

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. Randolph Townsend, Coalition for Affordable Energy
Mr. Mike Cool, City of Las Vegas
Mr. Bill Cozart, Realtor
Ms. Sharon Cleary, Realtor
Mr. Andrew Barbano, Coalition for Affordable Energy
Ms. Irene Porter, Homebuilders Association

Chairman Dini called the meeting to order at 8:05 A.M. He advised the committee that BDR23-1210* dealing with school crossing guards required introduction. Mr. Mello moved for introduction of the BDR by the committee. Mr. Schofield seconded. Motion carried.

BDR-23-1239** is from the Employee Management Relations Board. Motion to introduce was made by Mr. Mello and seconded by Mr. Schofield. Motion carried.

The first bill on the agenda to be discussed is AB-349. Mr. Prengaman Assemblyman, Dist. #26. This bill is intended to repeal a statute passed in 1955 which gave the federal government consent in advance to withdraw any lands they needed for defense or nuclear purposes. There is a similar bill which revises the entire chapter where this act is found in the Senate, namely, SB-176. It has undergone extensive amendments and basically does the same thing as AB-349. I ask that rather than process two bills that you simply hold mine until we see SB-176. What I was trying to achieve will be in fact accomplished by SB-176.

This concluded testimony on AB-349.

The next bill is AB-364 and Assemblyman Rusk, Dist. 28, testified that the Attorney General, as a representative of the customers

*AB402

**AB 400

1205

of the public utilities can hire experts on a case by case basis to review proposed rate increases which are submitted to the Commission by public utilities. They can further appear before the Commission to present the findings of the experts hired and then they can go a step further and, that is, after consulting with the experts and the Attorney General concludes that an order of the Commission which authorized the rate increase is unfair, they can take it to the court level. My rationale is even stronger now that we begin to get a feel as to what is coming out of the subcommittee work as to the cost of what I feel is going to be a very expensive additional layer of government, coming up with this consumer advocate office.

During the period 1975-1976, Attorney Larry Hicks, District Attorney for Washoe County at that time, brought the suggestion to us and several counties and cities that joined together and put up some \$27,000 and were very successful in lowering the requests of the power companies. They were requesting some \$11.2 million and it was cut by 66%. Several other things were accomplished. It appeared that it was effective and the money well spent. My concern is that the \$400,000 for the first year that the advocacy office will use, could go as high as \$600,000 the second year, is a very heavy expense that can do nothing, in my opinion, but grow. The new office will have a difficult time in turning back any requests for help, which means that they will then find themselves becoming involved in literally every utility rate increase going on in the state. And that bureaucracy will then grow and grow and grow and there will be very little that we elected officials can do about it because it will be a motherhood and apple pie issue where the public will be demanding help even if there isn't any help that is being achieved, or at least very little, for the dollars being spent. The concept here is very simply that the major requests of utilities would be considered that those would be the ones in the eyes of the Attorney General, who is in a good position, in my opinion, to represent the public, that would be determined to be pursued. This could be done for less than \$200,000 in a given year, without the several members of a new body of government, rather, working with the existing staff of the Attorney General, as the County Commissioners did with the staff in 1976.

In answer to Mr. Nicholas' question of fiscal impact, Mr. Rusk stated he could only relate back to the experience that we had in Washoe County where the financial impact was \$27,000. I would say that as opposed to hiring five or six people and creating a staff that has very little control, in a sense that it will grow in the future, the Attorney General would have to pick and choose those particular requests and not hire expertise on every request, but only on those major ones that would have the greatest impact on the consumer.

Mr. Dini stated that what Mr. Rusk was really saying is that he is opposed to the creation of the consumer advocacy agency. Secondly, you want to discount the Initiative Petition which was presented to this Assembly and which will be on the ballot next year.

Mr. Rusk stated he was opposed to the consumer advocacy bill but was not discounting the Initiative Petition. I think that by its being on the ballot has put this Legislature in a position that it must respond, either with a better idea or allow the people to have the option to vote on it. I believe that what is being proposed now is a good idea, perhaps better than what is being proposed in the Initiative Petition, but I question if the cost is justified, particularly as it will lead to greater and greater costs in the future. I would prefer, because of that, to see what I proposed early on and see the committee move towards not particularly AB-364, but something along that line, where there is a lot less money that would be expended now and in the future. We would have a period of time between now and when the Initiative Petition is on the ballot to see if this alternative plan is a good idea.

In answer to Mr. Mello's question of what Mr. Rusk considered a major increase and request, Mr. Rusk answered that when the increase is \$5.00 per month to the general public.

Mr. Hardy stated that there were four increases in 1980, four in 1981 that exceeded \$5.00 per month.

Mr. Rusk stated that his proposal would mean a much slower growth because it was starting with fewer people. There is a body, the Public Service Commission, that does a job and, hopefully, will be more successful in the future. The ability of the Attorney General, in this case, to appear with the best testimony possible and make the best case possible in front of the PSC can be very effective for a lot less dollars than what is being proposed.

Mr. Mello stated that we have to do everying possible to stop the Initiative Petition from passing the second time. We are coming up with something much stronger. What you are offering is weaker.

Mr. Rusk stated that he believes it can be effective and if it does grow from a \$200,000 budget to a \$400,000, I would feel more comfortable than as opposed to one growing from a \$600,000 budget on up. There is no consumer in the state of Nevada that isn't completely upset when there is another rate increase. We can be as effective with less than half as many dollars as the consumer advocacy plan will need.

1237

Mr. Craddock asked if enough emphasis is being placed on long range electrical supplies, and long range financing.

Mr. Rusk answered as it affects the construction of new plants, yes. As far as funding, Sierra Pacific, for example, is now asking for more money for the second phase of Valmy I.

Mr. Larry Struve, Chief Deputy Attorney General, testified that he was not so much in opposition to the bill as much as wanting to give the committee information. He advised the full committee that his office has been providing assistance at the request of the subcommittee. The Attorney General's office has not requested at the present time any funds in the bi-annual budget starting on July 1, 1981 for any staff or funds to hire experts that would enable the attorney general to carry out the authority that is contained in AB-364. There would have to be a budget supplement recommended by this committee if you opted to go with AB-364. Even though this bill addresses authority to hire experts for the purpose of presenting testimony before the Public Service Commission, in the opinion of the Attorney General's office, you are still going to have to provide for some staff in order to put these cases together and to actually present the cases. As I have indicated to the subcommittee studying this matter, at the very least, you are going to need staff counsel licensed to practice law in the state of Nevada, both to present the case before the Public Service Commission on behalf of utility customers as well as to represent those utility customers in Nevada courts of law. I worked very closely with Mr. Rusk on the Washoe County plan and I should point out to the committee that he is correct that the testimony was provided through expert witnesses, but I think that in order to be sure the record is complete, the commitment of staff time in that particular intervention involved the District Attorney, himself and me as the Chief Civil Deputy District Attorney on a part time basis, the services of a deputy district attorney on a full time basis for about 4-5 months. The ability of local government attorneys to effectively present cases before the PSC were very hampered by the fact that there wasn't adequate staff to get on top of the law and data that has to be presented and that very few local governments have the wherewithal to hire expert witnesses to come in. We thought it would be worthwhile to see if an effective intervention could make a difference if we pooled our resources with other local governments and made available a full time deputy district attorney in our office to coordinate that effort. Little did Larry Hicks and I realize the commitment we were getting ourselves into by agreeing to be the 'quarterback' for the team that went in on that intervention in 1976.

In addition to the deputy district attorney, we had to assign three secretaries at the height of the preparation of the case

all of which came out of the workload that was already existing in the office, plus a legal assistant on a full time basis just to assemble the voluminous documents and charts that were necessary to present the case. The impact on the Attorney General's office for AB-364 could be substantial if there are any number of cases that the Attorney General would have to become involved in and the committee would be well advised to look at the staff requirements simply to coordinate the case and put it together and present, as well as finding and using the testimony of the expert witnesses. I have presented a fiscal note at the request of the legislative counsel office concerning the impact of this bill and since I was not sure what kind of staff was anticipated by the introducer of the bill, the amount I was able to come up with was \$150,000 that has been presented to the subcommittee as the budget to hire expert consultants and professional witnesses. This is money only to pay for their fees; any additional staff and staff expenses would have to be budgeted for on top of that.

Mr. Craddock asked if we would be wise to ask the Public Service Commission and the consumer advocacy group to take a long range look at rate applications.

Mr. Struve indicated yes, though, I wonder if that is already being looked at as an on-going operation of the Public Service Commission. I would like to defer to Mr. Hardy on that question.

In answer to questions regarding staffing, he indicated that the staff described in the bill is a skeleton staff and includes review of incoming documents, present major cases and includes the necessary funds to hire the outside consultants who can produce the expert testimony. The staff: a consumer advocate, a staff counsel, a person knowledgeable in rate design, a person knowledgeable in accounting, an administrative assistant who would play the role of the legal assistant doing legal research and help in putting the exhibits together, and a legal steno. This group would be adequate to carry out the function.

Mr. Dini stated that whether the Consumer Advocacy or AB-364 is approved, it will take the same number of people. What the Legislature does, it can undo at the next session. This is a two-year trial to see if this thing will function or not. Either you accept a good plan as proposed by the subcommittee or you have the Initiative Petition by mandate of the people. So you either have an orderly process as proposed by the Legislature or have one slapped on top through the ballot.

Mr. Struve stated that should the committee be disposed to pass AB-364, some consideration should be given to the language of subparagraph 2 of the bill, it would authorize the Attorney

General to, in essence, bring an action against the Public Service Commission, challenging an order that has been entered by the Commission. As you know, under current law, the Attorney General represents the Public Service Commission. In fact, our role is largely confined to representing the Public Service Commission in court. Some consideration should be given to the hiring of independent counsel for the PSC, if AB-364 is passed, in case a conflict might arise where the court would deem it improper for the Attorney General to be handling the case. In answer to Mr. Dini's question, Mr. Struve stated that this is taken care of in the subcommittee's bill by simply removing the Attorney General as the legal counsel for the PSC and letting them retain their own staff counsel to represent them in court.

Mr. Randolph Townsend testified that the Coalition for Affordable Energy is in total opposition to AB-364, which is part-time and less than effective. When you talk about effective dollars, let us talk about the average nation-wide consumer advocacy that is before you now. For every dollar that is expended nationally, you are talking about \$155.00 in return. We feel that is cost-effective and that is why we feel that the bill on full time advocacy is very important. The Coalition is very pleased with what the subcommittee has done in taking a strong position relative to the Initiative, and to do anything less would be a disservice to those that have put you in office.

Mr. Craddock asked Mr. Hardy if the Legislature has provided sufficient guidelines to the Public Service Commission that relates to long range effects on rate applications. Do you think that the Legislature would be wise to instruct the PSC and the public advocacy group to take a look at long range implications.

Mr. Heber Hardy stated that he did not have a copy of the original AB-58 here today, but stated that we do have a mission statement in that particular bill which I hope will be preserved. In practice, the Commission, as decision-maker, has to look at the long range. Particularly, we are concerned about a utility being in a position to be able to borrow funds to build plants for the future needs of the customers. In looking at those kinds of things, we must take a look at the long range effects of a particular decision. One of the concerns I have about any intervener, including our staff on occasion, is that it appears sometimes that their major concern is the short range publicity of a short range goal of reducing rates as much as possible right now, without too much concern with what happens down the line. The Legislature is correctly assessing the political aspects of the need for a consumer advocate office at this time. The Coalition for Affordable Energy has obtained 38,000 signatures. I question sometimes whether or not the representation

1300

is made to the public to obtain those signatures were always valid, but nevertheless, it is there. It is a political reality. If this committee or the Legislature has a feeling that in two years from now they are going to evaluate what the consumer advocate does on the basis of the number of dollars they save, I feel they are on the wrong track. I don't think you can properly measure it, in the first place, to the extent a consumer advocate office will take on the cost of money expertise. That staff will no longer hire that kind of person as it has been doing in the past. So that is not a net savings, it is simply a transfer from one agency to another to do the same job.

There are arguments that could be made over and over about how much a particular office will save the ratepayers. I think it is extremely difficult, almost impossible, to measure that. So, I hope what you will be looking at is whether or not the public, residential and small commercial customers, has received an effective representation on their part before the Commission, not the number of dollars. If you start measuring dollars, you are going to do away with this agency next session. The measure ought to be whether or not the public is being adequately represented, not how many dollars are being saved. I give you that caution as a lameduck would because I don't have to be around the next time to answer these questions. It is extremely important. If you start measuring the dollars, you are doomed to failure. Advocacy should be concerned with not only the short range gains of reducing the amount of rate relief right now, but also be concerned for the long range problems of whether there is adequate power to serve the continuing and long range needs of the same people and their children and grandchildren. We simply can't take a look at today only with blinders on us. I think that is the feeling sometimes with those in advocacy positions because they want to see how much publicity and how much credit they can get for a particular case and its savings. I think this is short range and the wrong view.

This concluded the testimony on AB-364.

The hearing was recessed at 8:55 A.M. and reconvened at 9:05 A.M.

The next bill to be heard is AB-365. Assembly Robert Rusk, Dist. #28 testified and his testimony is attached hereto as EXHIBIT A, and is made a part of these minutes.

Mr. Kelly Jackson, Department of Energy, testified he would run through the bill to emphasize why they are in favor of the bill.

We are not looking at a bill that mandates specific activity. We are looking at a bill that encourages local governmental agencies to become more involved in the types of things that can be done to reduce energy consumption and costs. The bill outlines some of the things that can be done in the process. There is a change that we recommend be made in the bill, on Page 1, Line 10, there is the inclusion of the words "solar energy and conservation plan". We believe that the language on Lines 23-24 adequately covers that area and it is a redundancy that we don't need in this particular section. If we eliminated solar energy from the conservation plan section and if the Legislature added this renewable resources plan which we believe to be more appropriately called just 'energy plan', we are saying to planning commissions: this is one of the elements that we think you should take a look at and put in your planning documents.

Section 2, Page 3, continues the same philosophy to the zoning part.

Section 3 makes it permissive. Subsection 4, Page 3, we recommend Lines 42, 43 and 44 be deleted from the bill. At the time the bill was sent to the bill drafter, AB-48 had not been submitted and had not been passed and signed into law by the Governor. AB-48 clearly disposes of that issue at this point.

Section 4 basically reinforces the county's right to establish regulations regarding consumption of energy. We suggest an amendment be added to Line 9, Page 4 by adding another limitation (NRS 523-163) which is a state requirement that they come up with at least minimum standards.

Section 5 reinforces Section 2, by saying in the zoning process that one of the factors that they could look at in laying out in orientation of subdivisions.

Section 6 is the same as Section 4, except it relates to cities and their authority to regulate consumption of energy.

We have to make a decision in the 1980's whether or not we are going to be in a period of transition energy-wise or whether we are going to continue the policies of the past. We see advertisements today saying that the big mistake we made twenty years ago was not going to coal then. I personally am convinced that twenty-five years from now we are going to be hearing a similar argument about coal. And although I personally feel that coal is our best traditional option right now, I think we also have to start looking at the resources we now have in the state. If we can, in fact, by better subdivision layout, significantly reduce energy consumption and, consequently, the burden that is

going to be placed on rate payers, we may be doing consumers more of a disservice by not trying to promote some of these sorts of things than we are by forming a utility advocate. We believe that AB-365 is a step in the right direction that will provide some policy direction from the Legislature to local governmental agencies in the state.

Mr. DuBois stated that other areas in the nation are going towards energy conservation programs. They work in many cases through public service commissions. Through various regulatory commissions they have developed programs and rates that force this kind of thing that you are talking about. It is developed in their rate structure. Have you had any thoughts about where the Department of Energy here in Nevada might fit into that total structure, so instead of these advisory type recommendations we can really get some meat into it to accomplish something in reducing the need for constructing new plant facilities.

Mr. Jackson indicated that the Department of Energy has attempted to identify programs and implement programs that would encourage voluntary action and that is where we have been spending most of our time. We have been working with local city and county planning entities on solar and outlining the sorts of things that can be done through the Home Builders Association. We are at a time, however, that in terms of certain sorts of actions, some mandatory activities are required. I am speaking for myself, as the Department has not made a specific policy statement on two or three of these items at this point. We had suggested before an interim committee studying the PSC, as an example, that the PSC should be adopting line extension rules that provide for a lesser charge to hook up an energy efficient home to the system than a less energy efficient home. Our Department will be going to the PSC with proposed formal rule making. Our office is involved with this residential conservation service program which is an audit type plan. The experience we are running into there is that one of the major impediments for middle income people to take advantage of solar or conservation opportunities is financing. It is time for public utilities and the PSC to pursue more aggressively utility-financed options.

Mr. May asked for a copy of the minimum recommendations for construction. Mr. Jackson indicated he would send a copy.

Ms. Irene Porter, Homebuilders Association, testified against the bill. She stated that the Association is not against energy conservation. It has participated in doing several energy seminars for home building construction. However, previous testifiers indicated that no part of this bill is mandatory. I think that is wrong. The first line on the first page has the word 'must' in it. It speaks of a new element: renewable resources plan or energy plan. The way I read it, it makes this mandatory.

1303

Further on, on Page 3, Line 6: 'the zoning regulations must be adopted....' and must be designed....'. Section C is also mandatory. When we talk about passive solar systems in construction, we are not talking about just the orientation of the buildings on the lots. When you talk about the real use of passive solar, it becomes a very complex issue. You look at landscaping, trees, overhangs, orientation of buildings, use of blinds, windows, etc. This is a wide range of concepts and ideas. Testimony has been made about facing houses East/West in Clark County. You don't face houses East/West. You face them North/South. I lived in a house for fifteen years that faced East/West. It was a furnace. A mandatory solar energy plan in a general comprehensive plan will involve an analysis of the sun, temperatures, and other elements. If we are going to go into this, make that element permissive because it is going to be an expensive one for local government to develop. I think the seminars and the programs being done with the Department of Energy are a first step toward educating builders, government people and the public in all of these different kinds of concepts. We are not at a point yet, however, to make these items mandatory because they are far more costly to do than anyone realizes. I believe we have to crawl before we can walk in this whole solar issue because it is so complex. If you have appetite for beginning this process within your state law, do it as a permissive element within your general planning process.

Mr. Rusk testified that when you talk about changing from 'shall' to 'must', this is strictly a 'Daykinism'. This is not something we requested. That is the existing law. Whether it is 'shall' or 'must', makes no difference to us. It means the same thing, as far as I'm concerned. It should be clear that this is not required, contrary to what Irene had to say. In fact, it is the local entity that makes the decision and that is as it should be throughout the state.

This concluded testimony on AB-365.

Following is the testimony on AB-366.

Mike Cool, City of Las Vegas:

Mr. Cool distributed a four-page handout describing the procedures used in using metes and bounds descriptions as part of annexation requirements. It is attached to these minutes as EXHIBIT B.

When a resident requests that his property be annexed to the City of Las Vegas and, say, he is currently on a septic tank and would like to connect to city water lines, in accordance with the current law, he would have to go through a procedure where metes and bounds description would be published in a report on file at the City Clerk's office, prior to the public hearing, and the City Clerk's office would then publish a notice that would list his metes and bounds description. (See last page of handout which shows an example of a metes and bounds notice). Our problem is twofold:

It is expensive both in time and the surveyor's expense to take the M & B description. We are recommending that the M & B description still be left in accordance with the statute and filed when the property is in fact approved for annexation, but not be done until after there is actual approval of the annexation, thereby saving both the local government and the requester the time and expense prior to the public hearing of posting what we feel, at best, is a very difficult description for the public to read in a newspaper or on a report, anyway. We hope to save the time and expense PRIOR to the public hearing by inserting in lieu of the M & B description, something more specific in terms of lay terms, such as a rectangular. (See "Conclusion" on first page of handout.) You would simply describe a corner of a section bounded by specific streets, for example. We are not asking that the M & B description be deleted as it pertains to the legal recording of the property if the annexation is in fact approved.

Mr. Dini indicated he had problems with the wording in the bill on Page 3, Lines 7 and 8: "Providing legal description that is sufficient to identify generally the territory to be annexed". That is so broad that they could come in with anything.

Mr. Cool: As you will note in our recommendations on the first page, we ask that they actually insert the language: "Provide a legal description of the territory proposed to be annexed based on a system of rectangular surveys". That is what is meant by 'sufficient to identify generally the territory'. This would be left open for interpretation by the local government, plus now you have a uniform system.

Mr. Dini: A rectangular survey is a standard terminology used in property description?

Mr. Cool: Our Planning Department says that it is standard terminology that they use in descriptions. On Page 3, Line 6 of AB-366 - where it says: "describe both in general terms and by accurate metes and bounds", the City of Las Vegas uses rectangular surveys in its description of general terms. The one problem we have with the words "general terms" is that we are not sure what that means. We know what we are doing when we speak of rectangular surveys. General terms might not be sufficient enough in one entity where they may be for another.

Mr. Dan Fitzpatrick, Clark County:

The only concern we have is the same expressed by the committee was regarding the 'general terms'. The amendment suggested by Mr. Cool would be sufficient to solve the problem. We do have a number of areas in Las Vegas, a couple of which are in lawsuits now, where you cannot identify section lines by a simple rectangular survey only. We have several areas overlapping. The current law says, describe it in two ways: a general description and a legal type of description. The language suggested is overly general, and you need something else besides the general terminology, perhaps some other legal description so that those with the maps, etc. are able to analyze what area is being discussed.

Mr. Jeffrey:

As I understand it, the testimony is that they don't want to get into the metes and bounds cost until they were sure the property was going to be approved.

Mr. Cool: Yes, it was our intent to use rectangular survey prior to the public hearing, since we are going to use metes and bounds after the annexation approval, anyway, for the recording process. We do not want to complicate the issue by adding some kind of legal terminology. We feel that is what metes and bounds is doing right now.

Mr. Joe Cathcart, North Las Vegas: In support of AB-366.

Mr. Dini appointed a committee to work with the people who introduced it and clean it up. Subcommittee: Craddock and Nicholas.

The next bill is AB-201 re health care facilities. Mr. Dini indicated that there were some problems discussed at the joint hearing with Section 3, the broad definition used. We propose to delete Lines 7 through 10 and it would read: 'supplemental facility for health care facility includes a clinic facility for out-patients and other structures directly related to the'; this change gets rid of all the laundry list. On Page 4, Line 33, delete 'annual' in front of 'interest'. This will lift the lid on interest, and tie all the interest rates together in the omnibus bill in the Senate. Page 5 has the same definition change. Page 7, Line 36, delete 'annual'.

Mr. Schofield moved for an AMEND AND DO PASS on AB-201, seconded by Mr. Jeffrey. Motion carried.

On AB-310, Mr. Jeffrey explained that it removes the restriction on salaries of elected officials, except police judge, and must not be increased during the term for which they are elected. Mr. Jeffrey moved an AMEND AND DO PASS, seconded by Mr. Schofield. Motion carried.

On AB-366, Mr. Dini noted that this was in a subcommittee.

On AB-365, Mr. Dini appointed a subcommittee consisting of Mr. Schofield and Mr. Redelsperger.

On AB-364, the committee voted to indefinitely postpone it. It was a unanimous vote.

On AB-349, Mr. Prengaman asked to have this put on hold.

On AB-278, Mr. Mello reported on the amendments as follows: Section 6, subsections 2, 3 and 4 shall become effective on July 1, 1983. We are taking the 95% factor off of all people in government, except the state. Cities and counties will not be under the 95% rule, until July 1, 1983. That way, we can see how much abuse there is of this factor between now and July 1, 1983. Mr. Redelsperger moved to AMEND AND DO PASS. Mr. May seconded. Motion carried.

Regarding a request given to Mr. Dini for changes of the composition of the board of directors of the Las Vegas Valley Water District, the committee discussed whether or not to request the drafting of a bill. No action was taken.

On AB-392, the amendment was held up until the bill is heard.

Mr. Dini adjourned the meeting at 10:35 A.M.

Respectfully submitted,

Lucille Hill
Lucille Hill
Assembly Attache

1307

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date 3/30/81

PLEASE PRINT

<u>PLEASE PRINT YOUR NAME</u>	<u>PLEASE PRINT REPRESENTING:</u>	<u>I WISH TO SPEAK</u>		
		<u>FOR</u>	<u>AGAINST</u>	<u>BILL NO.</u>
R TOWNSEND	COAL. FOR AFE ENERGY		✓	
MIKE COOL	CITY OF LAS VEGAS	✓		AB 366
Bill Cozart	REALTORS			
Sharon Cleary	REALTORS			AB 365
Andrew Barbano	Coalition			
TRUDY RUTER	Homebuilders		✓	AB 365

INTENT: To provide a general descriptive framework of the areas that local governmental entities could become involved in to encourage and promote the use of alternative energy resources and energy conserving technologies. These areas include master plan elements, zoning regulations, building regulation and sub-division development.

MAJOR POINTS OF EMPHASIS:

- A) With one exception, this bill prescribes no mandatory or required elements or actions. It does not require any additional planning functions or elements, but rather suggests that if certain local governmental entities desire to pursue and have the ability to pursue, the promotion of energy conservation and the use of alternative energy technologies, through land use planning and building departments, that a sound legal basis would be established.
- B) Land Use Planning Elements - Over 35 local governmental entities in the Western States have adopted some type of land use planning tools to plan for and protect access to sunlight. By adopting these various planning schemes, local governments are providing the incentives and protection necessary to promote energy efficient construction and guarantee the lendability of structures utilizing alternative energy resources and energy conserving techniques. These planning and zoning elements will also eliminate the need, for the most part, of additional solar easement legislation which would prescribe specifics with regard to building heights and sun angles, etc, all of which , in existing housing, can be a very complex procedure.
- C) Building Permits - This is an area where local governments can provide direct incentives to builders, developers and contractors who are proposing developments utilizing alternative energy technologies or

increased energy conserving techniques, either through priority planning processes or other methods. Local building departments and the Building Industry should plan together how these procedures would be developed and implemented. Many communities in Nevada are currently investigating these types of approaches including Carson City and Boulder City to name two.

- D) Sub-divisions - Although a land use planning area, the proper orientation of subdivision and the building lots contained within, offer one of the most critical tools in the conservation of energy. Studies done in both northern and southern Nevada and in some cases with developers participating, have shown that approximately 30% - 50% of the energy that is consumed by a residential structure is directly attributable to how a house sits on a lot. Once a home is oriented incorrectly, long axis running north to south instead of east to west, it is inefficient and consumes a significantly higher amounts of energy ^{than} ~~that~~ one oriented with long axis east to west. This is true in both heating and cooling situations. By working with builders and developers, local governmental entities can ensure that at least a majority of the homes that their citizens will occupy have the opportunity to be energy efficient. The job is much harder and more expensive without proper orientation.

SUBJECT: Deletion of metes and bounds description as part of annexation requirements prior to a public hearing.

REFERENCE: NRS 268.578 and NRS 268.586, under Title 21, Cities and Towns

BACKGROUND:

Current statute requires any city, proposing to extend services to a territory to be annexed, to file with the city clerk of said city a metes and bounds description of the territory in addition to maps and description(s) of proposed services as listed under Section 1, NRS 268.578 and Section 2, NRS 268.586. The metes and bounds description is a detailed listing of surveyed coordinates which currently must be published in a newspaper 20 days prior to the public hearing on the proposed annexation. This format for describing a territory is both expensive to publicize due to the length of the coordinate listings and difficult to understand for the general public.

In addition, many people requesting annexation for the reason of extension of services are delayed in response to their request due to the requirement for the metes and bounds description and the survey time involved.

CONCLUSION:

The deletion of the requirement for a metes and bounds description prior to the public hearing on a proposed annexation will save the public both time and expense. The replacement of a metes and bounds description by a legal description of the territory to be annexed based on a system of rectangular surveys would be less expensive, timelier, and easier understood; the southwest corner of section 8 bounded by Parkway on the north and Jones on the west in lieu of actual coordinates.

If after a public hearing and governing board approval, a territory is recommended for annexation, NRS 268.596 calls for an actual metes and bounds description to complete the legal recording of an annexed territory. The provision for the metes and bounds description after final approval, and not before, will eliminate the possibility of an unnecessary expense if the requested annexation is not approved.

RECOMMENDATION:

Amend Section 1, NRS 268.578 to delete the requirement for "A metes and bounds description of the territory proposed to be annexed."

Amend Section 2, NRS 268.586 to "Provide a legal description of the territory proposed to be annexed based on a system of rectangular surveys."

Section 1. NRS 268.578 is hereby amended to read as follows:

268.578 Any city exercising authority under NRS 268.570 to 268.608, inclusive, shall make plans for the extension of services to the territory proposed to be annexed and shall, at least 20 days prior to the public hearing provided for in NRS 268.590, prepare and file with the city clerk of such city a report setting forth such plans to provide services to such territory. The report shall include:

- [1. A metes and bounds description of the territory proposed to be annexed.]
- [2.] 1. An accurate map or plat of such territory, prepared under the supervision of a competent surveyor or engineer.
- [3.] 2. A map or maps of the city and the adjacent territory to show the following information:
 - (a) The present and proposed boundaries of the annexing city.
 - (b) The present streets and sewer interceptors and outfalls and, if the annexing city operates its own water system or furnishes other utility services, the present major trunk waterlines and other utility lines.
 - (c) The proposed extensions of the present streets, sewer interceptors and outfalls, major trunk water mains and utility lines, as the case may be, as required in subsection [5] 4.
 - (d) The present and proposed general land use pattern in the territory proposed to be annexed.
- [4.] 3. A statement showing that the territory proposed to be annexed meets the requirements of NRS 268.580.
- [5.] 4. A statement setting forth the plans of the annexing city for extending into the territory proposed to be annexed each major municipal service performed within the annexing city at the time of annexation. Specifically, such plans:
 - (a) Shall provide for extending police protection, fire protection, street maintenance and garbage collection to the territory proposed to be annexed on the effective date of such annexation, on substantially the same basis and in the same manner as such services were provided by the annexing city to the property owners and residents within the remainder of the city immediately prior to the effective date of the annexation.
 - (b) Shall provide for the extension of streets, sewer interceptors and outfalls and other major municipal services into the territory proposed to be annexed so that when such streets and utility services are so extended, property owners and residents in the territory proposed to be annexed will be able to secure such services, according to the policies in effect in the annexing city for furnishing such services to individual lots or subdivisions.
 - (c) May provide that the extension of streets, sewer interceptors and outfalls and other major municipal services shall be done at the expenses of the property owners in the territory proposed to be annexed, if it is the policy of the annexing city, at the time of such annexation, to furnish such services to individual lots or subdivisions at the expense of the property owners, either by means of special assessment districts or the requirement of the dedication of essential rights of way and the installation of offsite improvements as a prerequisite to the approval of subdivision plats or to the issuance of any building permit, rezoning, zone variance or special use permit. In such event, such plans shall designate which services, or portions thereof, shall be extended at the expenses of the annexing city and which services, or portions thereof, shall be extended at the expense of the property owners. Services extended at the property owners' cost shall be distributed and allocated to each parcel of property based on current costs, including both improvement costs and projected service costs, and shall be a part of the annexation plan prepared by the municipality.

(d) Shall, if the extension of any streets, sewer interceptors and outfalls or other major municipal services into the territory proposed to be annexed is to be done at the expense of the annexing city, set forth a proposed timetable for the construction of such extensions as soon as possible following the effective date of the annexation. In any event, the plans shall call for contracts to be let and construction to begin within 24 months following the effective date of the annexation.

(e) Shall set forth the method under which the annexing city plans to finance the extension of any services into the territory proposed to be annexed which is to be done at the expense of the annexing city.

Section 2. NRS 268.586 is hereby amended to read as follows:

268.586 1. The notice of public hearing shall

(a) Fix the date, hour and place of the public hearing.

(b) [Describe, both in general terms and by accurate metes and bounds description, the territory proposed to be annexed.] Provide a legal description of the territory proposed to be annexed based on a system of rectangular surveys.

(c) State that the report required in NRS 268.578 will be available at the office of the city clerk of the annexing city at least 20 days prior to the date of the public hearing.

(d) Contain a list of the names and addresses of all record owners of real property within the territory proposed to be annexed.

(e) Provide that any record owner of real property within the territory proposed to be annexed may:

(1) Appear and be heard at such public hearing and may file with the city clerk of the annexing city a written protest to such annexation at any time within 15 days after the conclusion of such public hearing; or

(2) Appear and be heard at such public hearing or may file with the city clerk of the annexing city a written protest to such annexation at any time within 15 days after the conclusion of such public hearing.

(f) Contain a statement to the effect that unless a majority of the property owners in the territory proposed to be annexed protest such annexation, either verbally at the public hearing or in writing within 15 days after the conclusion of such public hearing, the governing body shall have authority to adopt an ordinance extending the corporate limits of the annexing city to include all, or any part, of the territory described in the notice.

2. The notice shall be given by publication in a newspaper of general circulation in the territory proposed to be annexed, or, if there is none, in a newspaper of general circulation published in the county. If no such newspapers are published, a copy of the notice shall be posted at the front door of the city hall or the county courthouse and in at least two conspicuous places in the territory proposed to be annexed for not less than 20 days prior to the public hearing. The first publication of such notice shall be at least 20 days prior to the date set for the public hearing, and three publications in a newspaper published once a week or oftener are sufficient, but the first and last publication shall be at least 6 days apart. The period of notice commences upon the first day of publication and terminates either upon the day of the third publication or at the end of the 20th day, including therein the first day, whichever period is longer. At the time of the first publication the city clerk of the annexing city shall send a copy of the notice by certified mail, return receipt requested, to each record owner of real property within the territory proposed to be annexed.

EXAMPLE METES AND BOUNDS DESCRIPTION

Being that portion of the Northwest Quarter (NW 1/4) of Section 31, Township 20 South, Range 61 East, M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

COMMENCING at the Southwest Corner of the Northwest Quarter (NW 1/4) of said Section 31; thence North $0^{\circ}16'07''$ West, along the westerly line thereof, 996.84 feet; thence departing said west line North $89^{\circ}43'53''$ East, 50.00 feet to a point on the east right-of-way line of Decatur Boulevard, said point also being the TRUE POINT OF BEGINNING; thence North $0^{\circ}16'07''$ West, along said east right-of-way line of Decatur Boulevard, 232.23 feet; thence tangent to the last named bearing curving to the right along a curve having a radius of 50.00 feet, through a central angle of $90^{\circ}37'36''$ an arc length of 79.09 feet to a point of reverse curvature on the South Line of Meadows Lane as shown by a plat of "The Meadows" on file in the Clark County Recorder's Office as page 56 of Book 18 of plats; thence tangent to a bearing of South $89^{\circ}38'31''$ East, curving to the left along said South Line of Meadows Lane along a curve having a radius of 1490.56 feet through a central angle of $11^{\circ}45'35''$ an arc length of 305.93 feet; Thence North $78^{\circ}35'54''$ East, 34.96 feet; thence North $00^{\circ}45'48''$ West, 5.09 feet; thence South $89^{\circ}38'31''$ East, 51.01 feet; thence South $00^{\circ}45'48''$ East, 107.84 feet; thence North $89^{\circ}32'59''$ West, 25.51 feet; thence South $00^{\circ}45'48''$ East, 319.22 feet; thence North $89^{\circ}32'59''$ West, 218.13 feet; thence North $00^{\circ}16'07''$ West, 100.00 feet; thence North $89^{\circ}32'59''$ West, 200.00 feet to the TRUE POINT OF BEGINNING.

EXHIBIT "A"