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STATEMENT OF JOHN H. GARVIN, CO-CHAIRPERSON OF THE DOUGLAS COUNTY SUSTAINABLE GROWTH INITIATIVE COMMITTEE, IN OPPOSITION TO AB 428

Good morning, Mr. Chair and members of the Committee. My name is John Garvin and I live in Douglas County. I am speaking today as the Co-chairperson of the Douglas County Sustainable Growth Committee in opposition to Assembly Bill 428. Our committee is a citizen's group whose efforts placed a slow growth measure on the Douglas County ballot last November. It passed handily and the measure is now under court challenge.

It is my understanding that AB 428 is sponsored by Douglas County as part of its continuing effort to frustrate and thwart the majority of Douglas County voters in their quest to put the brakes on uncontrolled residential growth. Douglas County's effort in this regard is nothing less than outrageous and arrogant. In the court battle, Douglas County also sided with the developers.

Make no mistake about it, passage of AB 428 is directly aimed at stifling the initiative process which is guaranteed to the voters in this State by our Constitution. Article 19, Sec. 5 of the Nevada Constitution limits the Legislature's power to enact only procedures to facilitate, not impede, the operation of the initiative process. According to the dictionary, the word "facilitate" means "to make easier." AB 428 does the opposite - it impedes the initiative process.

The initiative procedure is outlined in Chapter 295 of the Nevada Revised Statutes. AB 428, in part, amends Chapter 295 the wrong way. AB 428 serves to impede the initiative process by requiring voters to "make findings" to support any proposed initiative aimed at amending the county's or city's master plan prior to taking out an initiative petition. See Sec. 6 amending NRS 295.095. A new Section 3 would then require that the initiative petitioners (keep in mind they are voters) present these same findings to the county commissioners at a public meeting. This seems to infer that the commissioners may disapprove the findings. What then - does the initiative petition fail before it gets off the ground? Alternatively, can these required findings form the basis for a pre-election challenge by either the County or a private person to keep the measure off the ballot? You can see that AB 428, if passed, would severely impede, not facilitate, the initiative process and therefore will likely be challenged in court and found to be unconstitutional.

Besides, imposing upon any citizen group the burden of making "findings" is neither logical nor feasible, not to mention its expense. This requirement is ludicrous and will do away with initiative petitions of this nature. Of course, that is the aim of AB 428.

Lastly, I get the feeling that the effect of AB 428 on the initiative process is probably unconstitutional as it relates to the "equal protection" of the law. This is because it substantively and negatively impacts this kind of initiative measure unequally compared to other subject matters on which the initiative process remains viable. Another court challenge is likely.

AB 428, if passed, amounts to a slap in the face of voters who are constitutionally entitled to enact new legislative policy amending a city's or county's master plan without having to leap over impractical hurdles to do so. Let the voters, in their innate wisdom, make their choice in the open marketplace of public opinion. We strongly urge you **to not pass** AB 428. Thank you.

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ASSEMBLY GOVERNMENT AFFAIRS
DATE: 4/1/03 ROOM: 3143 EXHIBIT H
SUBMITTED BY: John Garvin