local residents don't disapprove, or should we make everything tight and true to the daily realities of the business operation.

Mr. Bob Ritter, Executive Editor of the Nevada State Journal and Reno Evening Gazette, and representing the Nevada State Press Association and the Associated Press Managing Editors Association, spoke in opposition to AB-57. His testimony is attached hereto and made part of these minutes as EXHIBIT C.

Mr. Dini asked if there was any area in the attorney-client relationship where the local governments should have some avenue of discussing things.

Mr. Ritter indicated that that already exists if local government will conduct its affairs and apply sound management principles. I do not feel that elected officials should sit in quorum on every legal item that comes before them. They should be handled at the staff level in many instances.

Mr. Prengaman asked Mr. Ritter if he was implying that if sensitive negotiations have to take place, say, between a body and its attorney that if less than a quorum are there, that they could handle it. That it should be handled at the staff level.

Mr. Ritter indicated that the local entity must provide an avenue by which the public can obtain information about a case. When asked how he felt about the three working days and the seventy-two days, he answered that he looks at the Attorney General's opinion on Page 17.

Mr. May stated that he opposed any changes of the open meeting law, but in this case, I don't think these are particularly dangerous changes, but I do see that if any adjustments, whether these or others, are made in this statute at this session, two years from now, the legislators will say 'well, they cleaned it up a little last time, we'll clean it up some more'. Four years from now the same thing could happen and before we know it, there will be nothing left of what is, perhaps, known as the toughest

and the best open meeting law in the entire fifty states and I prefer and go on record, Mr. Chairman, to keep it intact with absolutely no modifications . I can see nothing to improve it at this point.

Mr. Craddock asked Mr. Ritter if he felt that it would do any harm to clarify the seventy-two hours vs. three working days to say that anytime after the same hour on the fourth working day a meeting could be held.

Mr. Ritter answered that he did not think it needed any clarification. I do not believe that this law should be tampered with.

Mr. Ritter asked the Chairman if he had received telegrams from Mike O'Callahan and some of the print colleagues. Mr. Dini answered that he had not. Copies afe attached as EXHIBIT D.

Mr. Pat O'Driscoll, a reporter for the Gazette and Journal, testifield spoke in opposition to AB-57. His testimony is attached hereto and made a part of these minutes as EXHIBIT E.

Mr. Craddock posed the same question regarding the seventy-two hours vs. three working days to Mr. O'Driscoll that he posed to Mr. Ritter.

Mr. O'Driscoll answered that he would not like to see the law changed at all.

Ms. Dorothy Kosich, a member of the National Freedom of Information Committee for the Society of Professional Journalists, a working government reporter, testified that she wished to give specific examples of where the public has demanded knowledge of property transactions. Recently, Douglas County decided it got Fleischmann funding and wanted to purchase a new library site. They complied with the open meeting law at several meetings and the Commissioners made their decision which was opposed by the public. The public demanded additional hearings be held. This is a property transaction and the public did care about what was being done with their tax dollars. This type of hearing on property should continue to be public.

Ms. Kosich continued that the attorney-client relationship is a difficult issue. In Douglas and Carson City, the school boards have made frequent use of the attorney-client privilege. I would like to see more clarification of the law of when you do permit an executive session. I would like to see that law kept basically the way it is because it does work for the public.

Mr. Arthur Cruickshank, a lobbyist for Common Cause and the Nevada Library Association, testified in favor of retaining the open meeting law as it is written.

Ms. Joyce Woodhouse, representing the Nevada State Education Association, spoke in opposition to changing the present law. We strongly oppose AB-57. We feel it weakens the present law. In the area of collective bargaining, there is the possibility for closed meetings under certain circumstances. In the area of collective bargaining for teachers, particularly, in NRS-288, bargaining sessions are closed to the public if you so wish.

Mr. Tom Young, executive manager of the Nevada Environmental Action Trust, spoke in support of the bill as it exists today.

Mr. Gerald Prindiville, Nevada State Chairman of Common Cause. His testimony is attached hereto and made a part of these minutes as EXHIBIT F.

Ms. Peggy Twedt, representing the League of Women Voters, was not able to testify as the legislators had to go into session. Her testimony is attached hereto and made a part of these minutes as EXHIBIT G. She testified against AB-57.

Mr. Dini asked the committee what its desires were regarding AB-57. Mr. May moved to indefinitely postpone AB-57. Motion was seconded. Upon a roll call vote, there were nine 'yes', two 'no'.

Meeting was adjourned at 10:55 A.M.

Respectfully submitted,

Lucille Hill
Assembly Attache

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date Feb. 17, 1981

PLEASE PRINT

PLEASE PRINT YOUR NAME	PLEASE PRINT REPRESENTING:	I WISH TO SPEAK FOR	AGAINST	BILL NO.
Bob Sullivan	Carson City [illegible]	-		[illegible]
Peggy Twedt	League of Women Voters	✓	✓	AB 57 AB 29
G P Etchaverry	Nev League of Cities	✓		AB-57
Louis Test	City of Reno	✓		
Tom Young	NEAT		✓	AB57
A.H. Cruickshank	Common Cause		✓	AB57
Joyce Woodhouse	Nevada St. Educ. Assoc.		✓	AB 57
Gene Milligan	Nev Assoc of Realtors		✓	AB104
John Hawkins	Nev. School Boards			
Chuck King	Cen Tel			
Don Fitzpatrick	Clark Co			
Wendell McCurry	Div Env Prot	✓		AB29
Lew Dodgion	Div Env Prot			

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date 2-17-81

PLEASE PRINT YOUR NAME	PLEASE PRINT REPRESENTING:		I WISH TO SPEAK FOR	AGAINST	BILL NO.
Don W. Hatamiya	Carson City			—	29
Bob Ritter	Nev. St. Press Assn.			✓	57
Pat O'Driscoll	Society of Professional Journalists			✓	57
Larry Werrick	Carson City Public Works			✓	29
Dorothy Kosich	Society of Professional Journalist				57

AB 29

The League of Women Voters of Nevada supports AB29. We feel that PUD's should come under the same stat review as do subdivisions and condominiums. We do have one suggestion. The Futures Commission Report suggested State review be extended to include land divisions and commercial development as well as PUD's. The League hopes you will pass AB29 and give consideration to the recommendations of the Future's Commission Report

Exhibit A

NEVADA ASSOCIATION OF COUNTIES

RESOLUTION 80-9

RE: REDIVISION OF PARCELS

WHEREAS, Nevada landowners holding large tracts of land may exercise their option to divide their lands for the purpose of generating assets; and

WHEREAS, to match the local governments' ability to provide services to higher population densities that accompany divisions of land and to protect neighboring land uses, the Legislature has enabled local governments to zone and regulate growth in their jurisdictions through a public process; and

WHEREAS, occasionally in the redivision of large tracts or parcels of land as authorized by the Nevada Revised Statutes, the intent of the redivision is not consistent with locally developed zoning densities and subdivision laws;

NOW, THEREFORE, BE IT RESOLVED that the Nevada Association of Counties requests the 1981 State Legislature to amend the Nevada Revised Statutes 278.462 so that the second division of any parcel, regardless of ownership, must fall under authorities granted in the subdivision section of Nevada Revised Statutes Chapter 278.

PASSED AND ADOPTED this 15th day of November 1980.

Jack R. Petitti
JACK R. PETITTI, PRESIDENT

ATTEST:

Thalia M. Dondero
THALIA M. DONDERO, SECRETARY

Exhibit B

February 17, 1981

Subject: Presentation to Assembly Committee on Government Affairs on AB 57 -- Open Meeting Law

Chairman Dini; honorable committee members:

I am Bob Ritter, executive editor of the Nevada State Journal and Reno Evening Gazette. I come before you today representing our newspapers, the Nevada State Press Association and the Associated Press Managing Editors Association.

I am here to testify in opposition to AB 57, a bill which I believe would seriously jeopardize the strength of Nevada's open meeting law.

When I came to this state a little more than three years ago, one of the first documents I reviewed was a yellow booklet printed by the attorney general's office which outlined the provisions of the state's open meeting law.

I recall reading the paragraph on legislative declaration and intent. That booklet has since been revised, but the preamble to NRS Chapter 241 remains the same. I believe it is worth reading today and I quote:

"In enacting this chapter, the legislature finds and declares that all public bodies exist to aid in the conduct of the public's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly." End quote.

So begins the wording of one of the nation's most perceptive, broad based and strongest guarantees of open, democratic government.

My first impression three years ago was that indeed, the State of Nevada would see to it that the people of Nevada -- the people who pay taxes, the people who cast ballots, the people who support the economy of this state -- would have free and open access to the affairs of their government.

Exhibit C

Now, three and a half years later I come before this committee to ask that you uphold and reaffirm the good work of your predessessors -- that you see to it that government in Nevada remains as free and as open as its land and people.

AB 57 contains three new provisions which I urge you to reject.

--A provision which would change the length of time of meeting notification from three working days to 72 hours.

--A provision which would allow public agencies to secretly discuss matters of litigation.

--And finally, a provision which would allow public agencies to secretly discuss matters involving the purchase or sale of property.

I would like to take a moment to examine each of those proposed changes.

First, the length of time of meeting notification.

As I am sure you are aware, those who wrote the Open Meeting Law as it stands today, fully realized that there are times when government must act quickly and decisively.

With that realization in mind, they included Section 241.020 which provides that public bodies may meet in emergency sessions and take immediate action. Although the act spells out some specific examples, it does not in any way limit the use of this provision.

I submit that the emergency section provides government entities with the latitude needed to meet when emergency action is imperative.

The proposal before you today which would change the notification requirement from three working days to 72 hours, would significantly alter the effectiveness of the law and make it far easier to conduct meetings with little or no public participation.

Perhaps a scenario is needed.

It is Friday morning in a rural Nevada community when the chairman of the local school board decides to call a meeting for discussion and possible purchase of a number of textbooks, including a book for use in a biology class. He has learned that if the board acts by Monday evening, he will save several thousand dollars.

The meeting notice is written and posted in accordance with the ~~new~~ proposed 72-hour notification provision. The local weekly newspaper had gone to print on Wednesday evening.

The board meets on Monday morning with only a sales representative on hand who has in his possession a copy of the biology text. Board members vote unanimously to make the purchase.

Two months later the texts arrive and are distributed to students. A chapter in the biology text dealing with human reproduction contains explicit photographs. Parents see the books and the obvious questions of who approved the purchase are asked. They do not recall a school board meeting where the decision was made.

Government secrecy has prevailed in our hypothetical, even though the intentions of the board chairmen were forthright. A similar course of events could occur under the existing law, but the proposed changes make abuse much easier.

Our second proposed change would allow public bodies to meet behind closed doors when discussing matters of litigation.

I submit that a provision such as this has no place in a law which addresses itself to open government. On the contrary, such language clears the way for indiscriminate abuse.

Proponents of such a provision argue that it is needed so local entities might plan strategy and protect the public's interests. They believe they are entitled to an attorney-client relationship.

Let us consider the situation where that strategy involves an out of court settlemtn -- a situation where local counsel believes the wisest course of action is to pay a potential litigant $1 million rather than face the penalty which might be levied by a judge.

The decision is made in secret. There are no other arguments presented. The case is decided. The people are the losers -- financially, ethically and perhaps morally.

Our elected public officials are only the representatives of the people who put them in office. The attorney-client relationship therefore is not established between the attorney and the public officials -- rather it is a bond between the attorney and the people of Nevada -- the people who are the government.

Finally, we must consider the third proposed provision -- one which would deprive the taxpaying citizens of this state the right to participate in matters involving the purchase or sale of property.

In this area, we need no fabricated scenario. We have an all too real example for consideration.

The year is 1975. The site is the Palace Club in Reno, Nevada. Meeting participants include six of seven Reno city council members and representatives of Metro-Goldwyn Mayer, Inc.

A problem has arisen -- a problem which stands in the way of construction of the proposed $130 million MGM Grand Hotel. MGM needs land that the city owns and it is willing to trade an equal-sized parcel for the prime city-owned land along the Truckee River.

Not long after that private meeting, a contract appears on the City Council table providing for the land exchange. There has been no public discussion and even the city attorney would later say that he was not aware of the pending agreement.

The contract calls for the exchange of land and for the city to block the proposed extension of Greg Street, a project contained in the Washoe County master plan and which would utilize the existing property owned by the city. The council quickly approves the contract.

Two years later, after a grand jury investigation determined that the secret Palace Club meeting had been held, an embarrassed City Council was forced to buy back what had been the city's own property for more than $500,000 in taxpayer's money. In addition, the agreement had delayed construction of Greg Street for so long that the total cost to taxpayers -- taxpayers who were prevented from participating in their local government -- soared to more than $1 million.

The Greg Street example provides ~~in~~ explicit details of just how much secrecy might cost -- in integrity, in image, not to mention tax dollars.

I hope my examples will be of help as you consider the legislation before you.

I submit that the well-written paragraph of intent to which I earlier referred, does not just represent the intent of the people of Nevada. Indeed it was the intent of those very astute gentlemen who sat at a table in Philadelphia some 205 years ago and fashioned this republic and provided us with the framework of modern democracy.

After that Philadelphia meeting, it was Benjamin Franklin who was approached outside the hall by a woman who asked: "Mr. Franklin, what kind of government have you given us?"

Franklin replied without hesitation: "Madame, we have given you a republic -- if you can keep it."

If you can keep it.

I hope you will make your contribution today in maintaining our proud heritage of freedom.

O'Callaghan — Telegram
Greenspun

Telegram western union Telegram

V+
WU DH CARS
REA142(2011)(1-011755C047)PD 02/16/81 2009
ICS IPMLGLB LSV
0298 LASVEGAS NV 80 02-16 451P PST
PMS HON. JOE DINI ASSEMBLYMAN
LEGISLATIVE BUILDING
CARSON CITY NV

DEAR SIR:

THE PROPOSED CHANGES IN THE OPEN MEETING LAW, WHILE SEEMINGLY COSMETIC, DO AN INJUSTICE TO THE PEOPLE OF THIS STATE WHO HAVE A RIGHT TO EXPECT OPEN, HONEST GOVERNMENT.
THE REASONS FOR THE PROPOSED CHANGES CAN BE RESOLVED ADEQUATELY WITHIN THE LEGAL FRAMEWORK WHICH NOW EXISTS. NEVADANS ARE PROUD TO BE THE NATION'S LEADERS IN OPEN GOVERNMENT.

WE URGE YOU NOT TO AMEND NEVADA'S OPEN MEETING LAW.

BRIAN GREENSPUN
EXEC. EDITOR, LAS VEGAS SUN
PUBLISHER, NO. LAS VEGAS SUN
COMMITTEE FOR FREEDOM OF INFORMATION
NSPA

NNNN

Exhibit D

WU DH CARS

WU RNO
REA120(1803)(1-011011C047)PD 02/16/81 1801
ICS IPMLGLB LSV
02080 LASVEGAS NV 125 02-16 157P PST
PMS HONORABLE JOE DINI CHAIRMAN
GOVERNMENT AFFAIRS COMMITTEE
NEVADA STATE ASSEMBLY
CARSON CITY NV
A. B. 57 HAS BEEN WRITTEN TO APPEAR AS MEDICINE TO HELP AN AILING LAW. NEVADA'S OPEN MEETING LAW IS THE HEALTHIEST LAW OF ITS KIND IN OUR ENTIRE NATION AND DOE NOT NEED MEDICINE. NOR DOES IT NEED SURGERY TO CORRECT ANY SHORTCOMINGS WHICH EXIST ONLY IN THE EYES OF A FEW PUBLIC OFFICIALS WILLING TO SACRAFICE OPEN MEETINGS FOR THEIR OWN CONVENIENCE
THE ADDITIONS AND CHANGES ADVOCATED BY A.B. 57 INITIATE A RETURN TO THE OLD WAYS OF DOING THINGS, NEVADANS DESERVE BETTER.

THE NEVADA OPEN MEETING LAW MANUAL WRITTEN BY ATTORNEY GENERAL RICHARD BRYAN IS A GOOD GUIDELINE FOR AN EXCELLENT LAW.
PLEASE ALLOW THIS LAW TO REMAIN AS A BECON LIGHT FOR GOOD GOVERNMENT.
MIKE O CALLAGHAN, PUBLISHER
HENDERSON HOYE NEWS
BOULDER CITY NEWS

NNNN

Telegram western union Telegram

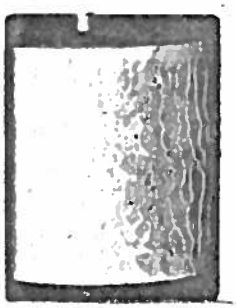
VD+
WU DH CARS

WU RNO
PEA138(1929)(1-011552C047)PD 02/16/81 1928
ICS IPMLGLB LSV
02093 LASVEGAS NV 28 02-16 351P PST
PMS THE HON. JOSEPH DINI
CHAIRMAN, ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE
LEGISLATIVE BUILDING
CARSON CITY NV

DEAR ASSEMBLYAN DINI:

AS EDITOR OF THE NORTH LAS VEGAS SUN I RECOMMED
REJECTION OF THE CHANGES IN THE OPEN MEETING LAW
AS INDICATED BY AB57. LETTER FOLLOWS.

TOM MARTIN EDITOR



NNNN

V REA139(1931)(1-011564C047)PD 02/16/61 1929
ICS IPMLGLB LSV
02094 LASVEGAS NV 19 02-16 406P PST
PMS MR. JOE DINI ASSEMBLYMAN
LEGISLATIVE BUILDING
CARSON CITY NV

URGE CAREFUL CONSIDERATION BEFORE ANY CHANGES MADE IN
OPEN MEETING LAW. REF AB 57.

RUTHE DESKIN ASSISTANT TO PUBLISHER
LAS VEGAS SUN

NNNN

Nevada Professional Chapter Society of Professional Journalists, Sigma Delta Chi

February 17, 1981

TO: The Assembly Government Affairs Committee
RE: Assembly Bill 57: revisions in the Nevada Open Meeting Law

My name is Pat O'Driscoll. I am president of the Nevada Professional chapter of the Society of Professional Journalists, Sigma Delta Chi, a nationwide organization of more than 35,000 professional and student journalists.

Four years ago, our society and other organizations supported and lauded significant changes the Legislature made in Nevada's Open Meeting Law. Today we are here to see that those important protections of the public's right to know what goes on in its government NOT be compromised.

Assembly Bill 57 would do just that ... compromise the people's right to know fully the deliberations and actions of their elected and appointed representatives. It proposes unneeded revisions that would erode the law's fundamental intent -- that the actions of public bodies in Nevada "be taken openly and that their deliberations be conducted openly."

Frankly, I'm bothered that we have to be here at all, four years later, to argue again why the public is best served by open, public government. We argue it gladly, not only as reporters and editors who represent the people who can't attend government meetings, but also as citizens of an open, democratic society.

It's remarkable enough that we even need such things as open meeting laws in an already open society. But more remarkable are the attempts, however well-intentioned, to change a good law. They would only weaken a key safeguard of the people's right -- I repeat, their RIGHT -- to know the business of their government.

It's hard to imagine how openness is fostered by in effect cutting back the length of advance notice to the public of a meeting and its agenda. AB 57's

proposal to change meeting notice from three working days to 72 hours is no simple technicality. It sets up an inviting scenario to undermine the spirit of open government. Agendas with important, sensitive or controversial public issues can be quietly taken care of when the time of public notice ticks away over a weekend or holiday, when the people have little or no chance to inquire, consider and prepare for it.

Yes, we newspeople will continue to be there. That's our job. But what about the rest of your public?

Such a proposal is unneeded. It would sacrifice adequate public notice of meetings for convenience when the open meeting law already provides for emergencies. The provision is broad enough now to handle any genuine need.

It's difficult to fathom how openness is promoted when the deliberation, debate and details of litigation and land transactions by a public body can be kept secret from the public until after the fact. Those who insist that such changes are vital will say government is put at a disadvantage by having to deal in the open on legal matters and real estate negotiations.

We submit, however, that the need for confidence in delicate negotiations or sensitive legal matters is already served at the staff level, before they reach the elected or appointed public body that must ultimately weigh and decide.

AB 57 isn't just a housekeeping measure to adapt the principles of openness to the realities of day-to-day government. Rather, it would sweep under the rug some important issues and matters that require, that DEMAND full and public consideration.

Openness isn't easy. Democracy isn't, either, for that matter. But both are better than the alternative. And AB 57 represents that unacceptable alternative. We strongly urge you to reject it.

Thank you.

common cause NEVADA

Carson City, Nevada
Tuesday, Feb. 17, 1981

To the Assembly of the Legislature of the State of Nevada

Honorable Members of the Committee on Government Affairs:

My name is Gerald Prindiville. I'm the Nevada State Chairman of Common Cause. Like all citizens who are Common Cause members in Nevada, I give my time and energy without pay for open accountable government.

I respectfully ask you gentlemen to vote against A.B. 57 for the following reasons:

1. The 72 hour substitution for the three working day requirement would open the back door of Friday notices for Monday meetings. As you know the State library is closed on Saturdays. Most law libraries and court houses are also closed on Saturdays. This means that opportunities for meaningful research and preparation are non-existent on week-ends, with the result that even if citizens learn of a meeting over the week-end, they are forced to attend such meetings without substantive knowledge of the topic under discussion.

2. The second part of the proposed A.B. 57to be considered for retention or change is that closed meetings would apply to a public body with its attorney to discuss any pending or proposed legal action or proceeding. Gentlemen, to the best of my knowledge the Carson City attends all official meetings of the Board of Supervisors, and this must also be the case of Reno and Las Vegas. The city attorney is routinely questioned on the legality or actionability of innumerable problems, issues, and proceedings. Hence, it is possible that the press, the media, and the public could be locked out of all meetings of the Board of Supervisors if A.B. 57 were approved.

3. The third section of A.B. 57 up for change is that closed meetings would apply to any meeting of a public body to discuss acquisition or disposition of property. May I respectfully suggest that city and county governments already possess the right of eminent domain if they wish to take private property for public use. Furthermore, citizens and working taxpayers have the right to know if a piece of property in their neighborhood is to be bought or sold; and the press has the right and responsibility to advise people accordingly. On the other hand, governmental officials have a public trust to acquire or dispose of property at the fair market price. They already have the tools to do the job.

Exhibit F

4. Open accountability is the only way to insure integrity of government, and that far outweighs any bureaucratic inconvenience.

5. Proponents of A.B. 57 are mostly paid public servants who wish to operate the government for their bureaucratic convenience rather than for the public interest. I am sorry to say that they are still out of tune with the demands of the Nevada voters in the 1980s.

6. It is true that in modern systems of government many problems are caused because of outside pressure groups which prefer to exercise their influence in secret. The present Nevada Open Meeting Law does much to prevent this type of heat.

7. To make decisions in secret sessions at the very time the public is being called upon to make sacrifices will only aggravate the often felt suspicion that special interests alone are being served.

8. In a discussion of the Nevada Open Meeting Law attorney general Richard Bryan joins the spirit of the existing law when he states that every public body in Nevada has both a legal and moral responsibility to faithfully observe the Open Meeting Law and to take reasonable steps to insure public access to its deliberations and actions.

9. Lastly, I would like to congratulate the members of this Assembly, and commend you most favorably, for your self-imposed observance of the Open Meeting Law; and for passage of AJR 2 to require open and public legislative committee meetings, and abolish executive sessions of the Senate. I assure you that the public is with you in recognizing that open accountability is the only way to insure integrity of government; and I respectfully ask you to vote against A.B. 57.

Gerald Prindiville, Chairman
Common Cause/Nevada
612 Mary Street
Carson City, Nv 89701

League of Women Voters of Nevada Re: AB 57

The League of Women Voters is basically opposed to the proposed changes presented in AB 57 to Nevada's Open Meeting Law. We have a long held position in support of a strong open meeting legislation in Nevada. A democratice government depends upon the informed and active participation of citizens and that requires that governmental bodies on all levels protect the citizens right to know by giving adequate notice of propsed actions, holding all meetings open and making public records accessible. We have supported all bills in this direction in previous sessions and were delighted when the present open meeting legislation passed four years ago. We will continue to oppose efforts to weaken it.

Specifically in AB 57 we oppose the words "72 hours" in line 9 of page 1 for the present wording "3 working days." The difficulty with the change as stated in this bill arises with the problem of weekends. In the legislature, for example, this would make it possible to post a committee meeting on the respective blackboards at each end of the corridors late in the afternoon on Friday. The meeting could be held 72 hours later on Monday afternoon. There would be no notice in the Daily History until Monday and unless the press or interested lobbyists checked the boards late Friday and spread the word, interested citizens and even many lobbyists would have only 6 hours notice instead of 2 to 3 days as prescribed in present law. Similar problems could occur with meetings on the county or municipal level.

Another objection the League has to AB 57 is the new provision in subsection F on lines 25 and 26 of page 2. The wording here is so general and vague, that almost any meeting of any public body could be closed if its members or its attorney states that the meeting was called "to discuss any pending or proposed legal action or proceeding." Without clear and strictly limiting definitions of what is meant by "legal action or proceeding" we feel this exclusion to open meetings would open the way for possible abuse.

As to subsection G we see some validity to the argument that premature publicity about possible public acquisition of property carries with it the dangers of unwarranted increases in the asking

Exhibit G

price. Therefore at this point we do not oppose that exclusion. However, we do not understand why the public should not be informed as to the disposition of publicly owned property so would recommend to the committee the deletion of the words "or disposition" if subsection G is to remain in the bill.