

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Darko, on February 18, 1989, at 12:00
p.m.

ROLL CALL

Members Present: All except:

Members Excused: Reps. Brooke and Nelson

Members Absent: None

Staff Present: Lee Heiman

Announcements/Discussion: None

HEARING ON HOUSE BILL 726

Presentation and Opening Statement by Sponsor:

Rep. Bob Marks, District 75, stated that this bill would clarify problems with zoning beyond county lines. Jefferson County presently has no master plan for zoning and development. Lewis & Clark County does have more extensive planning in some places. The City of Helena is proposing to extend zoning ordinances into Lewis & Clark County as well as into Jefferson County within the limit as prescribed by law. House Bill 726 is an effort to avoid litigation and provide a compromise. This bill provides the procedure for a city to extend its zoning ordinances. A resolution must be drafted indicating the area to be included, the property owners affected be notified, then it must be submitted to the electors of the municipality and the property owners of the area outside of the municipality. An election will be held and a majority of electors as well as a majority of the property owners in the area outside the municipality for the referendum to pass.

Testifying Proponents and Who They Represent:

Bert Glueckert, self
Richard Llewelyn, Jefferson County Attorney
David Anderson, Jefferson County Commissioner
Jim McCauley, Jefferson County Commissioner
Dr. Adron Medley, self

Proponent Testimony:

Bert Glueckert stated that a referendum is the best approach to the problem and the residents of the area can do their own planning. The area has covenants and are planning on adopting by-laws in the future and they deserve a chance to vote.

Bill Nelson stood in support of this legislation. Exhibit 1

Richard Llewelyn stated that prior to his present position he represented the City of Helena Planning and Zoning Commission and the Lewis and Clark County Planning Board. HB 726 is Rep. Marks' attempt to resolve a clash between two distinct philosophies of government. Jefferson County has attempted to work with developers and residents with the intent of a cooperative approach to development and devise plans according to the wishes of those affected by the development. Helena's philosophy is highly and technically regulatory in its impact. Northern Jefferson County has considerable demand for real estate. Helena is attempting to impose their regulatory mechanisms on a group of people who reside in another county who cannot vote for them and who have no initiative or referendum powers. The Jefferson County residents and their planning board are going to be totally excluded from the process. Lewis and Clark County is presently proposing locating a dump next to one of the better subdivisions and Jefferson County does not want anything to do with that type of planning.

David Anderson stated that the residents of this area are doing a fine job of policing themselves to meet their needs and do not want imposition of regulations. There are restrictive covenants in effect in the area and they are working on by-laws and Jefferson County Planning Board is working with the residents and the county commissioners.

Dr. Adron Medley stated that he strongly supports this legislation. They are not interested in denying the City of Helena its right and, in fact, its duty to protect its citizens from indiscriminate development which would in turn damage the property. They are primarily concerned with the heavy-handed indiscriminate manner in which these regulations have been proposed to address problems that have never been specifically brought forward.

Jim McCauley stated that there are responsible individuals in this area and it takes time to develop by-laws to police themselves. Limited government and individual responsibility is the key to good development. It

should also be considered that the topography will not allow heavy development in the area.

The following came forward in support of House Bill 726:

Mike Sims	Shari Hunter
Patty Glueckert	Rich River
Terry Patterson	Kathy River
Paul O'Gorman	Gary Heidbreder
Tom O'Gorman	Jim Stout, contractor
Joyce Janacaro	Steven Ries, surveyor
Marylee Norris	Shirley Purcell

In addition, written testimony was received from Rudy Stock (Exhibit 2) and Terry Merica (Exhibit 3).

Testifying Opponents and Who They Represent:

Bill Verwolf, City Manager, Helena
Linda Stoll Anderson, self

Opponent Testimony: Mr. Verwolf stated that this bill is designed to address an argument between the City of Helena and Jefferson County. Helena is the only large city that is within one thousand feet of the county line. They are not eager to extend jurisdiction but are attempting to do so because there are some hazards that must be addressed. The provisions of this bill effectively curtail the ability of a city to address the impact of uncontrolled development in an area immediately adjacent to it. The concerns most important to Helena are storm drainage and downstream increases caused by development and the impact on city residents of increased traffic and where that traffic enters the city. Most storm water problems in Helena are generated in the South Hills. The representation of the people in the area is no different than other areas being exposed to extraterritorial zoning jurisdiction by a city. Missoula, Bozeman and Billings have done such zoning and the people in those areas do not vote for city commissioners. There is no difference in extending zoning outside city limits of those cities and extending into the next county. Helena is proposing to go less than one mile -only to the drainage break at the top of the hills. There will be representation on the planning board from that area if jurisdiction is extended. Requirements of this bill for an election will effectively eliminate such zoning until the residents in that area recognize the need for zoning and that recognition normally occurs only after the damage is done and they feel some of the effects of the damage. If some amendments were made the city may not object to the bill especially if section 4 is eliminated plus some changes in the section that refers to section 4. The city's basic concerns are drainage and traffic control. They are not proposing a uniform building code and this bill is not a solution to this particular problem.

Linda Stoll Anderson stated that she resides downstream from Jefferson County and that advice was given to Montana's founding fathers 100 years ago that county boundaries be established along drainage basins to avoid such problems. This is purely a local issue and should not require statewide legislation. It will be litigated whether or not this bill is enacted into law.

Questions From Committee Members: Rep. Rehberg asked Mr. Verwolf what particular problem he had with the election provision of the bill. Mr. Verwolf stated that it creates a different situation for cities that are adjacent to county lines. There is not that kind of vote in other towns that choose to have extraterritorial zoning. Also, the people in that area are probably the people that are going to feel the impact of the problems. The people living downstream will feel the effects and those presently not zoned are not necessarily going to recognize it. Rep. Rehberg asked Mr. Verwolf if he believed that his ability to expand into Jefferson County by 4.5 miles is in state law. Mr. Verwolf stated that 3 mile zoning extension is state law and this bill is an amendment to that section. Rep. Rehberg asked him to respond to the statement that this is a local issue. Mr. Verwolf stated that this is not a statewide issue and state law says the city can go three miles outside of its jurisdiction. Rep. Rehberg asked Mr. Verwolf if he believed that problems created by state law should be addressed by the Legislature. Mr. Verwolf responded that the affected Jefferson County residents have the same voice under current law that people in Yellowstone County have under current law.

Rep. Good asked Mr. Verwolf if the city had attempted to "chat" with the Jefferson County commissioners to try to settle this matter. Mr. Verwolf responded that the city and Lewis & Clark County met with the Jefferson County Commission to start the process of the South Hills evaluation over 4 years ago. The plan is concluded but implementation is the problem and hearings have been held in Helena and in Montana City.

Rep. Wallin asked Mr. Verwolf if the city would be providing any services to the area. Mr. Verwolf stated that this bill does not address water and fire protection or any city services. Basically, it provides only for zoning in those areas so the city can have some control over the basic elements of development especially drainage.

Rep. Wallin asked Rep. Marks about the services to the area. With the committee's permission Mr. Llewelyn responded with a brief review of the types of service in the area presently. Rep. Wallin stated that the area may be a suburb in fifty years experiencing the same problems

that Missoula is having now. Rep. Marks responded that all those at the hearing are there to prevent such problems.

Rep. Dave Brown asked Mr. Llewelyn asked about the present zoning plan. Mr. Llewelyn stated that the area is presently subject to private and restrictive covenants and all developments are subject to Jefferson County subdivision regulations which were considerably better than the restrictions in Lewis & Clark County until recently. Jefferson County has tried to work with private landowners in developing plans and regulations for the use and development of their property. Rep. Brown then stated that there is no zoning regulations that apply to the area. Mr. Llewelyn said that is basically correct except that the Jefferson County Planning Board and the private landowners are in communication with a view toward developing the kind of land use regulations that the residents want for the area.

Rep. Dave Brown asked Mr. Llewelyn if Jefferson County tried to address the natural run-off problems so it is at least as good as it was before development. Mr. Llewelyn said that the first consideration is the location of the problems - there is only a handful of homesites. The drainage problems Helena is experiencing have developed from the homes built in Helena.

Rep. Brown asked Mr. Verwolf to address the run-off problems. Mr. Verwolf stated that they are concerned with two areas - one is east of the capitol and the other is the Lime Kiln Gulch area. As roads and other hard surfaces are put in, faster run-off is experienced. In Helena floods tend to be very erratic and unpredictable.

Rep. Darko asked Rep. Marks if he was aware of any place in statute where there is a "weighted vote" like this - where one area with a smaller representation of people counts for as much or more than the majority. Rep. Marks stated that he did not without doing some research but this is the only area where there is cross-county jurisdiction. Rep. Darko stated that in past sessions there have been bills with weighted votes like this and they had not been successful. Rep. Marks stated that state fire districts might apply to this type of situation.

Rep. Hansen asked Mr. Llewelyn about his statement that the people in Jefferson County were having this zoning "shoved down their throats". Mr. Llewelyn stated that there were no hearings in Jefferson County until last spring when the residents protested the City of Helena proposing the zoning into their area.

Closing by Sponsor: Rep. Marks stated that this is a particular problem for this area since the city would have to cross county lines to extend their zoning. One-third of all the bills the Legislature deals with are for a particular problem in a given area. If there was a master plan for the area it would not allow Helena to move into the area. If the bill is adopted and section 4 is eliminated there will not be any bill left. The people built in the area with full knowledge of the services that they would have to provide for themselves and they will support a plan that is good for their area and to their advantage.

DISPOSITION OF HOUSE BILL 726

Motion: Rep. Gould moved DO PASS. Rep. Rehberg seconded.

Discussion: Rep. Stickney discussed planned land use affecting land value. Zoning doesn't do anything but plan land use. The bill is a local issue.

Rep. Dave Brown stated that this is a Missoula bill only it's in Helena in the sense that it is an attempt to solve a particular problem. The people that moved into the area did so for a number of reasons such as: close access to the city of Helena, taxes are less and a bigger and better place to live. Jefferson County has been derelict in letting this area go in without proper zoning to handle this type of situation. The problem will be taken to court either way. This bill puts the state in the middle of an ongoing process and there is still time for the local people to work the problem out with Helena. The people should know that they cannot get relief from the state until there is no other solution.

Rep. Rehberg stated that historically, oppressive regulations of zoning is one of the reasons people build outside of town. The control of the surrounding area should be for the benefit of all parties involved and the vote is fair. This committee has had other examples such as school district bills that have had "weighted votes".

Rep. Good concurred. These people have made big time investments and this zoning would offer them no recourse. It is a local issue and a matter of principle.

Rep. Wallin stated that the scenery is the reason people move out of town and they are not dependent on the amenities of the town.

Rep. Dave Brown stated that on page 2, line 18, sub 3, allows for extension 3 miles beyond the city or town and has been in effect since 1929 and the last revision of this part of the code was 1973. There are other examples where the three mile limit has been used but has been within the county and the situation is no different than this situation and is no

more unfair than elsewhere in the state. It behooves all parties to work together.

Rep. Hoffman stated that the timing of the zoning and the purchase of the land was in question. It was not brought out in testimony whether or not the land was zoned prior to the purchase or after the area was developed.

Rep. Stickney stated that usually existing homes are "grandfathered in" when a new zone is created and that zoning is first and foremost for the protection and safety of the people who live in an area. There are many things considered when zoning is put in place including the amount of space between two homes for fire equipment access and the width of streets for safety considerations. Helena is extending its jurisdiction for these purposes and the current zoning laws have been working quite well.

Rep. Darko stated that both sides should be looked at and presently those affected by the problem have no say either.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Dave Brown moved to TABLE HB 726. Rep McDonough seconded. Roll call vote was taken. The motion CARRIED 9 to 7.

EXECUTIVE ACTION

DISPOSITION OF HOUSE BILL 698

Hearing Date: February 16, 1989

Motion: Rep. Gould moved DO PASS. Rep. Good seconded.

Discussion: Rep. Good offered amendments.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Dave Brown made a substitute motion to TABLE the bill. Rep. McDonough seconded. Roll call vote was taken. The motion CARRIED 9 to 7.

DISPOSITION OF HOUSE BILL 704

Hearing Date: February 16, 1989. Rep. Cohen had some concerns with the amendments made by the committee and has been working with some committee members to address these concerns.

Motion: Rep. Wyatt moved to reconsider HB 704. Rep. Hansen seconded. The motion CARRIED unanimously. Rep. Hansen moved DO PASS. Rep. Wyatt seconded. Rep. Rehberg made a substitute motion of DO NOT PASS and Rep. Good seconded.

Discussion: Rep. Rehberg saw no justification for section 2 and it does not allow for protection of the people to protest after the 5 year grace period.

Rep. Hansen suggested that Rep. Cohen be permitted to speak about his concerns with the bill. With the permission of the committee Rep. Cohen suggested that the committee refer to the letter received from Tom Jentz. Exhibit 4. In addition, he stated that the five year period was a good idea.

Rep. Rehberg withdrew his motion of DO NOT PASS.

Amendments, Discussion, and Votes: Rep. Rehberg moved to amend. Rep. Good seconded. Lee read the amendments and explained them.

Rep. Rehberg stated that he was attempting to give all people involved the right to protest the creation of that zone.

Rep. Dave Brown asked Rep. Rehberg if his amendments also apply to subsection 2. Rep. Rehberg said they did not - that they only apply to subsection 1.

The motion to amend CARRIED unanimously.

Rep. Dave Brown offered an amendment to reinsert the stricken subsection 2 on page 1 and 2. Rep. McDonough seconded.

Rep. Rehberg stated his opposition to this amendment because the issue is the ability of a person to protest after a five year period. Subsection 2 delves into a totally different area. Ignorance of the law is no excuse but people should not be penalized for their ignorance of their parcel into a zoning area. The person's land value is being taken away without his knowledge since people are not inclined to go to the county and request to see a zoning map.

Rep. Stickney stated that zoning does not have anything to do with land value but only with land usage. The mere act of zoning does affect the value but what you then do with the land affects the value.

Rep. Rehberg stated that he and Rep. Stickney had a very definite basic difference of philosophy. Zoning does have an impact on the financial value of your land especially with commercial zoning and single family or multi-family zoning.

Rep. Dave Brown had a basic problem with the bill from the standpoint that you should be able to allow for maps and the legal description to count so that a person would be covered in both places.

Roll call vote was taken. The motion to amend a second time CARRIED 9 to 7.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

February 18, 1989

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Rep. Rehberg moved DO NOT PASS AS AMENDED. Rep. Good seconded. Roll call vote was taken. The vote was 8 to 8.

Rep. Rehberg moved to TABLE HB 704. Rep. Good seconded. Roll call vote was taken. The vote was 8 to 8.

Rep. Dave Brown moved to delete his amendment (the one re-inserting subsection 2). Rep. Rehberg seconded. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Dave Brown moved DO PASS AS AMENDED. Rep. Rehberg seconded. The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 1:35 p.m.



REP. PAULA DARKO, Chairman

PD/td

4211.min

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

DATE

2/18/89

NAME	PRESENT	ABSENT	EXCUSED
BRGOKE, VIVIAN			X
BROWN, DAVE	X		
BROWN, JAN	X		
DARKO, PAULA	X		
GOOD, SUSAN	X		
GOULD, BUDD	X		
GUTHRIE, BERT	X		
HANSEN, STELLA JEAN	X		
HOFFMAN, ROBERT	X		
JOHNSON, JOHN	X		
MCDONOUGH, MARY	X		
NELSON, THOMAS	X		X
REHBERG, DENNIS	X		
STICKNEY, JESSICA	X		
WALLIN, NORM	X		
WYATT, DIANA	X		

ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE 2/18 BILL NO. 698 - Table NUMBER _____

NAME	AYE	NAY
GOOD, SUSAN		X
GOULD, BUDD		X
GUTHRIE, BERT		X
HOFFMAN, ROBERT		X
NELSON, THOMAS	X	
REHBERG, DENNIS		X
WALLIN, NORM		X
BROOKE, VIVIAN	X	
BROWN, DAVE	X	
BROWN, JAN	X	
HANSEN, STELLA JEAN	X	
JOHNSON, JOHN	X	
MCDONOUGH, MARY	X	
STICKNEY, JESSICA	X	
WYATT, DIANA		X
DARKO, PAULA	X	

TALLY

9 7

Tami Dore
Secretary

Paula A. Darko
Chairman

Motion: Rep. Dave Brown made a substitute motion, to TABLE

HB 698. Rep. McDonough seconded, The motion CARRIED 9 to 7.

ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE 2/18/89 BILL NO. HB 704 *Dave Brown Amendment* NUMBER _____

NAME	AYE	NAY
GOOD, SUSAN		X
GOULD, BUDD		X
GUTHRIE, BERT		X
HOFFMAN, ROBERT		X
NELSON, THOMAS		X
REHBERG, DENNIS		X
WALLIN, NORM		X
BROOKE, VIVIAN	X	
BROWN, DAVE	X	
BROWN, JAN	X	
HANSEN, STELLA JEAN	X	
JOHNSON, JOHN	X	
McDONOUGH, MARY	X	
STICKNEY, JESSICA	X	
WYATT, DIANA	X	
DARKO, PAULA	X	

TALLY

9 7

Tami Rose
Secretary

Paula G. Markes
Chairman

Motion: Rep. Dave Brown moved to re-insert the subsection
2 that was deleted on 2/16/89. Rep. McDonough seconded.
The motion CARRIED 9 to 7.

ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE 2/18/89 BILL NO. DNP NUMBER _____

HB 704

NAME	AYE	NAY
GOOD, SUSAN	X	
GOULD, BUDD	X	
GUTHRIE, BERT	X	
HOFFMAN, ROBERT	X	
NELSON, THOMAS	X	
REHBERG, DENNIS	X	
WALLIN, NORM	X	
BROOKE, VIVIAN		X
BROWN, DAVE	X	
BROWN, JAN		X
HANSEN, STELLA JEAN		X
JOHNSON, JOHN		X
MCDONOUGH, MARY		X
STICKNEY, JESSICA		X
WYATT, DIANA		X
DARKO, PAULA		X

TALLY 8 8

Tami Dove
Secretary

Paula A. Darko
Chairman

Motion: Rep. Rehberg moved DO NOT PASS AS AMENDED. Rep.

Good seconded. The motion resulted in a tie vote.

ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE 2/18/89 BILL NO. HB 704 TABLE NUMBER _____

NAME	AYE	NAY
GOOD, SUSAN	X	
GOULD, BUDD	X	
GUTHRIE, BERT	X	
HOFFMAN, ROBERT	X	
NELSON, THOMAS	X	
REHBERG, DENNIS	X	
WALLIN, NORM	X	
BROOKE, VIVIAN		X
BROWN, DAVE		X
BROWN, JAN		X
HANSEN, STELLA JEAN		X
JOHNSON, JOHN		X
McDONOUGH, MARY		X
STICKNEY, JESSICA		X
WYATT, DIANA		X
DARKO, PAULA		X

TALLY

8 8

Terri Dove
Secretary

Paula G. Darko
Chairman

Motion: Rep. Rehberg moved to TABLE HB 704. Rep. Good
seconded. The motion resulted in a tie vote.

ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE 2/18/89 BILL NO. 726 NUMBER _____

Tabled

NAME	AYE	NAY
GOOD, SUSAN		X
GOULD, BUDD		X
GUTHRIE, BERT		X
HOFFMAN, ROBERT		X
NELSON, THOMAS		X
REHBERG, DENNIS		X
WALLIN, NORM		X
BROOKE, VIVIAN	X	
BROWN, DAVE	X	
BROWN, JAN	X	
HANSEN, STELLA JEAN	X	
JOHNSON, JOHN	X	
McDONOUGH, MARY	X	
STICKNEY, JESSICA	X	
WYATT, DIANA	X	
DARKO, PAULA	X	

TALLY

9 7

Tami Dore
Secretary

Paula A. Marko
Chairman

Motion: Rep. Dave Brown moved to TABLE HB 726. Rep. McDonough
seconded. The motion CARRIED 9 to 7.

STANDING COMMITTEE REPORT

February 18, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Local Government report that HOUSE BILL 704 (first reading copy -- white) do pass as amended .

Signed: _____
Paula Darko, Chairman

And, that such amendments read:

1. Title, line 6.
Following: "FILED"
Insert: "BY OCTOBER 1, 1994, OR"
2. Title, lines 8 through 12.
Strike: "; AND" on line 8 through "DISTRICT" on line 12
3. Page 1, line 16.
Strike: "(1)"
4. Page 1, line 18.
Following: "commenced"
Insert: "by October 1, 1994, or"
5. Page 1, line 20.
Following: "district"
Insert: ", if the district was created after October 1, 1989"
6. Page 1, line 21 through page 2, line 3.
Strike: subsection (2) in its entirety
7. Page 2, line 5.
Strike: "(1)"
8. Page 2, line 7.
Following: "commenced"
Insert: "by October 1, 1994, or"

9. Page 2, line 8.

Following: "district"

Insert: ", if the district was created after October 1, 1989"

10. Page 2, lines 9 through 16.

Strike: subsection (2) in its entirety



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

February 18, 1989

Mr. Speaker:

We the committee on Local Government report that House Bill #698 was tabled on this date.

Paula A. Darko

Rep. Paula Darko, Chairman



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

February 18, 1989

Mr. Speaker:

We, the committee on Local Government report that House Bill 726 was tabled on this date.

Paula A. Darko
Rep. Paula Darko, Chairman

EXHIBIT 1
DATE 2/18/89
NO. 726

HOUSE BILL 726

My name is William G. "Bill" Nelson. I am for the passage of HB 726.

My wife, Bonnie, and I are land owners and residents of Jefferson County in the area south of Helena. We have lived in our new house in the "South Hills" for the past 6 months.

My wife was born and raised in Helena and Lewis & Clark County. I moved to Helena in 1970 and lived in the city for 18 years. We decided to sell our city house and move to Jefferson County to get away from city government.

Since moving into our new home, we find that the Helena City Commission plans to extend their zoning authority into Jefferson County. As property owners, we think the governing body of the city of Helena should have notified us about this zoning. It is unclear to us exactly what zoning ordinances the city wants to put into effect. We have recently attended several planning meetings and no mention has been made concerning the cost of this zoning and who is going to pay.

If the zoning passes, we understand that Jefferson County residents in the "South Hills" will have to pay for Helena city building permits. However, no city services will be provided, such as water & sewer and police or fire protection.

Reference New Sections 4, 5, & 6 of HB 726. We fully concur and approve the legislation as written. Without the new Sections, municipalities have the right to tax and assess fees and regulate/govern persons without electoral representation. That is taxation without representation!

2/18/89
MT House of Representatives
Local Government Committee

2
2/18/89
726

MY NAME IS RUDY STOCK. I WAS BORN IN HELENA AND RESIDED IN LEWIS AND CLARK COUNTY NEARLY ALL OF MY LIFE. THIS LAST OCTOBER I MOVED TO JEFFERSON COUNTY. I AM FOR THE PASSAGE OF HOUSE BILL 726.

I GRADUATED FROM MONTANA STATE UNIVERSITY AND FOLLOWING GRADUATION I WORKED FOR THE LEGISLATIVE AUDITOR FOR EIGHT YEARS. IN THESE EIGHT YEARS, I NEVER SEEN ANYTHING RUN LIKE THE CITY GOVERNMENT IN HELENA. AFTER LEAVING THE LEGISLATIVE AUDITOR'S OFFICE, I SPENT TEN YEARS IN HELENA AS A GENERAL CONTRACTOR.

THE CITY OFFICIALS WANT TO ASSESS BUILDING FEES OR TAXES ON JEFFERSON COUNTY RESIDENTS. THESE FEES ARE RIDICULOUS. THE CITY CLAIMS THAT WE CAUSE RUN OFF PROBLEMS AND MUD SLIDES. THEY PROPOSED SEVERAL DAMS BE BUILT TO HOLD THE RUN OFF. I WAS RAISED ON A FARM JUST A SHORT DISTANCE FROM THESE SOUTH HILLS THAT HELENA OFFICIALS ARE ATTEMPTING TO TAKE OVER. I KNOW THE RANCHER THAT OWNED THIS PROPERTY FOR THE PAST FORTY YEARS. THIS RANCHER BUILT DAMS TO HOLD WATER FOR HIS CATTLE. WELL WATER IS 600+ FEET DEEP AND THE RANCER WAS NOT AWARE OF WATER BEING THERE SO OTHER THAN TRUCKING WATER IN FOR THE CATTLE THESE DAMS WERE THE ONLY SOURCE FOR WATER. THE DAMS WERE BUILT IN 1956 AND THE RUN OFF NEVER PROVIDED ENOUGH WATER TO LAST LONG. THE RANCHER EVEN RESORTED TO LINING THE DAMS WITH BENTONITE. IN 1964 AREAS AROUND HELENA WERE FLOODED, YET THESE SMALL DAMS WERE NEVER COMPLETELY FILLED.

TO LET THE CITY OF HELENA TAKE OVER CONTROL OF OUR LAND IS AGAINST THE MAJORITY OF THE PEOPLE'S WILL. IT ALSO GIVES THE CITY OF HELENA POWERS ONLY FOUND IN COMMUNIST COUNTRIES, AS WE HAVE NO VOTE IN LEWIS AND CLARK COUNTY OR THE CITY OF HELENA.

A VOTE FOR HOUSE BILL 726 IS A VOTE AGAINST COMMUNISM AND I REQUEST YOUR VOTE FOR HB 726. THANK YOU.

SINCERLEY,
RUDY STOCK

Rudy Stock 2/18/89

City opts to get tough on South Hills

Commissioners feel lawsuit will settle jurisdictional question in Jefferson County

By JILL SUNDBY
IR Staff Writer

The Helena City Commission decided Monday night to replace unproductive chitchat with Jefferson County about South Hills development with action — even if it means taking on Jefferson County in court over the legality of zoning across a county line.

"I would even suggest the word 'a friendly suit.' Let's find out who does have jurisdiction" in the areas of drainage and traffic, Mayor Russ Ritter said. "My bottom line is to prevent any wholesale kind of development that's going to cause us problems."

The Commission directed city staff to research the procedure necessary to zone into Jefferson County, up to the South Hills ridge line. That action was taken despite the fact that Jefferson County Attorney Rich Llewellyn has threatened to take the city to court if it tried to extend zoning into Jefferson County.

The Jefferson County-Lewis and Clark County line runs along the mid-slope of the South Hills, and stormwater runoff drains from Jefferson County and Lewis and Clark County into the city of Helena.

The city claims that development on the slopes above the city causes drainage problems for homes below. The city wants natural drainages to remain free of homes and driveways to avoid creating more run-off problems.

The city also wants road easements reserved so traffic generated by new homes in the South Hills will be distributed evenly into the city.

Jefferson County residents, however, don't want the city to regulate home building. They point out that they can't vote for city officials who would be regulating them.

Volunteer planning of development in the South Hills has been pursued, but the city claims the volunteer system isn't working.

The four commissioners at the Monday night meeting all agreed the city's southern residents need some protection from the ill-

effects of unplanned development above them. Commissioner Rayleen Beaton was out of town.

The Commissioners were fully aware that extending zoning and building permits into Jefferson County more than likely means going to court.

"The final decision I think is going to be made in the courts of the state of Montana," said Ritter. He added the Commission may as well "hasten that process so we don't end up a year from now waiting."

"We have held back for too long, as far as I'm concerned," said Commissioner Blake Wordal. "How long does staff need to develop an ordinance that would go to the drainage line?"

City Manager Bill Verwolf said city staff could define the process by next Monday night's meeting. The Commission then will have to go to the Planning Board probably for a recommendation, and public hearings would be held.

Dates for the public hearings probably will be set at the Feb. 6 meeting.

* Development consists of:

A TOTAL of 9 houses have been built in the entire South Hills of Jefferson County, and NONE are located in the drainages!

EXHIBIT 3
2/18/89
726

SUPPORT FOR HOUSE BILL 726

Local Government Committee Hearing, 02/18/88, Room 312-2.

Madam Chairman, and Members of the Committee:

My name is Terry Merica. I am a resident of the City of Helena and also a property owner in Jefferson County.

Passage of this bill is necessary for property owners regardless of the size of their holding.

Owners too often find themselves on the paying end of a process where they have had little or no opportunity to know or have a part in the decision making process regarding their own land. The situation will get worse without passage of this bill.

All too often it's the planners who "discover" problems that people are totally unaware of. These same planners may, or may not be residents of the city or county of which they work for, leading one to question their ability to represent the wishes of....we the people.

There is a bill before this legislature to tax the proceeds from the sale of real estate to help finance planning. Where do we draw the line?

This is a good bill.....we need this bill.....I urge your support of House Bill 726.

Thank you Mr. Chairman, and Members of the Committee.

Terry Merica

Duane Robertson, State Solid Waste Bureau Chief, says that the 5% revenues passed on to him by this bill will leave will be totally inadequate to oversee the programe.

They presently have 4.59 FTEs in the program.

Duane, by his own admission, is paid as 1.0 of those FTEs, even though he spends only about 5% of his time on Junk Vehicles.

The 5% revenues will generate at least \$40,000 per year based on SDHES's own figures. Their stated total cost for supporting the 4.59 FTEs in FY90 is \$129,000.

\$40,000 represents 31% of the FY90 cost.

That Means it will support 1.42 FTEs

That is more than adequate to oversee such a simple small program.

In addition, 1.0 FTE is the full-time auditor. Each county has a full audit each year of all its programs, including Junk Vehicle. The SDHES audit is a duplication.

So in reality, there are only 2.59 FTEs that are fuctional under the current oversight system.

Paul Darko
Chairman, Local Government Committee

RE: House Bill 704 - 5 Year Limitation on Zoning District Challenges

Chairman Darko,

I gave testimony before your committee on Thursday, February 16th at the hearing on House Bill 704. Representative Rehberg asked the last question of the hearing. The question was addressed to Bob Rasmussen, Planning Director for Lewis and Clark County. Mr. Rehberg asked what the reasoning was for subsection 2 of the bill which allowed maps of districts to stand, even if they contained mistakes, as long as they have not been challenged for five years. He was concerned about the unknowing property owner.

I would like to respond to that question. When a County Zoning District is created a petition with at least 60% of the property owners in support, a map of the District and a legal description of the District are submitted to the County Commissioners. People can see and identify their property on a map. They can readily determine if they are in or out of a proposed zoning district and can make their wishes known during the adoption process. However, few people can readily read and understand a legal description which may continue for pages. Because of its technical nature, it is very possible to make a mistake in writing or advertising a legal description i. e. the transposing of numbers, miswriting of a coordinate, or the loss of a single word. Therefore, the map and its straight forward nature should carry the burden of intent. This has not been the case. Although we strive for perfection, we never quite attain it and mistakes do occur.

Tom Jentz
February 17, 1989
Page two

In closing, on behalf of the Flathead County Commissioners,
I would urge that you support this bill to protect those people
who have sought to protect themselves. Thank you for your time.

Sincerely,

TOM JENTZ
Senior Planner,
Flathead County Planning Board

TJ/dw

VISITORS' REGISTER

Local Government

COMMITTEE

BILL NO. 726

DATE 2/18/89

SPONSOR Mats

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Wanda Stout		X	
Jim Stout	Jim Stout Excavation	X	
Camla Stout	Jim Stout Excavation	X	
Bill Nelson	Self	X	
Bonnie Nelson	self	X	
TERRY MERICA	Self & Wife	X	
Masha Stock	self & husband	X	
Donald Stock	Self	X	
Shirley Purcell	Self	X	
Jayne Jonacars	Jefferson Co.	X	
Kathy River	Self	X	
Rich RIVER	SELF	X	
Richard J. Llewellyn	JEFFERSON County Atty	X	
Mike Sims	self	X	
Paul O'BORMAN	SELF	X	
TOM O'BORMAN	SELF	X	
DAVE ANDERSON	JEFFERSON Co. Commission	X	
JAMES B McC. Auley	" " "	X	
MARJKEE R. NORRIS	JEFFERSON Co. ^{SELF} PING. BAD	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO. 726

DATE _____

SPONSOR _____

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Robert E. Norman	SELF	X	
Deborah Dils	SELF	X	
Patti Glueckert	SELF	X	
Bert Glueckert	SELF	X	
TERRY PATTERSON	SELF	X	
Bret Patterson	SELF	X	
Bill Verwoelf	City of Helena		X
Shari Hunter	self	X	
Arnon Madkeyms	self	X	
Helen Stoddard	Pondera Co.		
Stephen J. Ries	Self.	X	
J.P. HEIDBREDER	SELF SPOUSE	X	
Robert Rasmussen	Self		X
Kathy Maccheld	self		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.